

Order Form
for
PSS®E Cloud X Services

BETWEEN

- (1) **City of Columbia, Missouri**, a company registered in United States of America and having its registered office at 701 E Broadway, Columbia, Missouri, 65201-4465, (the "**Customer**" or "**you**"); and
- (2) **Siemens Industry, Inc**, a Delaware corporation and having its registered office at 400 State Street, Schenectady, NY, 12305, (the "**Siemens**" or "**us**"); and
- together the "Parties" and each a "Party"

WHEREAS:

- (A) The Customer is a municipality within the state of Missouri.
- (B) The Customer wishes to receive cloud-based services with PSS®E Cloud X for simulations through the interactive PSS®E user interface on a web browser using AppStream, Cloud API's, sharing studies and accessing remotely a web interface.
- (C) Siemens is willing to render the services summarized in Article 1.

In consideration of the above and the mutual promises and covenants set out in this Contract, the Parties agree as follows.

Article 1 Scope of Services

- 1.1. Siemens offers to customers a cloud-based application as exhaustively described in Annex A: Product Sheet and Annex B: Product Supplemental Terms and the Documentation referenced therein
- 1.2. Of these services you hereby order the following package (referred hereinafter as the "Services"):

Item	Description	Amount
1	Fee to subscribe for (1) user to PSS®Cloud X for 3 years, Standard Package , includes: <ul style="list-style-type: none"> ➤ Graphical User Interface and Contour Plotting ➤ Power Flow 	\$45,514.00 / year

	<ul style="list-style-type: none"> ➤ Contingency Analysis ➤ Voltage Stability (PV/QV) Analysis ➤ Python and IPLAN Scripting ➤ Transmission Reliability Assessment ➤ Model Management – Local Edition " ➤ Line Properties Calculation ➤ Short Circuit Calculations ➤ Dynamic Simulation Control Section and Model Library ➤ Parallel Processing Module for Dynamics <p>Cloud – Deliverables</p> <ul style="list-style-type: none"> ➤ 1 License v35 and v36 (when available) on PSS®E Cloud X for three years. ➤ 150 hr./month, renewed monthly ➤ 32 cores <p>The Standard 1 package is available for use for 3 years. It will terminate after the 3 year subscription is done. The Customer is invoiced and charged annually for 3 years,</p>	
	Sub-Total, not including taxes and Fees for 3 years	\$136,542.00

- 1.3. The provision of the Services will be subject to the terms of the Digital Services Supplemental Terms as per Annex C and Universal Customer Agreement (UCA) as per Annex D.

Article 2 Subscription Terms

- 2.1. The Contract comes into force with the signatures of both Parties ("Effective Date"). Services shall commence on February 1st, 2024.
- 2.2. The Subscription Term for the Services shall be 3 years commencing on February 1st, 2024. The Customer will be invoiced annually on February 1st with payment due net 30 days after invoice receipt.

Article 3 Notice

- 3.1. Any notices and communications shall be sent to exclusively to the Contact Persons according to Annex E.
- 3.2. Notwithstanding the foregoing, notices of claims or notices regarding disputes shall always be sent by facsimile or postal mail to the company addresses of the Parties above.

Article 4 Additional Documents, Order of Precedence

- 4.1. The documents listed hereinafter are attached hereto and form an integral part of this Contract.
- 4.2. In case of conflict or inconsistency amongst any of its provisions, a document mentioned below first shall take precedence over a later mentioned document.

- (i) The body of this Order Form
- (ii) Annex A: Product Sheet
- (iii) Annex B: Product Specific Supplemental Terms
- (iv) Annex C: Digital Services Supplemental Terms
- (v) Annex D: Universal Customer Agreement
- (vi) Annex E: "Contact Persons"

(Place, Date)		(Place, Date)	
City of Columbia, Missouri		Siemens Industry Inc.	
Cale Turner Purchasing Agent	David Fox VP Sales of Grid Software Digitally signed by Fox David DN: cn=Fox David, c=DE, o=Siemens, email=david.fox@siemens.com Date: 2024.02.16 10:42:04-08'00'	Kevin Lykins Segment Controller Lykins Kevin Digitally signed by Lykins Kevin Date: 2024.02.20 13:46:01 -05'00'
Signature 	Signature 	Signature 	Signature
Name	Name	Printed Name	Printed Name

CITY OF COLUMBIA

By: _____
De'Carlton Seewood, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor/ek

CERTIFICATION: I hereby certify that this agreement is within the purpose of the appropriation to which it is to be charged, account number 17440923-504801 and that there is an unencumbered balance to the credit of such account sufficient to pay therefore.

By: _____
Matthew Lue, Director of Finance

Annex A: Product Sheet

Link to Product Sheet V1.02 December 2023 can be found [here](#).

Annex B: Product Supplemental Terms

Link to the Product Supplemental Terms V2.4 October 2023 can be found [here](#).

Annex C: Digital Services Supplemental Terms

Link to the Digital Services Supplemental Terms dated April 25, 2022 can be found [here](#).

