

End-User License Agreement For DataCaster Embedded System Software

This is a legal agreement between you (the end user or “Licensee”) and Software Toolbox, Inc, hereafter the “Licensor”. If you do not agree to the terms of this Agreement, promptly return the disk package and accompanying items (including written materials) to the place where you obtained them for a full refund.

This End-User License Agreement (“License”) sets forth the terms under which the accompanying software (“Software”) is licensed for use as part of an embedded system provided by Licensor in the form of the “DataCaster Hardware” and deployed by the licensee (“You” or “Your”). The DataCaster Hardware is covered by a separate Warranty provided to you.

By using the Software in any way, you agree to the terms outlined below.

1. LICENSE GRANT

Licensor grants You a non-exclusive, non-transferable, non-sublicensable license to use the Software solely on or in connection with the DataCaster Hardware in which it is installed.

2. PERMITTED USE

You may:

- Use the Software only as embedded in or associated with DataCaster Hardware where each DataCaster Hardware unit includes a single license to run the Software exclusively on that DataCaster Hardware unit.

You may not:

- Modify, reverse engineer, decompile, or disassemble the Software;
- Use the Software for any unlawful purpose;
- Use, distribute, sell, or sublicense the Software separately from the DataCaster Hardware in which it is embedded.

3. PROHIBITED USES IN SAFETY-CRITICAL INDUSTRIAL APPLICATIONS

The Software is intended for use in industrial environments only.

Under no circumstances may this Software be used in safety-critical applications within industrial automation. This Software is not certified to meet any functional safety standards (e.g., ISO 13849, IEC 61508) and must not be used in such applications. This includes, but is not limited to:

- Systems where a malfunction or failure could result in serious injury, loss of life, or significant damage to equipment, facilities, or the environment.
- Prohibited uses include safety interlocks, emergency stop controls, fail-safe systems, and machinery or process control systems that are directly responsible for operator or environmental safety.
- This Software may not be used in any facility that generates power of any type using Nuclear Fuels, or the production and handling of Nuclear Fuels whether for civilian or military purposes.

ANY USE IN VIOLATION OF THE TERMS IN THIS SECTION IS PROHIBITED AND IMMEDIATELY VOIDS ALL WARRANTIES AND PROVIDER LIABILITY.

4. OWNERSHIP AND INTELLECTUAL PROPERTY

The Software is licensed, not sold. The Software is the property of Licensor, and is protected by United States and International Copyright laws and International treaty provisions. No ownership rights are granted by this Agreement or possession of the Software. All rights, title, and interest in and to the Software, including any updates, enhancements, and related documentation, remain with the Licensor. Therefore, you must treat the Software like any other copyrighted material (e.g., a book or musical recording).

5. SUPPORT & MAINTENANCE

Licensor's initial support & maintenance period for the Software is 1 year from the purchase date of the Software as part of the DataCaster Hardware. Licensor provides support by phone and email during Licensor's normal business hours as listed on their website softwaretoolbox.com. Licensor reserves the right to limit the amount of support provided to a commercially reasonable amount of time. After hours support is NOT provided for this product without prior arrangements for payment of appropriate fees. Onsite support is not provided. If Licensee is in arrears on any payments due to Licensor, Licensor at its sole discretion may withhold support & maintenance services until such

time accounts are current, and the period of support & maintenance withheld due to lack of payment will not extend the original end date of support & maintenance rights. If Licensor is found to have used the DataCaster Hardware and Software in a Prohibited Use as defined in this Agreement, all Support and Maintenance rights terminate immediately.

Support is defined as:

- Using commercially reasonable off-the-shelf tools, techniques and documentation to assist the user in:
- Connecting to a data source supported by the Software
- Identifying available tags/points in the data source as follows:
 - o Rockwell Logix Family PLCs – provided the user’s device setup, firmware allow for discovery of tags using the documented Software functionality
 - o Other data sources supported in the future – only if the PLC supports a discovery function over the communications link and the Software is documented as supporting it
- Documented display setup and formatting functionality
- General use of the Software as documented and intended
- Troubleshooting issues in documented functionality of the Software.
- Guidance in applying firmware updates following documented instructions.

Support Explicitly Excludes:

- Identifying the location of data with the user’s data sources beyond that stated as included in support.
- Writing database queries to extract data from user provided databases
- User network hardware infrastructure troubleshooting
- Other Software and hardware not purchased from Licensor

Maintenance Includes:

- Updates to the Software for functionality, security patches and other software included with the DataCaster Hardware. Licensor reserves the right at its sole discretion to in the future require payment for updates that add new functionality to the Software. Updates will be provided by digital download once Licensor rights to the updates are verified. Licensor will deliver updates on a commercially reasonable schedule of its sole determination.

Maintenance Explicitly Excludes:

- Anything not explicitly stated as being included in maintenance.

Support & Maintenance When Multiple DataCaster Hardware systems are owned:

1. Support & Maintenance are tied to a specific device serial number.
2. Every DataCaster Hardware device and Software for which support is requested must be in the initial support period or on an active, valid Extended Support & Maintenance Agreement.
3. When DataCaster Hardware firmware upgrades are requested, every DataCaster Hardware device that you intend to install the firmware on must be in the initial support period or on an active, valid Extended Support & Maintenance Agreement.
4. These terms shall take precedence over any other discussion unless a Site Based Volume Support Agreement has been entered into in writing and appropriate fees paid.

Option to Extend Support & Maintenance:

At Licensor's sole discretion, Licensor may offer rights to extend Support & Maintenance for a longer period in exchange for payment of renewal fees based on then current pricing. Unless agreed to otherwise in a Site Based Volume Support Agreement, renewal fees are based on the units of DataCaster Hardware and Software owned and then current pricing from Licensor.

