Alibaba Cloud

Specific Terms for MindAccess Operator Plan

September 2019

1. Scope; Definitions

1.1. Scope. These Specific Terms are part of the MindSphere Agreement and set out additional terms and conditions for your use of *MindAccess Operator Plan*, including upgrades and Services designated as related Services in an Order Form ("**Operator Services**").

1.2. Definitions. Capitalized terms used in this document shall have the meaning ascribed to them in Section 7 or elsewhere in the MindSphere Agreement.

2. Deployment, Operation, and Provision of Operated Applications

2.1. Your Obligations. Unless otherwise agreed in writing or expressly permitted in the MindSphere Agreement (in particular the Supplemental Terms), when using the Operator Services you shall: (i) use the Operator Services solely to deploy, operate, or provide Operated Applications for App Customers or for your own use; (ii) not develop or modify Operated Applications (iii) ensure that Operated Applications comply with the Guides and any other requirements set out in the MindSphere Agreement ("**Requirements**"); (iv) not use any device, location, database, or application outside the Platform to enable transfer of any of Your Content to a destination outside the Platform via the exit of the wide area network of the data centers used by us to provide the respective Services; and (v) not allow any application, services, or other software deployed outside the Platform to interoperate with MindSphere APIs, except to the extent required for the intended purpose of the respective Services.

2.2. Maintenance and Removal. You will ensure that Operated Applications are kept up-to-date with current bug fixes and patches. If we and/or Siemens determine that Operated Applications do not meet the Requirements, we and/or Siemens may provide notice requesting you to update Operated Applications such that they comply with the Requirements. If you fail to remedy the non-compliance within the time stated in the notice, we and/or Siemens may request you to remove and/or cease marketing the non-complying Operated Applications, and we and/or Siemens reserve the right to remove such Operated Applications.

2.3. Insurance. On our request, you will provide us with information about insurance policies that you may have in place relating to the Operated Applications. We may require you to obtain and maintain, at your own cost and expense, certain levels of insurance for certain types of the Operated Applications.

2.4. Support. You are responsible for providing support concerning Operated Applications. If we receive support queries relating to Operated Applications, we will forward such queries to you.

3. Marketing and Selling of Operated Applications

3.1. Your Obligations. Subject to the conclusion of a separate agreement between you and Alibaba Cloud which defines the terms for the marketing and selling of Operated Applications on the Store, you may: (i) place Operated Applications as an offering on the Store or (ii) market Operated Applications to App Customers via the Store. You agree that an App Customer is deemed to be located in a certain country if the IP address identified by us relates to such country at the time the App Customer accesses the Store.

3.2. Marketing Activities. You are responsible for all Marketing Content relating to the Operated Applications. You will publish only such Marketing Content that complies with the Guides and the terms of the separate agreement between you and Alibaba Cloud. You will ensure that in any of your communication you, and not Alibaba Cloud, are identified as the provider of the Operated Applications.

3.3. Removal from the Store. You may remove Operated Applications from the Store at any time in accordance with the Guides and the terms of the separate agreement between you and Alibaba Cloud. Any removal by you of any Operated Application from the Store will apply to prospective subscribers only and you will continue to enable current subscribers to use the Operated Application (including related support) after removal of the placement until all current subscriptions terminate.

3.4. App Customer Contracts. You or your authorized distributor will be the licensor and/or seller of record for subscriptions to Operated Applications. App Customers may access Operated Applications provided they have entered into a contract with you or your authorized distributors granting such rights for use ("**App Customer Contract**"). You shall include express provisions in the App Customer Contract stating: (i) your or your authorized distributor company name and address and the contact information (telephone number, e-mail address) to which any questions, complaints, or claims with respect to Operated Applications should be directed; (ii) that the contract is only between you or your authorized distributor and the App Customer and not between the App Customer and Alibaba Cloud or Siemens; and (iii) that access to an Operated Application requires the conclusion of one or more Platform-related agreements between the App Customer and Alibaba Cloud. You or your authorized distributors shall set any prices charged for use of Operated Applications at your sole discretion and be responsible for all billing and collection functions in relation to your App Customers. You and your authorized distributor shall remain fully responsible for the enforceability and enforcement of the App Customer Contracts and their compliance with Laws.