Annex D: Universal Customer Agreement

Link to the Universal Customer Agreement dated April 1, 2023 can be found [here](#).

Annex E: “Contact Persons”

The Parties appoint the following contact persons:

Customer

Name	Armin Karabego vic
Address	P.O Box 6015, Columbia, Missouri, 65205-6015
Email	Armin.Karabegovic@como.gov

Siemens

Name	Angie Cardenas
Address	400 State Street, Schenectady, NY 12305
Email	angie.cardenas@siemens.com



GRID SIMULATION

PSS®E Cloud

Product Sheet

PSS®E Cloud provides transmission planning simulation software over the cloud that enables users with on-demand computation power to accelerate daily tasks and simulate even the most complex scenarios with shorter wait times. Applications running on PSS®E Cloud can be directly streamed from a browser, accessed by a desktop app or by using a Cloud API.

[siemens.com/pss-e-cloud](https://www.siemens.com/pss-e-cloud)

SIEMENS

PSS®E Cloud Product Sheet

(Documentation)

General

Value Proposition

Siemens PSS®E Cloud supports you in four main areas:

- **Accelerate Simulations** - Tackle the growing number of simulation requirements without sacrificing accuracy. With PSS®E Cloud, users can now conveniently access on-demand computation power to accelerate daily tasks and simulate even the most complex scenarios with shorter wait times. The power of the cloud can be accessed directly in software through APIs or online.
- **Secure Collaboration** - With a few clicks, users can efficiently and securely store, share, and synchronize model data. PSS®E Cloud is secure by design and ensures that major cybersecurity best practices/standards are covered.
- **Flexible Remote Working** - With PSS®E Cloud, grid planning teams can sustain business continuity despite changing expectations. PSS®E Cloud can be accessed from anywhere within the Territory – users only need their secure login credentials with multi-factor authentication and a web browser.
- **Optimize Investments** - Avoid high costs associated with implementing and maintaining complex IT infrastructures. With PSS®E Cloud, users can easily scale based on business needs and get access to the latest software updates without complex approval processes. More precise budget planning can unlock new opportunities for expenditure.

Territory

Refers to the geographic area of:

- Canada
- United States of America

Additional countries may be included by Siemens upon request.

Description & Functionalities

PSS® Cloud	<p>PSS® Cloud is a cloud-based software as a service offered by Siemens for planning, simulating, and collaborating study projects for the PSS® portfolio in the following ways:</p> <ul style="list-style-type: none"> • PSS® Cloud App Streaming • PSS® Cloud API
PSS® Cloud App Streaming	<p>The PSS® Cloud Apps Streaming allows users to securely launch cloud-based simulation software via a web browser without requiring any on-premise installation.</p> <p>Users can use the PSS® Cloud App Streaming functionality to perform study analysis, parallel distribution and securely collaborate on studies over the cloud as if the user was using an on-premise simulation software. This can be done with the PSS®E Cloud and other simulation tools in the future.</p>
PSS® Cloud API	<p>The PSS® Cloud provides Cloud APIs to allow users to use their existing pre-written scripts by working in the desktop application using Cloud APIs to offload the computational work to the cloud. This can be used with the PSS®E Cloud as well.</p>
PSS®E Cloud	<p>PSS®E Cloud is an application that runs on the PSS® Cloud. PSS®E Cloud simulation modules are the same as those provided with PSS®E desktop/on-premise version.</p> <p>The modules supported by PSS®E and their descriptions can be found at www.siemens.com/pss-e</p> <p>PSS®E Cloud allows operators to perform analyses of power flow, dynamics, short circuits and much more through a cloud interface instead of using a PSS®E desktop version.</p> <p>The simulation modules available on the PSS®E Cloud depend on the packages purchased. Commercial definitions of the packages can be found in section PSS®E Cloud Packages.</p>
PSS®E Base Modules	<p>PSS® Cloud allows simulation of the following PSS®E modules:</p> <ul style="list-style-type: none"> • Graphical User Interface and Contour Plotting • Power Flow

- Contingency Analysis
- Voltage Stability (PV/QV) Analysis
- Python and IPLAN Scripting
- Transmission Reliability Assessment
- Model Management – Local Edition

Basic Package

The PSS® Cloud Basic Package provides the following PSS®E Modules that can be used by PSS®E Cloud.

- PSS®E Base Modules

The descriptions of the PSS®E Modules in the Basic Package can be found in the Modules section of the following PSS®E website: www.siemens.com/pss-e

Standard Package

The PSS®E Cloud Standard Package provides the following PSS®E Modules that can be used by PSS®E Cloud.

- All Modules in Basic Package plus:
- Line Properties
- Dynamic Analysis
- Short Circuit Analysis

The descriptions of the PSS®E Modules in the Standard Package can be found in the Modules section of the PSS®E website: www.siemens.com/pss-e

Advanced Package

The PSS®E Cloud Advanced Package provides the following PSS®E Modules that can be used by PSS®E Cloud.

