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   a. "**OS" Updates**" means software updates provided by Microsoft to enhance the functionality and security of the Software. Unless you modify the automatic update setting, the Runtime Image will periodically check, download and install OS Updates when the Embedded System is connected to the internet.
   b. "**Embedded Application**" means an industry-specific or task-specific software application developed by or for you, that you installed in an Embedded System that provides the primary functionality of the Embedded System.
   c. "**Embedded System**" means a device containing an installed Runtime Image and an Embedded Application.
   d. "**End User**" means a person, company or other legal entity that acquires an Embedded System.
   e. "**EULA**" means the end user license agreement that you provide to your End Users for your Embedded System.
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   g. "**Software**" means the Update Control File, software development tools, utilities, packaged files, sample code, and OS Updates provided by Microsoft that are licensed under the Microsoft Windows 10 IoT Core Software License Terms and includes WinPE.
   h. "**Runtime Image**" means the redistributable version of the Software, generated by you, in object code form, and any OS Updates installed on the Embedded System.

i. **"Update Control File"** means the iotupcommercial.xml file provided to you by Microsoft under the Microsoft Windows 10 IoT Core Software License Terms that enables you to change the automatic update settings in your Runtime Image.

j. **"Windows 10 IoT Core Packages"** means Microsoft signed (by security certificate signature) release type production operating system file packages provided in the Software used to generate your Runtime Image.

k. **"WinPE"** means the Microsoft Windows Preinstallation Environment for Windows 10 licensed to you under the Microsoft Windows Assessment and Deployment Kit. WinPE is Software.

2. **License Grants**

a. **Runtime Image.** Subject to the requirements in Section 3 and restrictions in Section 4, Microsoft hereby grants to you a royalty-free, worldwide, non-exclusive, personal, non-transferable, non-assignable, limited license to install a Runtime Image into an Embedded System and distribute your Embedded System to End Users.

b. **WinPE.** You may install and distribute a copy of WinPE with your Embedded System to be used solely for the purpose of installing, deploying and repairing the Runtime Image. It may not be used as a general purpose operating system.

3. **License Requirements**

As a condition of your license, you agree to:

a. Include the Windows 10 IoT Core Packages provided to you in the Software in your Runtime Image without any modifications.

b. Configure your system firmware to comply with the System Management BIOS Requirements in the SMBIOS Specification to input data that identifies your Embedded System's unique system configuration such as manufacturer, product name and sku number. Specification and further information found here: http://go.microsoft.com/fwlink/?LinkID=828731.

c. Maintain the serviceability of your Runtime Image by ensuring the Embedded System is capable of receiving OS Updates even if you choose to modify your automatic update settings to defer OS Updates.

d. Manufacture and distribute Embedded Systems in compliance with all laws and applicable safety standards.

e. Provide End Users with a EULA (End User License Agreement) that includes the end user license agreement terms that Microsoft provides you, which may include additional terms you have determined are appropriate provided that such additional terms are no less protective of the Software and Runtime Image than the terms provided to you by Microsoft.

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5. **Runtime Image and Embedded System Maintenance**

You agree that you are responsible for maintaining the quality and security of your Runtime Image Embedded System and you will:

a. Test and examine your Runtime Image as installed on an Embedded System to determine that each Runtime Image is suitable in quality and performance for use in the Embedded Systems.
b. If necessary, configure the update mechanism on your Runtime Image to ensure that any OS Updates meet the requirements of your Embedded System.
c. Timely apply any OS Updates necessary to maintain the quality and security of your Embedded System.
d. Ensure that any third party software that you may include in your Embedded System is also updated when OS Updates are deployed to maintain the quality and security of your Embedded System
e. Provide information to End Users about the proper use of the Embedded System including information on how to safely operate the Embedded System.

6. **Third Party AV Technologies**

The Software contains third party audio visual technologies that require these notices:

a. The **H.264/AVC Visual Standard**, the **VC-1 Video Standard**, and the **MPEG-4 Visual Standard**, **MPEG LA, LLC** requires this notice:

This Product is licensed under the AVC, the VC-1 and the MPEG-4 Part 2 Visual patent portfolio licenses for the personal and non-commercial use of a consumer to (i) encode video in compliance with the above standards ("Video Standards") and/or (ii) decode AVC, VC-1 and MPEG-4 Part 2 Visual that was encoded by a consumer engaged in personal and non-commercial activity or was obtained from a video provider licensed to provide such video. None of the licenses extend to any other product regardless of whether such product is included with this product in a single article. No license is granted or will be implied for any other use. Additional information may be obtained from MPEG LA, LLC. See www.mpegla.com.

