

## Terms and Conditions for Online Training Services

### Endress+Hauser, Inc.

**1. Buyer's Assent.** Payment for all or any part of the items covered by the Buyer's Subscription (the "Services") shall constitute Buyer's assent to all of the terms hereof. Prior to acceptance of Services by Buyer, Endress+Hauser, Inc. ("Seller") may withdraw or modify this conditional acceptance of the Services.

**2. Complete Agreement.** This agreement between Seller and Buyer (the "Agreement") contains the complete and exclusive agreement between Seller and Buyer with respect to the Services and supersedes all prior agreements with respect to the Services whether written or oral.

**3. Modification.** No modification, amendment, extension, renewal, rescission, discharge, abandonment, waiver or other change or alteration shall be valid, enforceable or binding on Seller unless agreed to in writing by Seller. Seller shall not be bound by any additional or different terms, whether printed or otherwise, or any other communication from Buyer to Seller unless specifically agreed to by Seller in writing. Prior courses of dealing, usage of the trade, and verbal agreements not reduced to writing and signed by Seller, to the extent that they modify, add to, or detract from the Agreement, shall not be binding on the Seller. Seller may, at its option, treat any attempted modification, termination or repudiation by Buyer to which Seller does not assent as a breach of the entire Agreement and claim all proper damages.

### 4. Use of Services.

**4.1. Authority to Use Services.** Buyer represents and warrants that it has all necessary right, power, and authority to enter into this Agreement and to perform the acts required of it hereunder. Seller does not generally monitor user activity occurring in connection with the Services. If Seller becomes aware, however, of any possible violations by Buyer of any provision of this Agreement, Seller reserves the right to investigate such violations, and Seller may, at its sole discretion, terminate immediately Buyer's access to the Services as set forth in Section 7.2. If, as a result of such investigation, Seller believes that criminal activity has occurred, Seller reserves the right to refer the matter to, and to cooperate with, any and all applicable law enforcement authorities. Seller is entitled, except to the extent prohibited by applicable law, to disclose any information, including Information, about Buyer in Seller's possession in connection with Buyer's use of the Services to law enforcement or other government officials, as Seller in its sole discretion believes to be necessary or appropriate. Seller will provide Buyer with prior notice of any such disclosure where legally permissible. Further, the DMCA Provision is hereby incorporated by reference.

**4.2. Access to Services.** Buyer acknowledges that its ability to access and use the Services may require the payment of third party fees (such as telephone toll charges, ISP, or airtime charges) and that Buyer is responsible for paying such fees. Seller is not responsible for any equipment or third party services Buyer may need to be able to access and use the Services. Buyer acknowledges and agrees that by accessing or using the Services, Buyer may be exposed to materials from third parties that are offensive, indecent, or otherwise objectionable. Buyer may report any violations of these terms to Seller's training department.

**4.3. Log-In Information.** To gain access to and use the Services, Buyer may be required to create a log-in ID and password ("Log-In Information"). Buyer is responsible for all activity occurring under Buyer's Log-In Information, and Buyer must keep Buyer's Log-In Information confidential and not share Buyer's Log-In Information with third parties. Seller has no obligation or responsibility with regard to Buyer's use, distribution, disclosure, or management of Log-In Information. Notwithstanding the foregoing, Seller may require Buyer to change Buyer's Log-In Information if such Log-In Information is inconsistent with the terms of this Agreement.

**4.4. Limitations.** The Services may not reliably work in some international jurisdictions that regulate Voice Over IP services or where the local government actively blocks or otherwise interferes with cross-border data flows. The Services are not designed or licensed for use in hazardous environments requiring fail-safe controls, including without limitation operation of nuclear facilities, aircraft navigation/communication systems, air traffic control, and life support or weapons systems. Without limiting the generality of the foregoing, Seller, its affiliates, and suppliers specifically disclaim any express or implied warranty of fitness for such purposes.

## 5. License.

**5.1. The Services.** Subject to Buyer's compliance with the terms and conditions of this Agreement, Seller grants to Buyer a non-exclusive, non-transferable, revocable right to access and use the Services according to the terms and conditions of this Agreement.

**5.2. Use Restrictions.** In connection with Buyer's access or use of the Services, Buyer agrees not to: (a) attempt to gain unauthorized access to services, materials, other accounts, computer systems, or networks connected to any of the Services, through hacking, password mining, or any other means; (b) obtain or attempt to obtain any materials or information through any means not intentionally made available through the Services; (c) engage in any systematic extraction of data or data fields (including e-mail addresses) except as may be reasonably contemplated through the normal use of the Services; (d) sell, resell, lend, lease, or rent access to or use of the Services or any portion of the Services, or otherwise transfer any rights to use or access the Services.

