

October 25<sup>th</sup>, 2021

## End User License Agreement for Baumer Sensor Suite

**PREAMBLE.** This end user license agreement (“EULA”) governs your registration and/or use of the Baumer Sensor Suite (BSS) (“Service” or “Software”), including any update thereto. By clicking the “register” button, a contract for using the Software is concluded between you (hereinafter “licensee” or “you”) and us, Baumer Electric AG, a Swiss company with its residence at Hummelstrasse 17, 8500 Frauenfeld, Switzerland (“Baumer” or “we”), subject to the following terms and conditions.

The Software is an application that makes it possible to parameterize and test IO-Link sensors independently of the manufacturer and to visualize measured values. The sensors can be easily connected to the computer by means of an IO-Link master. IO-Link masters from different manufacturers can be connected. By using the Software, connected sensors are automatically identified and a download of the correspondingly required IODD data is provided.

After installation, the Software provides additional functions for displaying the sensor measured values. Customers of Baumer sensors can also access and use sensor-specific user interfaces.

The Software provides various dashboard features for creating an individual monitoring and parameterization tool.

**1. LIMITED LICENCE TO USE.** Baumer provides you with the Service in the latest version. Subject to the terms and conditions of this EULA, we hereby grant you a personal, limited, non-exclusive, non-transferable, non-sub licensable license, non-reproducible and non-distributable license to use the Service respectively the underlying Software solely as provided and only as expressly authorized in this EULA.

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the Software as expressly permitted under this EULA. You acknowledge and agree that any actual or threatened breach of this EULA will constitute immediate, irreparable harm to us for which monetary damages would be an inadequate remedy and that injunctive relief is an appropriate remedy for any such breach or violation. However, we reserve the right to assert claims for damages.

**4. THIRD PARTY COMPONENTS.** The Software is delivered along with certain software components provided by third parties (“Third Party Software”). We shall not be responsible and not liable for any such Third-Party Software. Third-Party Software, particularly open source software, may be subject to separate license terms included with or contained in the setup installation segments of such Third-Party Software. The terms set forth in this EULA do not apply to Third-Party Software to the extent they are inconsistent with such Third-Party Software licenses. Source code for any open source Third-Party Software delivered along with the Software can be obtained under the software information folder licenses.

#### **5. PROVISION AND FEE**

Baumer provides the Service free of charge for download on its website. The use of the Service and the Software on which the Service is based is for free.

**6. ADDITIONAL SERVICES.** Various services may be offered to you such as free or payable updates and upgrades and extended versions. By using any such Services, you agree to these EULA’s when its free and when its payable to the license terms as outlined in the paid version. We reserves the right at any time and from time to time to modify, discontinue or request payment, temporarily or permanently, the Services (or any part thereof) with or without notice. You agree that we shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Services.

**7. PAY WITH YOUR DATA.** We incur substantial development, allocation, IT resources and bandwidth expenses in the creation and maintenance of the Service. The Service is for the time being free to use and our additional services are generally provided free of charge as well, if you agree to the below.

Baumer processes the following data in connection with the use of the Service: name, first name, e-mail address, position, company, address, telephone number (optional).

To support our business and continue providing you with the Software and Services for free, Baumer is allowed to use the transmitted data to contact you for marketing purposes and offers. The licensee agrees to the processing of these data for the aforementioned purposes by the licensor.

For the product to be effective, – data of which sensor is in operation including the IODD , but no personal data – is collected by using the Service to a) use this information for own further product development and b) benchmarking.

**8. DATA PROTECTION AND NON-DISCLOSURE.** We take the protection and security of the users’ information very seriously. Information on the processing of your personal data can be found in our data protection information for the use of the software [https://www.baumer.com/de/de/baumer-sensor-suite/a/baumer-sensor-suite\\_](https://www.baumer.com/de/de/baumer-sensor-suite/a/baumer-sensor-suite_) (“Data Protection Declaration”). In respect of the consent given see above para. 7. we will not disclose your personal data intentionally to any third party not being our sub processor and sub-sub processor. **But please be aware, buy using our Service which is based on certain sub processor in third countries with no adequate data protection**

**level, that there are risks in respect of your personal data which can also not be mitigated with high technical and organizational measures as such countries might not maintain the same level of fundamental human rights as in Switzerland and the EU. You expressly consent to such use.**

**9. TERMINATION IN CASE OF BREACH.** This EULA will commence upon your registration and/or use of the Service and continue in perpetuity unless terminated earlier as provided herein. This EULA will immediately terminate upon your breach of any of the terms or conditions set forth herein. Upon the termination of the EULA, you will discontinue all use of the Service, promptly destroy or have destroyed the Software and/or its access information and any copies thereof, if any, and, upon request by us, certify in writing that such destruction has taken place. These remedies are cumulative and in addition to any other remedies which may be available. The Preamble as well as Sections 2 through 14 of this EULA shall survive termination.