- All Modules in Standard Package plus:
- Advanced Contingency Analysis and RAS
- Parallel Dynamics
- Optimal Power Flow
- Geomagnetically Induced Currents
- Advanced Linear Analysis

The descriptions of the PSS®E Modules in the Advanced Package can be found in the Modules section of the PSS®E website: www.siemens.com/pss-e

Parallel Dynamics using PSS®E Cloud is more powerful than Parallel Dynamics using the PSS®E non-cloud solution. This is because Parallel Dynamics using the cloud allows for the distribution of work over more cores, which allows additional scenarios to be computed at the same time compared to the non-cloud solution.

Expert Package

The PSS®E Cloud Expert Package provides the following PSS®E Modules that can be used by PSS®E Cloud.

- All Modules in Advanced Package plus:
- Automated Grid Code Assessment
- Harmonics
- Time Series Power Flow

The descriptions of the PSS®E Modules in the Expert Package can be found in the Modules section of the PSS®E website: www.siemens.com/pss-e

PSS®E Cloud Packages

Packages Different Packages of the Offering are available. The Customer is only authorized to use the Offering in accordance with the package to which Customer has purchased.

Package	Users	Monthly Hours	Workers	Terms	Renewed Automatically
PSS®E Cloud Trial	1	100	32	1 month	No
PSS®E Cloud Basic 1	1	100	32	1 year	Yes
PSS®E Cloud Basic 3	3	175	32	1 year	Yes
PSS®E Cloud Basic 10	10	325	32	1 year	Yes
PSS®E Cloud Basic 30	30	500	32	1 year	Yes
PSS®E Cloud Standard 1	1	150	32	1 year	Yes
PSS®E Cloud Standard 3	3	250	32	1 year	Yes
PSS®E Cloud Standard 10	10	500	32	1 year	Yes
PSS®E Cloud Standard 30	30	825	32	1 year	Yes
PSS®E Cloud Advanced 1	1	250	32	1 year	Yes
PSS®E Cloud Advanced 3	3	375	32	1 year	Yes
PSS®E Cloud Advanced 10	10	750	32	1 year	Yes
PSS®E Cloud Advanced 30	30	1175	32	1 year	Yes
PSS®E Cloud Expert 1	1	325	32	1 year	Yes

PSS®E Cloud Expert 3	3	500	32	1 year	Yes
PSS®E Cloud Expert 10	10	1000	32	1 year	Yes
PSS®E Cloud Expert 30	30	1325	32	1 year	Yes
PSS®E Cloud Basic 1 – 3 Year	1	100	32	3 years	Yes
PSS®E Cloud Basic 3 – 3 Year	3	175	32	1 years	Yes
PSS®E Cloud Basic 10 – 3 Year	10	325	32	1 years	Yes
PSS®E Cloud Basic 30 – 3 Year	30	500	32	1 years	Yes
PSS®E Cloud Standard 1 – 3 Year	1	150	32	3 years	No
PSS®E Cloud Standard 3 – 3 Year	3	250	32	3 years	No
PSS®E Cloud Standard 10 – 3 Year	10	500	32	3 years	No
PSS®E Cloud Standard 30 – 3 Year	30	825	32	3 years	No
PSS®E Cloud Advanced 1 – 3 Year	1	250	32	3 years	No
PSS®E Cloud Advanced 3 – 3 Year	3	375	32	3 years	No
PSS®E Cloud Advanced 10 – 3 Year	10	750	32	3 years	No
PSS®E Cloud Advanced 30 – 3 Year	30	1175	32	3 years	No
PSS®E Cloud Expert 1 – 3 Year	1	325	32	3 years	No
PSS®E Cloud Expert 3 – 3 Year	3	500	32	3 years	No
PSS®E Cloud Expert 10 – 3 Year	10	1000	32	3 years	No
PSS®E Cloud Expert 30 – 3 Year	30	1325	32	3 years	No

Pricing Model

Subscription Terms

Different Subscription Terms of the Offering are available:

- **PSS®E Cloud Trial** where free access is provided for a period of one month to allow evaluation. Demonstration recordings and documentation are provided to support initial use. The subscription will automatically terminate after this one-month period.
- **“PSS®E Cloud 1 year”** is the regular subscription term for the PSS®E Cloud offering and is 12 months unless otherwise agreed in the

ordering process. The Subscription Term renews automatically in accordance with Section 10.1 UCA.

- **“PSS®E Cloud 3 year”** is a three-year subscription term for the PSS®E Cloud offering. The subscription will automatically terminate after expiry of the three-year period.

Payment Terms

The fee for the booked subscription package for a one-year subscription is invoiced annually in advance. Additional fees for any upgrades will be calculated on a daily basis and are fully invoiced immediately after activation.

In the case of three-year packages paid upfront, the fee for the booked subscription is invoiced three-years in advance.

