END USER LICENSE AGREEMENT

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THIS SOFTWARE. BY USING THE SOFTWARE OR CLICKING AGREE YOU ARE AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU AGREE TO THESE TERMS ON BEHALF OF A LEGAL ENTITY, THEN YOU REPRESENT THAT YOU HAVE THE NECESSARY AUTHORITY TO BIND THAT LEGAL ENTITY TO THESE TERMS.

This agreement is between Kelverion North America, Inc., a Florida corporation (if customer is located in the United States and Canada), and Kelverion UK Limited, a company incorporated in England and Wales (if customer is located outside of the United States and Canada) (**Kelverion**), and the customer entering into this agreement (**Customer**). The Kelverion software, modification, enhancements, documentation, and license keys provided to Customer (**Software**) are licensed and are not sold.

1. SCOPE.

This agreement describes the licensing of the Software and Support provided to Customer under an order.

2. LICENSE.

A. **License**. Subject to the other terms of this agreement, Kelverion grants Customer, under an order, a non-exclusive, and non-transferable license (for the license duration specified on the order), up to the license capacity purchased to use the Software only in the territory specified in the order and Customer's internal business operations.

The following license capacity metrics apply, in addition to the quantity of licenses purchased:

> **Integration Packs and Orchestrator Solutions** *licensed* per Microsoft System Center Orchestrator database.
> **Runbook Studio** *licensed* per device.
> **Integration Modules and Azure Solutions** *licensed* per Microsoft Azure Subscription or per device.
> **Automation Portal** *licensed* per Automation Portal database.

B. **Trial**. If Customer has registered for a trial of the Software, Kelverion grants Customer a non-exclusive license, for the duration specified by Kelverion, to operate the Software to decide if it wants to purchase a paid license. The Software is provided AS IS, with no warranty.

3. WARRANTY, REMEDY, AND DISCLAIMER.

A. **Warranty**. For new license purchases, Kelverion warrants that the Software will perform in substantial accordance with its accompanying product documentation for a period of 60 days from the date of the order. This warranty will not apply to any problems caused by software not licensed to Customer by Kelverion, use other than in accordance with the technical documentation, or misuse of the Software. The warranty only covers problems reported to Kelverion during the warranty period or 15 days after. Customer will cooperate with Kelverion in resolving any warranty claim. EXCLUSIVE REMEDY AND SOLE LIABILITY. KELVERION WILL USE COMMERCIALLY REASONABLE EFFORTS TO REMEDY COVERED WARRANTY CLAIMS WITHIN A REASONABLE PERIOD OF TIME OR REPLACE THE SOFTWARE, OR IF KELVERION CANNOT DO SO, IT WILL REFUND TO CUSTOMER THE LICENSE FEE PAID. THIS REMEDY IS CUSTOMER'S EXCLUSIVE REMEDY AND KELVERION'S SOLE LIABILITY FOR THESE WARRANTY CLAIMS.

B. **DISCLAIMER.** KELVERION DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER UNDERSTANDS THAT THE SOFTWARE MAY NOT BE ERROR FREE AND USE MAY BE INTERRUPTED.

4. PAYMENT.

Customer will pay all fees within 30 days of receipt of an invoice, unless otherwise provided on an order, plus applicable sales, use, and other similar taxes.

5. MUTUAL CONFIDENTIALITY.

A. Definition of Confidential Information. Confidential Information means all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally, visually, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). Kelverion's Confidential Information includes, without limitation, the Software, its user interface design and layout, technical documentation and pricing information.

B. Protection of Confidential Information. The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this agreement.

C. Exclusions. Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order but will provide Discloser with advance notice to seek a protective order.

6. KELVERION PROPERTY.

A. **Reservation of Rights.** The Software, workflow processes, user interface, designs, technical documentation, and other technologies provided by Kelverion as part of the Software are the proprietary property of Kelverion and its licensors, and all right, title, and interest in and to such items, including all associated intellectual property rights, remain only with Kelverion and its licensors. The Software is protected by applicable copyright and other intellectual property laws. Customer may not remove any product identification, copyright, trademark, or other notice from the Software. Kelverion reserves all rights unless expressly granted in this agreement.