**10. NO WARRANTIES AND GUARANTEES.** THE SERVICE AND/OR THE SOFTWARE IS PROVIDED "AS IS", AND WE DISCLAIM ALL WARRANTIES WITH REGARD TO THE SERVICE AND/OR THE SOFTWARE WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, SATISFACTORY QUALITY, OR QUIET ENJOYMENT. WE DO NOT WARRANT THAT THE USE OF THE SERVICE AND THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THE SERVICE AND/OR THE SOFTWARE DOES NOT CONTAIN ANY VIRUSES. THIS WARRANTY DISCLAIMER IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN YOU AND US. WE WOULD NOT PROVIDE THE SERVICE AND/OR SOFTWARE ABSENT SUCH DISCLAIMER. NO REPRESENTATIONS OR WARRANTIES ARE MADE BY ANY OF OUR SUPPLIERS, PERSONNEL OR EXECUTIVE BODIES UNDER OR BY VIRTUE OF THIS AGREEMENT. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SERVICE AND/OR SOFTWARE, OR WITH ANY OF THESE TERMS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SOFTWARE.

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**11. EXCLUSION OF USE.** DO NOT USE THIS SOFTWARE, IF IT IS USED TO MONITOR PARTS, WHICH ARE USED AS SAFETY PART IN THE SENSE OF THE EU MACHINERY DIRECTIVE. IN SPECIFIC, DO NOT USE IT FOR PRODUCTS WHICH RELATE TO SECURITY SYSTEMS, EMERGENCY SYSTEMS, ENERGY SUPPLY, NUCLEAR POWER STATIONS, MILITARY INSTALLATIONS, MEDICAL EQUIPMENT (IN PARTICULAR WITH LIFE-SUPPORTING FUNCTION) AND/OR THE MANUFACTURE OF WEAPONS. SUCH USE IS EXPLICITLY PROHIBITED AND ANY SUCH LIABILITY IS EXCLUDED.

**12. LIABILITY.** WE SHALL ONLY BE LIABLE, INCLUDING FOR OUR LEGAL REPRESENTATIVES AND VICARIOUS AGENTS, IN THE EVENT OF INTENT OR GROSS NEGLIGENCE, INJURY TO LIFE, BODY OR HEALTH AS WELL AS UNDER THE PRODUCT LIABILITY ACT. IN NO EVENT SHALL WE, OUR LEGAL

REPRESENTATIVES AND VICARIOUS AGENTS, BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR INDIRECT DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DAMAGES FOR INTERRUPTION OF BUSINESS, LOST DATA, DATA BREACHES, DATA SECURITY, LOST PROFITS, OR ANY SUBSEQUENT DAMAGES) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), PRODUCT LIABILITY, ESTOPPEL OR OTHER THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AS FAR AS PERMITTED BY LAW.

THIS LIMITATION OF LIABILITY WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY SET FORTH HEREIN. THIS LIMITATION OF LIABILITY IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN YOU AND US. WE WOULD NOT PROVIDE THE SOFTWARE TO YOU ABSENT SUCH LIMITATION AND EXCLUSIONS.

**13. SWISS LAW AND JURISDICTION.** This EULA will be governed exclusively by the laws of Switzerland without giving effect to any conflicts of law principles that may require the application of the laws of a different country. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

All actions or proceedings arising under or related to this Agreement must be brought in the Court in Frauenfeld, and you hereby agree to irrevocably submit to the exclusive jurisdiction and venue of any such court in all such actions or proceedings.

Notwithstanding this, you agree that WE shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

**14. SEVERABILITY CLAUSE.** If any provision of this EULA is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions of this EULA shall not be affected or impaired thereby.

**15. MODIFICATION OF TERMS.** We may update the terms of this EULA or the Data Protection Declaration at any time. The current version of this EULA is posted at <https://www.baumer.com/de/de/baumer-sensor-suite/a/baumer-sensor-suite>, the latest version of the Data Protection Declaration is also posted there. It is your responsibility to remain informed of any changes as you are bound by the latest version of the EULA and the Data Protection Declaration. However, if you do not agree to an amendment, you may terminate this EULA at any time.

**16. GENERAL.** You acknowledge and agree that the Service respectively the Software may contain cryptographic functionality the export of which may be restricted under applicable export control law. Licensee shall not export or re-export any Software, technical data or related documentation to any country or person to which export or re-export of such items is prohibited by relevant Export Laws without first obtaining the written permission of Licensor and from government authorities (as applicable). Licensor shall have the right to delay shipment, delivery or installation of the Software or terminate this License Agreement, in whole or in part, and without liability, should Licensor not obtain in a timely way all required export licenses and approvals necessary to export the Software.»