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For the U.S. published by
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United States

Subject to changes and errors. The information given in this document only contains general descriptions and/or performance features which may not always specifically reflect those described, or which may undergo modification in the course of further development of the products. The requested performance features are binding only when they are expressly agreed upon in the concluded contract.

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PSS®Cloud Supplemental Terms



PSS®Cloud is a cloud-based service for grid planning and simulation.

It is built upon the well-known **PSS®** software from Siemens.

It provides simulation capabilities through the cloud.

Besides regular usage of **PSS®** applications through a web browser, **PSS®Cloud** provides also additional services such as secure data sharing and on demand distributed cloud computing for large scale simulation workflow scenarios.

These Supplemental Terms for **PSS®Cloud** ("**Product Specific Supplemental Terms**") set out additional terms and conditions for the subscription to **PSS®Cloud** as described in the Documentation under the following link: www.siemens.com/pss-e-cloud and amend the Universal Customer Agreement ("**UCA**") between Customer and Siemens solely with regards to this Offering. These Product Specific Supplemental Terms incorporate by reference the Digital Services Supplemental Terms ("**DS Terms**") available at <http://www.siemens.com/uca-st-digital-services-tc> and form together with the UCA and other applicable Supplemental Terms the agreement between the parties ("**Agreement**"). **PSS®Cloud** constitutes an Offering within the meaning of the UCA.

GENERAL

Order of Precedence

In case of inconsistencies between the Order, the UCA, the DS Terms, and these Product Specific Supplemental Terms, the following order of precedence shall apply in subordinate order:

- (i) Order: in case of electronic ordering through Zuora or another website provided by Siemens, the Order Form is replaced by the entries in the ordering page. The entries in that website define the Entitlements.
- (ii) Product Sheet
- (iii) these Product Specific Supplemental Terms
- (iv) DS Terms
- (v) UCA

Definitions

Capitalized terms used herein have the meaning as defined elsewhere in the Agreement. The following additional definitions apply to these Product Specific Supplemental Terms.

Territory means all supported countries shown under the following link: www.siemens.com/pss-cloud-terms-of-use

PSS = Power System Simulator

USE OF OFFERING	
Authorized Access and Use	<p>Clause 2.1 of the DS Terms shall be replaced in its entirety by the following clause:</p> <p>Authorized Access and Use. Notwithstanding Section 3.1 and 3.3 of the UCA and unless otherwise defined in the Entitlements each Offering may be accessed and used only by the number of Users as defined in the Entitlement being either i) Customer's employee or ii) Authorized Agent (all "Authorized User") in the Territory for the Subscription Term, solely for Customer's internal use as end user. The results generated with the Offering (e.g. reports) (in whole or in part) may be used to provide services or products to third parties and the Customer does not grant third parties access to the Offering.</p>
Entitlement	Different Subscription Packages of the Offering are available. Customer is only authorized to use the Offering in accordance with the package to which Customer holds a valid subscription.
Authentication and access	<p>This application uses the Siemens ID digital identity system for authentication. Therefore, a personal Siemens ID user account needs to be created before the application can be used. Registration on Siemens ID will be performed automatically for PSS®Cloud with email address provided at ordering.</p> <p>Siemens ID accounts itself can be managed via Siemens ID self-service (https://uss.login.siemens.com). Terms and conditions for Siemens ID are available on https://id.login.siemens.com.</p> <p>Customer needs to define a technical admin (provided at ordering – email address needed). This technical admin can manage customer users, i.e. adding users up to the allowed number.</p> <p>Computation hours are reset at 12:00 am every month on the day of subscription start. If a day is not available in a month, the reset will be done on the first day of the next month.</p>
Data Privacy	<p>Customer is not permitted to upload and store any personal data as part of the Customer Content on the Platform. The processing of Customer's personal data is governed by the Siemens Privacy Notice available at: https://www.siemens.com/privacy.</p>
Data Location Center	<p>Customer Content at rest will be stored for</p> <ul style="list-style-type: none"> (i) Territory USA/Canada: United States, AWS data center North Virginia (ii) Territory European Union: Germany, AWS data center Frankfurt <p>Application operation may be provided to operate, maintain, and protect the application running in the data centers by the Siemens PSS®Cloud Operations Team from the United Kingdom.</p>
Documentation	<p>The specifics of Offerings and Entitlements are described in the Documentation available at www.siemens.com/pss-e-cloud which is incorporated herein by reference. Documentation includes information such as applicable limits or other attributes and metrics, prerequisites, or scaling factors for the pricing such as number of Authorized Users or asset attributes, and additional third-party terms which prevail for third-party software, technology, data and other materials, including open source software licensed from third parties.</p>
PREREQUISITES AND SPECIFIC TERMS	
Operating Systems and Web Browsers	<p>The specifics of Offerings Siemens PSS®Cloud is a web-based software for use on desktop computers or notebooks. Siemens PSS®Cloud requires a recent version of an HTML5 capable Internet browser, e.g. Google Chrome and an internet connection.</p>