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b. **High Efficiency Video Coding / H.265 Codec**. The Software includes an implementation of the High Efficiency Video Coding (HEVC) / H.265 video compression standard. You agree that you are responsible for any licensing obligations related to HEVC/H.265.

c. **MPEG-2 Transport Stream.** The Software supports processing of data in an MPEG-2 Transport Stream container. You agree that you are responsible for any licensing obligations related to the MPEG 2 Transport Stream.

d. **MPEG-2 Codec.** The Software includes MPEG-2 visual decoding and encoding technologies, which are disabled. You agree that you are responsible for any licensing obligations related to the MPEG-2 codec.

e. **Opus, VP9 Codec and Successors.** Starting with Software releases in 2016, The Software also include Opus audio decoding and encoding technologies and VP9 (and successor) visual decoding and encoding technologies. You agree that you are responsible for any licensing obligations related to such technologies.

7. **Embedded System Support**

You are solely responsible for End User support. You shall advise End Users to contact you for support.

8. **Privacy; Consent to Use of Data**

    a. <u>Consent to Use of Data</u>. Some of the features in the Software and the Runtime Image send or receive information to Microsoft when using those features. By accepting this agreement and exercising your rights in Section 2, you agree that Microsoft may collect, use and disclose the information as described in the Microsoft Privacy Statement available at (aka.ms/privacy).

    b. <u>Notice to End Users</u>. If you enable these features in your Embedded System you must (i) notify your End Users that these features have been enabled and provide End Users with the link to Microsoft's Privacy Statement at (aka.ms/privacy) or provide equivalent instructions on how to disable these features, and (ii) secure consent from the relevant End Users to enable these features by default, if required by and to the extent required by, applicable law.

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You shall, at your expense and Microsoft's request, indemnify, defend and hold harmless Microsoft, its affiliates and its suppliers from and against any claims or lawsuits, including attorney fees that arise or result from your use or distribution of the Software or Runtime Image, except to the extent that said claims are for intellectual property infringement related exclusively to the unmodified Software as developed by Microsoft.

14.   **Termination**

Microsoft may terminate this Agreement immediately upon any breach of this Agreement that you fail to cure within thirty (30) days after receipt of written notice of breach. Upon termination of this Agreement, you must stop distributing any Embedded Systems and your license rights under this Agreement shall end. EULAs validly granted for Embedded Systems prior to the termination of this Agreement shall survive termination. Upon termination, you may not obtain any new commercial distribution licenses for Windows 10 IoT Core or Windows 10 IoT Core Pro through the Windows 10 IoT Core Commercialization website found here: https://www.windowsforiotdevices.com/ without written express permission by Microsoft.

15. **Survival**
Sections 7, 8, 9, 10, 11, 12, 13, 14, and 15 survive termination of this Agreement.

16. **Miscellaneous**

   a. **Governing Law and Venue; Attorney Fees**
   This Agreement shall be construed and controlled by the laws of the State of Washington and you consent to exclusive jurisdiction and venue in the federal courts sitting in King County, Washington, unless no federal subject matter jurisdiction exists, in which case you consent to exclusive jurisdiction and venue in the Superior Court of King County, Washington. You waive all defenses of lack of personal jurisdiction and forum nonconveniens. Process may be served on either party in the manner authorized by applicable law or court rule. In any action to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, and other expenses.

   b. **Independent Contractors**
   You and Microsoft are operating under this Agreement as independent contractors, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, a franchise or a joint venture between us.

   c. **Taxes**
   You shall pay, and be responsible for, any and all sales taxes, use taxes and any other taxes imposed by any jurisdiction as a result of (i) entering into this Agreement; (ii) the performance of any of the provisions of this Agreement; or (iii) the transfer of any property, right or any other grant hereunder.

   d. **Construction**
   If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement will continue in full force and effect. Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

   e. **Export Restrictions**

The Software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, End Users and end use. For additional information, see (aka.ms/exporting).