If offered by Licensor, and Licensee does not extend Support & Maintenance, and later wishes to reinstate Support & Maintenance, additional fees will be required as published by Licensor and updated from time-to-time.

6. LIMITED WARRANTY AND LIMITATION OF LIABILITY

LICENSOR DOES NOT WARRANT THAT THE SOFTWARE WILL BE ERROR FREE, THAT IT WILL SATISFY YOUR PLANNED APPLICATIONS OR THAT ALL DEFECTS IN THE SOFTWARE CAN BE CORRECTED. IF LICENSOR PROVIDES INFORMATION OR ASSISTANCE REGARDING THE USE OF THE SOFTWARE OR OTHERWISE, LICENSOR IS NOT ASSUMING THE ROLE OF ENGINEERING CONSULTANT. LICENSOR DISCLAIMS RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS ARISING IN CONNECTION WITH ENGINEERING IN WHICH ITS SOFTWARE OR SUCH INFORMATION OR ASSISTANCE IS USED.

THE FOREGOING IS THE SOLE AND EXCLUSIVE WARRANTY OFFERED BY LICENSOR FOR THE SOFTWARE. THE DATACASTER HARDWARE IS COVERED BY A SEPARATE WARRANTY.

LICENSOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE LICENSED SOFTWARE AND ALL ACCOMPANYING MATERIALS.

IN NO EVENT SHALL LICENSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFIT, LOST SAVINGS, LOST OPPORTUNITIES, OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE LICENSED SOFTWARE, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE LEGAL THEORY OR BASIS FOR SUCH CLAIM. ALL LIABILITY IS DISCLAIMED IF THE PRODUCT IS USED IN ANY PROHIBITED INDUSTRY OR APPLICATION AS DEFINED IN THIS WARRANTY. SOME JURISDICTIONS DO NOT ALLOW DISCLAIMERS OF IMPLIED WARRANTIES OR LIMITATIONS ON LIABILITY, SO THESE LIMITATIONS MAY NOT APPLY TO LICENSEE.

LICENSOR'S ENTIRE LIABILITY SHALL BE, AT LICENSOR'S OPTION, EITHER (A) RETURN OF THE PRICE PAID FOR THE SOFTWARE (OR COMPONENT), OR (B) REPAIR OR REPLACEMENT OF THE SOFTWARE (OR COMPONENT) THAT DOES NOT MEET SOFTWARE TOOLBOX INC.'S LIMITED WARRANTY AND WHICH IS RETURNED TO LICENSOR WITHIN THE WARRANTY PERIOD. THIS SHALL BE THE SOLE AND EXCLUSIVE OBLIGATION OF SOFTWARE TOOLBOX INC. AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY SUCH FAILURE. THE LIMITED WARRANTY IS VOID IF FAILURE OF THE SOFTWARE (OR COMPONENT) HAS RESULTED FROM ACCIDENT, ABUSE, MISAPPLICATION, OR OTHER BREACH OF THE TERMS OF THIS LICENSE.

7. OTHER TERMS & CONDITIONS

U.S. Government Restricted Rights. The Software and documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software—Restricted Rights at 48 CFR 52.227-19, as applicable.

Severability Each section and subsection of this Warranty shall be considered severable, and if any provision of this Warranty shall be held illegal, invalid, or otherwise unenforceable under controlling law, the remaining provisions of this Warranty shall not be affected thereby but shall continue in effect.

Export Restrictions You acknowledge that the Product may be subject to U.S. export jurisdiction depending on the location of the Purchaser and/or End-User. You agree to

comply with all applicable international and national laws that apply to the Product, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. Prior to delivery of Product, you may be required to provide to Distributor or Manufacturer the necessary documentation as required by the U.S. government and its agencies to certify the final end user destination of the Product. If such documentation is requested and you do not or are not able to provide it, the Product will not be delivered to you in any form, and any pre-paid funds for Product purchase will be refunded to you.

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8. TERMINATION

This License is effective until terminated. It will automatically terminate if Licensee fails to comply with any of its terms. Upon termination, Licensee must destroy all copies of the Software in their possession or control.

9. GOVERNING LAW & DISPUTE RESOLUTION

This Agreement is governed by and construed in accordance with the laws of the State of North Carolina. No provision of this Agreement shall be amended, supplemented or waived except by written agreement signed by the parties hereto. This Agreement takes precedence over any conflicting terms specified on Purchaser's purchase order or other documents supplied by Purchaser as part of the transaction of purchasing the Product. This Agreement sets forth the entire understanding and agreement between the parties with respect to the subject matter set forth herein and supersedes any prior or contemporaneous discussions, understandings, orders, requests or statements regarding such subject matter, other than the pricing and payment terms contained on the attached or related invoice. In the event of a dispute between Purchaser or End User and Distributor and/or Manufacturer where the parties are unable to reach a mutually agreeable resolution, the dispute shall be submitted to binding arbitration under the expedited commercial arbitration rules of the American Arbitration Association then in effect; provided, however, that Manufacturer and Distributor shall be entitled to avail itself of injunctive and other equitable rights and remedies in a court of competent jurisdiction in order to protect its rights and interests. Arbitrations shall take place in Charlotte, North Carolina. There shall be one (1) arbitrator mutually agreed to by both parties (if the parties are unable to agree on a single arbitrator, the arbitrator shall be chosen in accordance with

the rules of the American Arbitration Association); such arbitrator shall have experience in the area of software technology. After the hearing, the arbitrator shall decide the controversy and render a written decision setting forth the issues adjudicated, the resolution thereof and the reasons for the award. The award of the arbitrator shall be conclusive. Payment of the expenses of arbitration, including attorneys' fees and the fee of the arbitrator, shall be assessed by the arbitrator based on the extent to which each party prevails.