Use Restriction	You acknowledge that simulations in Siemens PSS®Cloud are limited to simulations of equivalent desktop versions which has been created by Siemens based on experience and the data or other information provided by the customer and results may not fully correspond to the real-world behavior. The interpretation, implementation and utilization of reports, concepts and results is the sole responsibility of the Customer. Siemens does not assume any liability, warranty or guarantee for the feasibility or usability of reports, concepts and results, nor for actions or omissions based on the reports, concepts, proposals or recommendations.
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EXPORT CONTROL REGULATIONS

ECCN	EAR99S
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CHANGES OF SERVICES, UPGRADES /DOWNGRADES

Change between packages (Upgrade / Downgrade)	To the extent Siemens offers different subscription packages, upon Customer's request, Siemens may adapt the selected subscription package. Any change to a higher- value subscription package ("Upgrade") can be conducted at any time and shall usually become effective within one working day following the day on which the change was accepted by Siemens. The Upgrade is effective for the then current Subscription Term, prices for the remaining period are adjusted with the day of implementation by Siemens. However, any requested change to a lower-value subscription package ("Downgrade") can only be requested by the Customer prior to renewal of the Subscription Term in accordance with UCA Section 10.1 for the next following Subscription Term.
Changes To Services	Siemens may change Services during the Subscription Term in accordance with Section 5.2 of the UCA. Siemens may update the terms of the Agreement applicable for the Services to reflect changes to the Cloud Services due to requirements as contemplated in Section 5.2 of the UCA or where such changes are otherwise necessary. Should such changes materially impact the Customer, he may terminate the Services in accordance with Section 5.2 of the UCA after notification of such change by Siemens.

SERVICE LEVELS

Service Level Exclusions ("SLA Exclusions")	Service level commitments exclude downtime resulting directly or indirectly from any SLA Exclusions. SLA Exclusions" means unavailability or any other performance issue causing downtime of the Cloud Services as a result of: <ul style="list-style-type: none"> (i) scheduled maintenance; (ii) downtime for which at least 24 hours prior notice is provided to Customer; (iii) factors outside Siemens' reasonable control; (iv) actions or inactions of Customer or any third party; (v) any equipment, software or other technology not provided by Siemens; or (vi) suspension or termination of Offerings in accordance with the Agreement
Agreed Service Level	Commercially reasonable efforts will be used to provide at least 98% monthly Uptime Percentage. "Monthly Uptime Percentage" means the percentage of the Service being available on average during a calendar month, based on internal availability measurements. Monthly Uptime Percentage excludes downtime resulting directly or indirectly from any SLA Exclusions.
Remedies for not meeting Service Level	Customer must submit to Siemens a support case within 30 days after the end of each relevant Month in which Siemens did not meet the Monthly Uptime Percentage. Any claims not submitted by Customer within the specified time period may be denied by Siemens, and Siemens will have no further obligation to Customer with respect to such failure to meet the Monthly Uptime Percentage. If Siemens is unable to meet the Monthly Uptime Percentage for Cloud Services contained in the same Offering three or more times in a calendar year, then Customer will have the right to terminate the Order for the non-conforming Offering. In the event of such termination, Siemens will refund any prepaid fees for the applicable Offering on a pro-rata basis for the

	remainder of the Subscription Term for that Offering. The remedies provided in this section will be Customer's sole and exclusive remedies with respect to availability of the Cloud Services.
TECHNICAL SUPPORT	
Contact	<p>Authorized customer may contact Siemens' Technical Support organization as primary point of contact for support in relation to the Offering. All Support inquiries must be made through:</p> <ul style="list-style-type: none"> • https://siemens-pss.freshdesk.com (Customer Care Portal)
Scope of Technical Support	<p>Subject to availability Siemens offers Customer support services via a service hotline Monday to Friday, 8am to 5:00pm (EST), excluding national and local holidays in USA. Siemens will respond to Customer's support inquiry at Siemens' sole discretion via e-mail, hotline or remotely as described in this clause. Customer must ensure remote access to its local networks for e.g. remote diagnoses. The following types of incidents are excluded from the scope of support for Offerings, but Customer may revert such requests to the sales team(s) for resolution:</p> <ul style="list-style-type: none"> (i) incidents regarding a release, version, and/or functionalities of a service developed or configured specifically for Customer (unless otherwise expressly set forth in an Order); (ii) incidents ascribed to a consulting or training request ("how-to"). These are covered by the online user documentation; (iii) incidents ascribed to a custom development request (iv) functional enhancements, upgrades or software licenses to non-PSS®Cloud products (example: on premise PSS®E) (v) emergency or after-hours work. <p>The Technical Support is available in English.</p> <p>To receive support services hereunder, Customer shall reasonably cooperate with Siemens' Support to resolve support incidents and shall have adequate technical expertise and knowledge of its Offering configuration to provide relevant information to enable Siemens' Support to reproduce, troubleshoot and resolve the experienced error such as, by way of an example, instance name, username, form name and screenshot. Such support services may require that Siemens gets access to Customer Content in which case Customer is required to issue temporary credentials to Siemens to permit that access.</p>

Digital Services Supplemental Terms



Status: April 25th, 2022

These Digital Services Supplemental Terms (“**DS Terms**”) amend the Universal Customer Agreement (“**UCA**”) between Customer and Siemens solely with regard to Cloud Services including ancillary Offerings. These DS Terms together with the UCA and other applicable Supplemental Terms form the agreement between the parties (“**Agreement**”).