B. **Restrictions.** Customer *may not* (i) transfer, assign, sublicense, rent the Software, create derivative works of the Software, or use it in any type of service provider environment; (ii) interfere with or disrupt the integrity or performance of the Software; (iii) reverse engineer, decompile, disassemble, or translate the Software, except as allowed by applicable law despite this limitation; or (iv) evaluate the Software for the purpose of competing with Kelverion, or operate the Software other than in accordance with its technical documentation.

7. TERM AND TERMINATION.

A. **Term.** This agreement expires at the end of the license period specified in the accompanying order.

B. **Mutual Termination for Material Breach.** If either party is in material breach of this agreement, the other party may terminate this agreement at the end of a written 30-day notice/cure period, if the breach has not been cured.

C. **Return Kelverion Property Upon Termination.** Upon termination of this agreement or a license for any reason, Customer must discontinue using the Software, de-install, and destroy or return the Software and all copies within 5 days. Upon Kelverion's request, Customer will confirm in writing its compliance with this destruction or return requirement.

8. LIABILITY LIMIT.

A. **Exclusion of Indirect Damages. Kelverion is not liable for any indirect, special, incidental, or consequential damages arising out of or related to this agreement (including, without limitation, costs of delay; loss of or unauthorized access to data or information; and lost profits, revenue, or anticipated cost savings), even if it knows of the possibility of such damage or loss or if the damage or loss is foreseeable.**

B. **Total Limit on Liability. Except for Kelverion's indemnity obligations in Clause 10, Kelverion's total liability arising out of or related to this agreement (whether in contract, tort, or otherwise) does not exceed the amount paid or payable by Customer for the license to the Software.**

9. ANNUAL SUPPORT.

Kelverion's annual technical support and maintenance services (**Support**) is included with new term licenses and available for an annual fee for perpetual licenses (unless the Support is sunsetted). Support may be provided in subsequent years if Customer and Kelverion agree on the support renewal for that year. Support is provided under the Support policies then in effect. Kelverion may change its Support terms, but Support will not materially degrade during any Support term. More details on Support are located at https://kelverion.com/services/support

10. CUSTOMER INDEMNITY.

Defense of Third Party Claims. Kelverion will defend or settle any third-party claim against Customer to the extent that such claim alleges that the Software violates a copyright, patent, trademark, or other intellectual property right, if Customer promptly notifies Kelverion of the claim in writing, cooperates with Kelverion in the defense, and allows Kelverion to solely control the defense or settlement of the claim. **Costs.** Kelverion will pay infringement claim defense costs it incurs in defending Customer, and Kelverion negotiated settlement amounts, and court awarded damages. **Process.** If such a claim appears likely, then Kelverion may modify the Software, procure the necessary rights, or replace it with the functional equivalent. If Kelverion determines that none of these are reasonably available, then Kelverion may terminate the Software and refund (as applicable) any prepaid and unused fees, service fees, and the license fee for perpetual licenses (amortized over a 5-year period from the date of the order). **Exclusions.** Kelverion has no obligation for any claim arising from: Kelverion's compliance with Customer's specifications; a combination of the Software with other technology or aspects where the infringement would not occur but for the combination; use of Customer Data; or technology or aspects not provided by Kelverion. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND KELVERION'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

11. GOVERNING LAW AND FORUM.

A. **If Customer is located in the United States: This agreement is governed by the laws of the State of Delaware (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this agreement. Any suit or legal proceeding must be exclusively brought in the federal or state courts for the State of Delaware and Customer submits to this personal jurisdiction and venue. Nothing in this agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. The prevailing party in any litigation is entitled to recover its attorneys' fees and costs from the other party.**

B. **If Customer is located in Canada: This agreement is governed by the laws of the State of Delaware (US), without regard to conflict of laws principles. Any dispute between Customer and Kelverion arising out of or related to this agreement must be exclusively determined by binding arbitration in the State of Delaware, US in English, under the then current commercial or international rules of The International Centre For Dispute Resolution. The decisions of the arbitrators may be entered in any court of competent jurisdiction. Nothing in this agreement prevents either party from seeking injunctive relief in any court of competent jurisdiction. The prevailing party in any arbitration or litigation is entitled to recover its attorneys' fees and costs from the other party.**

C. **If Customer is located outside of the United States and Canada: This agreement is governed by the laws of England and Wales for any dispute between the parties or relating in any way to the subject matter of this agreement. Any suit or legal proceeding must be exclusively brought in the courts of England and Wales.**

12. OTHER TERMS.

A. **Entire Agreement and Changes.** This agreement and the order constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this agreement. No representation, promise, or inducement not included in this agreement is binding. No modification of this agreement is effective unless both parties sign it, however this agreement may be modified through an online process provided by Kelverion. No waiver is effective unless the party waiving the right signs a waiver in writing.