**6. Ownership of the Services and Marks.** Buyer acknowledges that Seller and its licensors own all right, title, and interest in: (a) the Services; (b) any Seller software provided in connection with the Services; and (c) all graphics, logos, service marks, and trade names, including third-party names, product names, and brand names used by Seller in connection with the Services (the "Marks"). Buyer shall not alter or remove any Marks or Seller copyright notices included in the Services. Buyer, or Buyer's respective licensors, as applicable, own all right, title, and interest in and to any graphics, logos, service marks, and trade names used by Buyer in connection with the Services (excluding Marks). Buyer is welcome to send suggestions on improving the Services, but in doing so, Buyer acknowledges and agrees that such suggestions will become the property of Seller, and Seller has no obligation to compensate Buyer for such suggestions.

## 7. Service Terms and Termination.

**7.1. Service Terms.** The term for Services shall be for one (1) year. The Services will begin as soon as payment is successfully posted and will renew automatically until terminated by the Buyer or terminated by the Seller pursuant to Section 7.2. Pursuant to section 9 below, price may change at the end of the term.

**7.2. Termination by Seller.** Seller may terminate the Services at any time and upon written notice to Buyer, or suspend or restrict Buyer's access to the Services in whole or in part, if: (a) Buyer materially breaches this Agreement and does not cure such breach within fifteen (15) days of receiving written notice of the breach from Seller; or (b) Seller determines in its sole and exclusive judgment that terminating Buyer's access to the Services is advisable for security reasons, to protect Seller from liability, or for the continued normal and efficient operation of the Services. Such termination shall be without refund of any prepaid fees.

**7.3. Termination by Buyer.** Buyer may terminate the Services at any time for any reason, but without refund of any prepaid fees.

**7.4. Effect of Termination.** Upon termination of this Agreement, Buyer must immediately cease using the Services. The following sections of this Agreement shall survive termination of this Agreement: 6, 7.4, 11-16, 18, and 20.

**8. Invoicing & Payment Terms.** Unless provided otherwise on the face of this Agreement, Buyer shall pay the purchase price in full prior to obtaining full access to the training site. If Buyer's initial payment authorization is later revoked, Buyer's access will be terminated immediately. Following the initial payment and registration for Services, Seller will invoice Buyer sixty (60) days prior to the end of each term for the subsequent term. Invoices shall be paid Net 30 days from the date of invoice. Unless specified otherwise, all charges are nonrefundable.

**9. Pricing.** Buyer agrees to pay the price that is stated during the order process. All prices are in United States Dollars. Seller reserves the right to change the prices at any time. Buyer agrees to pay the prices in effect at the time of renewal.

**10. Sales or Use Taxes.** The price shown on the face hereof does not include any tax or other governmental charge upon the sale or use of the Services which Seller is required to pay or collect from the Buyer. Any such tax or charge shall be paid by Buyer unless Buyer furnishes Seller with exemption certificates acceptable to the appropriate taxing authority.

**11. Links.** Seller may provide links to other websites or resources as part of the Services as a convenience to Buyer. Seller is not responsible for the contents, products, or services on any third party site, and the inclusion of any link does not imply that Seller endorses the content on such third party sites. Buyer may visit such third party sites solely at Buyer's own risk.

**12. Indemnification.** Buyer agrees to indemnify and hold Seller harmless from and against any and all liabilities, costs, and expenses, including reasonable attorneys' fees, related to or arising from Buyer's or any Participant's use of the Services, including any use that violates this Agreement.

**13. Privacy.** For information about Seller's data protection and collection practices, please read the Privacy Policy located at <http://www.endress.com/eh/home.nsf/#page/~privacy-policy>. Buyer agrees that Buyer's access and use of the Services is subject to the Privacy Policy which is incorporated herein by reference. Seller will take reasonable security precautions regarding Buyer's personal information collected from and stored on the site. However, because of the open nature of the Internet, Seller cannot guarantee that any of Buyer's personal information stored on the servers or on those of third parties will be free from unauthorized access or disclosure. Accordingly, and as set forth in Seller's Internet Disclaimer and Statement, Seller disclaims any liability for any theft or loss of, unauthorized access, disclosure or damage to, or interception of any data communications and/or personal information. By using the Services, Buyer acknowledges that Buyer understands and agrees to assume these risks.