1. DEFINITIONS

Capitalized terms used herein have the meaning as defined elsewhere in the Agreement. The following additional definitions apply to these DS Terms:

“**Affiliate**” means any entity that controls, is controlled by, or is under common control with either Party; in this context, “control” means ownership, directly or indirectly, of a majority of the outstanding equity of an entity.

“**Authorized User**” means authorized user as described in Section 2.1 of the DS Terms. Each Authorized User must use a unique user identification to access and use the Offering, unless a generic login is expressly permitted in other Supplemental Terms, the Order or applicable Documentation. User identifications may not be shared with other individuals.

“**High Risk System**” means a device or system that requires enhanced safety functionalities such as fail-safe or fault-tolerant features to maintain a safe state where it is reasonably foreseeable that failure of the device or system could lead directly to death, personal injury, or catastrophic property damage. High Risk Systems may be required in critical infrastructure, direct health support devices, aircraft, train, boat, or vehicle navigation or communication systems, air traffic control, weapons systems, nuclear facilities, power plants, medical systems and facilities, and transportation facilities.

“**Territory**” means the geographic area as specified in other applicable Supplemental Terms or the Order provided that Customer meets its obligations in the Agreement regarding compliance with export controls. If no geographic area is defined, the geographic area shall be the country, in which the Siemens entity named on the Order has its registered seat.

2. GENERAL

- 2.1 **Authorized Access and Use.** Notwithstanding Section 3.1 and 3.3 of the UCA and unless otherwise defined in the Entitlements each Offering may be accessed and used only by one employee of Customer (“Authorized User”) in the Territory for the Subscription Term, solely for Customer’s internal use as end-user. The Offering including corresponding Documentation and results (e.g. reports) generated with this Offering (in whole or in part) may not be used to provide services or products to third parties. Customer may re-assign the right to access and use the Offering between uniquely identified individual Authorized Users over time, but not so frequently as to enable sharing by multiple Authorized Users. Indirect use of an Offering via hardware or software used by Customer does not reduce the number of Authorized User’ rights that Customer needs to acquire.
- 2.2 **Changes to Supplemental Terms. Enhancement of Offerings.** Siemens may only update these DS Terms and/or any other applicable Supplemental Terms during a Subscription Term, provided any such update does not (i) have a material adverse effect on Customer’s rights (e.g. with respect to Entitlements or service levels) or (ii) result in a material degradation of the security measures maintained by Siemens with regard to the Offering or Customer Content. The foregoing shall not limit Siemens’ ability to make changes to these DS Terms and/or any other applicable Supplemental Terms (i) to comply with applicable law, (ii) address a material security risk, (iii) to reflect changes made to the Offering in accordance with any change provision in the Agreement, or (iv) that are applicable to new features, supplements, enhancements, capabilities or additional Cloud Services or Software provided as part of Customer’s subscription to the Offering at no extra charge. Any change to these DS Terms or any other applicable Supplemental Terms shall apply from the date as notified by Siemens or published on the website as referenced in the Order. Siemens will use commercially reasonable efforts to notify Customer at least 90 days prior to such change or as agreed elsewhere in the Agreement.
- 2.3 **Trial Updates.** Certain Offerings provide updates which will first be made available to Customer in a test instance for Customer’s review prior to deploying a trial update in production (“Trial Update”). Siemens will give Customer notice when a Trial Update is first available and the date when the production environment of the Offering will be updated. Customer’s entitlement to use any Trial Update in a test instance is limited as provided in the Agreement with the expectation that Customer will provide Feedback to mitigate any concerns when the production environment is subsequently updated. Updates to the production environment for Offering will occur on a fixed date for all Customers.
- 2.4 **High Risk Use.** Customer acknowledges and agrees that (i) Offerings are not designed to be used for the operation of or within a High Risk System if the functioning of the High Risk System is dependent on the proper functioning of the Offering and (ii) the outcome from any processing of data through the use of the Offering is beyond Siemens’ control. Customer will indemnify Siemens, its Affiliates, its subcontractors, and their representatives, against any third party claims, damages, fines and cost (including attorney’s fees and expenses) relating in any way to any use of an Offering for the operation of or within a High Risk System.
- 2.5 **IT-Security.** Unless otherwise stipulated in the Documentation, the following shall apply with regard to security: Siemens maintains a formal security program that is designed to protect against threats or hazards to the security of Customer Content. Providers of Siemens’ cloud infrastructure are required to (i) implement and maintain a security program that complies, inter alia, with ISO 27001 or a successor standard (if any) that is substantially equivalent to ISO 27001 and that is designed to provide at least the same risk management and security controls as evidenced by the certification of the providers under ISO 27001 and (ii) have the adequacy of their security measures annually verified by independent auditors. Siemens’ cloud infrastructure (i) employs firewalls, anti-malware, intrusion detection/prevention systems (IDS/IPS), and corresponding management processes designed to protect service delivery from malware and (ii) is operated under a security governance model aligned with ISO 27001. This Section contains Siemens’ entire obligation regarding the security of Customer Content and the cloud infrastructure for the Offering.
- 2.6 **Specific Terms for Remote Service.** Certain Offerings provide a means for secured remote login, remote engineering, or data transfer. Customer acknowledges that data traffic may be subject to local restrictions or prohibitions, including but not limited to those regarding encryption (e.g. use of tunnels), data sensitivity (e.g. production-related data), or cross-border traffic. It is Customer’s responsibility to check if such local restrictions or prohibitions apply and to use Offerings in compliance with applicable law.
- 2.7 **Specific Terms for Content Sharing.** Certain Offerings enable Customer to grant a third party with authorized access to the Offering (“Receiving Party”) access to certain Customer Content (read or read and write) under a collaboration (“Collaboration”). Once the Collaboration is established, the sharing party will be able to share selected Customer Content with the Receiving Party (“Sharing”). Collaboration and individual Sharing require prior approval of the involved Receiving Party. It is expressly understood that the Collaboration is only between the Receiving Party and the sharing party and Siemens is not a party thereto, and the outcome of any Collaboration and Sharing of Customer Content is beyond Siemens’ control. Customer is responsible for the implementation of measures required to reasonably protect Customer Content from misuse by any third party.
- 2.8 **Third Party Content.** Customer specifically acknowledges that (i) Siemens is under no obligation to test, validate, or otherwise review Third Party Content and (ii) Third Party Content may collect and use Customer Content and data regarding user’s usage of Third Party Content.