B. **No Assignment.** Neither party may assign or transfer this agreement to a third party, nor delegate any duty, except that the agreement and all orders may be assigned, without the consent of Customer, as part of a merger or sale of substantially all or part the businesses or assets of Kelverion.

C. **Independent Contractors.** The parties are independent contractors with respect to each other.

D. **Enforceability and Force Majeure.** If any term of this agreement is invalid or unenforceable, then it shall be deemed deleted but it shall not affect the validity and enforceability of the remainder of the agreement and the other terms shall remain in effect. If any provision or part-provision of this agreement is deemed deleted under this clause the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original Except for the payment of monies, neither party is liable for events beyond its reasonable control, including, without limitation, force majeure events.

E. **Money Damages Insufficient**. Any breach by a party of this agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

F. **No Additional Terms.** Kelverion rejects additional or conflicting terms of a Customer's form-purchasing document.

G. **Order of Precedence.** If there is an inconsistency between this agreement and an order, this agreement prevails.

H. **Survival of Terms.** Any terms, that by their nature survive termination of this agreement for a party to assert its rights and receive the protections of this agreement, will survive (including, without limitation, the confidentiality terms). The UN Convention on Contracts for the International Sale of Goods does not apply.

I. **Compliance Audit.** No more than once in any 12-month period and upon at least 30 days' advance notice, Kelverion (or its representative) may audit Customer's usage of the Software at any Customer facility. Customer will cooperate with such audit. Customer agrees to pay within

30 days of written notification any fees applicable to Customer's use of the Software in excess of the license.

J. Export Compliance. Customer must comply with all applicable export control laws of the United States, foreign jurisdictions, and other applicable laws and regulations.

K. U.S. Government Restricted Rights. If Customer is a United States government agency or acquired the license to the Software hereunder pursuant to a government contract or with government funds, then as defined in FAR §2.101, DFAR §252.227-7014(a)(1), and DFAR §252.227-7014(a)(5), or otherwise, all Software provided in connection with this agreement are "commercial items," "commercial computer software," or "commercial computer software documentation." Consistent with DFAR §227.7202 and FAR §12.212, any use, modification, reproduction, release, performance, display, disclosure, or distribution by or for the United States government is governed solely by the terms of this agreement and is prohibited except to the extent permitted by the terms of this agreement.

L. Open Source Software Licenses. The Software may contain embedded open source software components, which are provided as part of the Software and for which additional terms may be included in the technical documentation, the Software or Kelverion website.

LOCAL COUNTRY TERMS:

If Customer is located outside of the United States and Canada, then notwithstanding what is provided above, the below specific terms apply instead of Section 8 Liability Limit above:

A. Customer acknowledges that the Software has not been developed to meet its individual requirements, and that it is therefore its responsibility to ensure that the facilities and functions of the Software as described in the technical documents meet its requirements.

B. Kelverion is not in any circumstances whatever liable to Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Software for: loss of profits, sales, business, or revenue; business interruption; loss of anticipated savings; loss or corruption of data or information; loss of business opportunity, goodwill or reputation; or any indirect or consequential loss or damage.

C. Other than the losses set out in B above (for which we are not liable), Kelverion's maximum aggregate liability under or in connection with this agreement whether in contract, tort (including negligence) or otherwise, will in all circumstances be limited to the amount paid by Customer to Kelverion in the 12 month period prior to the event which gave rise to the claim. This maximum cap does not apply to Section D below.

D. Nothing in this agreement will limit or exclude Kelverion's liability for: death or personal injury resulting from Kelverion's negligence; fraud or fraudulent misrepresentation; any other liability that cannot be excluded or limited by applicable law.