3.5. User Documentation. You will provide the App Customers with user documentation that accurately reflects the functionalities of Operated Applications, including security safeguards and information explaining which functionality resides outside the Platform.

3.6. Ratings and Feedback. We and/or Siemens may implement mechanisms that rate or allow App Customers to rate and provide feedback about Operated Applications, you, your authorized distributor, your performance in connection with Operated Applications, and the Store. We and/or Siemens may make these ratings and feedback publicly available.

3.7. Your App Customers' Data. You or your authorized distributor shall inform the App Customers of and, when legally required, obtain

their consent for any collection, storage, processing, modification, disclosure, or other use of App Customer Data in connection with the Operated Applications.

4. **Records and Audit**

4.1. **Records.** You or your authorized distributor will maintain records specifically identifying the number and identity of App Customers per Operated Application, along with all App Customer Contracts.

4.2. **Audit.** We and/or Siemens may, during regular business hours and upon reasonable advance notice, have an auditor conduct an audit to determine your or your authorized distributor's compliance with your or your authorized distributor's contractual obligations as a provider of Operated Applications. The auditor will be bound to secrecy towards Alibaba Cloud, Siemens and Third Parties and may only provide us and/or Siemens with information about your and your authorized distributor's compliance with the applicable obligations. You and your authorized distributor will (i) make available to the auditor all relevant documentation reasonably necessary to conduct such audit, (ii) permit the auditor to access your facilities and otherwise cooperate with the auditor in any such investigation, and (iii) take all commercially reasonable actions to assist the auditor in the audit. We will bear the costs of such audit unless a material non-compliance is revealed, in which case the costs of such audit shall be borne by you.

5. **Changes**

We may change these Specific Terms from time to time to reflect: (i) changes in the quality or functionalities of the Services or (ii) changes in the Services imposed by Alibaba Cloud's or Siemens' subcontractors.

5.1 **License Grant to Material for Test Purposes**. Where we provide you with Material to test connectivity in relation to the Operated Application, we grant you the non-transferable, non-sublicensable, time-limited, and revocable right to use and permit Third Parties to access and use such Materials solely for such testing.

6. **Order of Precedence**

In the event of a conflict or inconsistency between the Guides and these Specific Terms, these Specific Terms shall prevail. In the event of a conflict or inconsistency between the *MindSphere DevOps Guide* and the separate agreement to be concluded between you and Alibaba Cloud, such separate agreement shall prevail.

7. **Definitions**

7.1. "**App Customers**" means designated entities or persons that you permit to access and use Operated Applications under their MindAccess IoT Value Plan Account. App Customers are required to have a current subscription to *MindAccess IoT Value Plan* with Alibaba Cloud.

7.2. "**App Customer Data**" means any information or data that is entered, uploaded to, or stored on the Platform under an App Customer's Account (i.e. under App Customer's subscription to *MindAccess IoT Value Plan*), or otherwise pertaining to the App Customer, including any information or data generated in connection with the App Customer's use of Operated Applications.

7.3. "**Guides**" means the *MindSphere Marketing Guide* and the *MindSphere DevOps Guide,* both available at http://tb.cn/VMMan5w, whereby the content of the MindSphere DevOps Guide regarding marketing and selling of Operated Applications shall only be applicable to the extent the Operated Application is subject of a separate agreement concluded between you and Alibaba Cloud.

7.4. "**Marketing Content**" means any documents, information, or other content provided by or on behalf of you in connection with the marketing or provision of Applications. Marketing Content includes trademarks, designations, and logos in the form provided by you to us (with any modifications to optimize their viewing). Marketing Content is part of Your Content.

7.5. "**Store**" means an online store in the Alibaba marketplace operated by or on behalf of Alibaba Cloud allowing you to market and/or sell Operated Applications.

7.6. "**Operated Application**" means any Application that has been developed and registered to your Account through use of our respective Services for the purpose of being deployed, operated, published and/or provided through use of our respective Services.