- 2.9 **Third Party Technology:** The Software may contain software, technology and other materials from third-party providers, including open-source software licensed by third-party ("Third-Party Technology") under separate terms ("Third-Party Terms"). Siemens shall indicate the Third-Party Technology and Third-Party Terms in the Documentation, in source code supplied (if any), in the additional supplementary terms and/or in the "Readme_OSS" or similar files insofar as Siemens is required to do so. If the Third-Party Terms require that Siemens provide Third-Party Technologies in the form of source code, Siemens shall do so on request and on reimbursement of its reasonable expenses for so doing.

The Third-Party Technology may contain open-source software components ("OSS Components") and/or components that are not open-source software ("Commercial Software"). Siemens describes in the "Readme_OSS" or similar files whether Third-Party Technology is OSS Components or Commercial Software.

The Customer is entitled to use OSS Components in accordance with the respective applicable open source software license conditions ("OSS Conditions"), which OSS Conditions shall prevail over the Order in respect of the OSS Components. These OSS Conditions shall have priority also in relation to the Software or parts thereof insofar as the OSS Conditions grant the Customer certain rights of use on the basis of the connection of OSS Components with the Software.

If the Software contains Commercial Software and if this Commercial Software is subject to Third-Party Commercial Software Terms ("Commercial Terms"), these Commercial Terms shall apply to the liability of the third-party provider in relation to the Customer.

These Commercial Terms shall govern the licensing relationship between the third-party provider and the Customer entirely in respect of the Commercial Software insofar as the Commercial Terms specified are expressly identified in the Order as applying with exclusive effect.

If Commercial Terms are specified for the Commercial Software contained in the Software in a separate license sheet for the Software or in the "Pass-Through Information" section of the Readme_OSS file with the addition "Separate Third-Party Licensor Terms", the Commercial Terms shall additionally apply in the relationship between Siemens and the Customer. The Commercial Terms shall have priority over the Order in the event of contradictions.

In terms of the liability of Siemens to the Customer, the Order shall apply in each case.

UNIVERSAL CUSTOMER AGREEMENT



Status: May, 09th, 2022

This Universal Customer Agreement (“UCA”) and the applicable Supplemental Terms (together, this “Agreement”) are entered into between the Siemens entity named on the Order (“Siemens” or “SISW”) and the customer that accepted this Agreement (“Customer”). This Agreement may be accepted by manual signature or electronic signature, or through an electronic system specified by Siemens. In the electronic system, Customer will be prompted to accept these terms by clicking a button. Clicking the button or using any Offering indicates that Customer has read, understood, and accepted this Agreement. If Customer does not accept this Agreement, Customer must not use any Offering and return any Offering to Siemens or its applicable authorized partner prior to installation or use.