**14. Audit of Services Records.** Seller reserves the right to audit Service records and data for purposes of confirming that Buyer's Services access and use conform to the requirements of this Agreement. Buyer shall pay Seller the full amount of any underpayment revealed by such audit plus interest from the date such payments were due under the terms of this Section 14 (Audit of Services Records). Notwithstanding the foregoing, if such audit reveals an underpayment by more than five percent (5%) for the period covered by the audit, You shall pay all of the fees and costs associated with such audit and the amount underpaid with interest from the date such payment was due pursuant to this Section 14 (Audit of Services Records). This provision does not limit any additional rights and remedies at law or in equity that Seller may have due to unauthorized use of the Services.

#### **15. DISCLAIMER OF WARRANTIES.**

**15.1.** THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE BASIS" "WITH ALL FAULTS" AND WITHOUT WARRANTY OF ANY KIND. TO THE FULL EXTENT PERMITTED BY LAW, SELLER, ITS AFFILIATES, CONTRACTORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, RESELLERS, LICENSORS, AND ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, SYSTEM INTEGRATION OR COMPATIBILITY, WORKMANLIKE EFFORT, LACK OF NEGLIGENCE, QUIET ENJOYMENT, AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, SELLER DOES NOT WARRANT OR REPRESENT THAT THE SERVICES WILL BE CONTINUOUS, SECURE, RELIABLE, ACCESSIBLE, UNINTERRUPTED OR ERROR-FREE, OR THAT SELLER'S SERVERS AND SOFTWARE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT SELLER'S SECURITY PROCEDURES AND MECHANISMS WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO INFORMATION OR CONTENT BY THIRD PARTIES.

**15.2.** SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

#### **16. Limitation of Liability.**

**16.1.** NEITHER SELLER NOR ITS SUPPLIERS SHALL BE LIABLE TO BUYER OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, COVER, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR THE INABILITY TO USE THE SERVICES OR ANY SOFTWARE OR ACCESS DATA, INFORMATION OR CONTENT, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, OR THE LIKE), ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE SERVICES AND BASED ON ANY THEORY OF LIABILITY INCLUDING STATUTE, BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF SELLER OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

**16.2.** SELLER'S TOTAL LIABILITY TO BUYER FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER WILL BE LIMITED TO THE AMOUNT PAID BY BUYER FOR THE SERVICES IN THE LAST TWELVE (12) MONTHS, IF ANY. BUYER AGREES THAT REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO USE OF THE SERVICES MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED. SELLER'S SUPPLIERS SHALL HAVE NO LIABILITY TO BUYER FOR ANY REASON.

**16.3.** THE LIMITATIONS ON LIABILITY IN THIS SECTION 15 (LIMITATIONS OF LIABILITY) ARE INTENDED TO APPLY TO THE WARRANTIES AND DISCLAIMERS ABOVE AND ALL OTHER ASPECTS OF THIS AGREEMENT. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO BUYER AND BUYER MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE. Nothing contained in this Agreement limits Seller's liability to Buyer in the event of death or personal injury resulting from Seller's gross negligence.

**17.** Costs of Enforcement. Buyer agrees to pay Seller's reasonable expenses and costs, including reasonable attorneys' fees, incurred in enforcing the terms herein.

**18.** Applicable Law. By accessing and using the Services, Buyer and Seller agree that all matters relating to this Agreement and Buyer's access to, or use of, the Services shall be governed by and construed in accordance with the substantive laws in force in the State of Indiana excluding its choice of law provisions. The state or federal courts of Johnson County, Indiana shall have non-exclusive jurisdiction over all disputes relating to this Agreement.

**19.** Severability of Clauses. Buyer agrees that the invalidity or unenforceability of any of the clauses or terms herein shall not affect the validity or enforceability of any other clauses or terms hereof.

**20.** Miscellaneous. Buyer is solely responsible for Buyer's familiarity and compliance with any laws that may prohibit Buyer from participating in or using any part of the Services. Buyer's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Seller in writing. Buyer's rights hereunder may not be assigned or transferred to any third party. Each Party will provide the other with written notice under this Agreement by sending the other party notice as follows: (a) for Buyer, notice will be sent to the e-mail address associated with Buyer's account; and (b) for Seller, notice will be sent to Endress+Hauser, Inc., 2350 Endress Place, Greenwood, Indiana 46143, Attention: General Counsel. In the event the terms of this Agreement, the Privacy Policy, or the DMCA Provision conflict, the documents shall have the following order of precedence: (i) the Agreement, (ii) the Privacy Policy and (iii) the DMCA Provision. This Agreement, including the Privacy Policy and DMCA Provision, constitutes the entire agreement between Buyer and Seller and supersedes all prior agreements, representations, and understandings between the Parties regarding the subject matter contained herein.