1. ORDER OF PRECEDENCE AND DEFINITIONS

1.1 **Order of Precedence.** In the event of a conflict between this UCA and any Supplemental Terms, the Supplemental Terms prevail. In the event of a conflict between this Agreement and an Order, the Order prevails with respect to any Offering ordered thereunder.

1.2 Definitions

“AUP” means Siemens’ Acceptable Use Policy available at <https://www.siemens.com/sw-terms/aup> and incorporated herein by reference.

“Cloud Services” means online services and associated cloud-based APIs (application programming interfaces) made available by Siemens under this Agreement, including but not limited to software-as-a-service, platform-as-a-service, cloud hosting services, and online training services, offered alone or in combination with Software. Cloud Services exclude Software, Customer Content, and Third Party Content.

“Content” means data, text, audio, video, images, models, or software.

“Customer Content” means Content entered by Customer or any user into Cloud Services and any output generated by Customer or any user through use of such Cloud Services based on such Content, excluding any Third Party Content or other Content owned or controlled by Siemens or its affiliates or their respective licensors and made available by Siemens or its affiliates through or within Cloud Services.

“Documentation” means the instructions for use, learning materials, technical and functional documentation, and API information made available by Siemens with the applicable Offering, in print, online, or embedded as part of a help function, which may be updated by Siemens from time to time.

“Entitlements” means, with respect to any Offering, the license and use types, limits, volume, or other measurement or conditions of permitted use for such Offering as set forth in the applicable Order or Supplemental Terms, including but not limited to any limits or restrictions on the number and categories of users authorized to use such Offering, permitted geographic areas, available storage space, computing power, or other attributes and metrics.

“Hardware” means hardware equipment, devices, accessories, and parts delivered by Siemens under this Agreement, including firmware incorporated therein.

“Offering” means an individual offering, made available by Siemens and identified in an Order, which consists of Cloud Services, Software, Hardware, or Professional Services, or a combination of any of the foregoing, and any associated maintenance and support services and Documentation.

“Order” means an order form (Order Form), statement of work (SOW), Licensed Software Designation Agreement (LSDA), or similar ordering document that (i) incorporates the terms of this Agreement and sets forth the Offering(s) ordered by Customer and any associated fees, (ii) has been agreed by Customer by manual or electronic signatures or through an electronic system specified by Siemens, and (iii) is accepted by Siemens.

“Professional Services” means training, consulting, engineering, or other professional services provided by or on behalf of Siemens under this Agreement pursuant to an Order, excluding Cloud Services.

“Siemens IP” means all patents, copyrights, trade secrets, and other intellectual property rights in, related to, or used in the provision or delivery of, any Offering or technical solution underlying any Offering, and any improvement, modification, or derivative work of any of the foregoing.

“Software” means software licensed by Siemens under this Agreement and made available for download or otherwise delivered to Customer for installation, including updates, modifications, design data, and all copies thereof, associated software-based APIs, scripts, toolkits, libraries, reference or sample code, and similar materials.

“Subscription Term” means the time period specified in the Order for which a term-based Offering is made available to Customer. Any renewal constitutes a new Subscription Term.

“Supplemental Terms” means additional terms and conditions that apply to a particular Offering as attached hereto or set forth or referenced in an Order.

“Third Party Content” means Content, applications, and services owned or controlled by a third party and made available to Customer by the third party through or in connection with Cloud Services.

2. ORDERS

- 2.1 **Ordering.** The parties may enter into one or more Orders under this Agreement. Each Order is binding on the parties and is governed by the terms of this UCA and all applicable Supplemental Terms.
- 2.2 **Delivery.** Unless otherwise set forth in the Order (i) delivery of Cloud Services occurs when Siemens makes Cloud Services available to Customer for access and use, (ii) delivery of Software occurs when Siemens makes Software available to Customer via electronic download from a website specified by Siemens or ships the tangible media containing the Software, and (iii) for an Offering that is comprised of a combination of Cloud Services and Software, delivery occurs when the Software and Cloud Services are made available by Siemens. Software on media will be delivered subject to EXW (Incoterms 2020) for deliveries that occur entirely within the United States, Russia, or China. All other Software will be delivered subject to DAP (Incoterms 2020).
- 2.3 **Payment.** Customer will pay the fees set forth in the applicable Order within 30 days after the invoice date unless otherwise agreed by the parties. Siemens will invoice Customer for Professional Services on a monthly basis as charges are incurred. Unless specified otherwise in the applicable Order, Siemens will invoice Customer for fees related to any other Offerings in advance. Without limiting any other remedies available to Siemens, Customer will pay applicable fees for any excess use of an Offering at the then-current price for such Offering within 30 days after the invoice date. Except as expressly set forth in this Agreement, all payment obligations are non-cancelable, and all fees are non-refundable. If Customer has procured an Offering through a Siemens-authorized solution partner, different terms regarding invoicing and payment may apply as specified between Customer and the solution partner. Siemens may share information with the solution partner related to Customer's use and consumption of the Offerings for account management and billing purposes.
- 2.4 **Taxes.** Tax. All amounts to be paid to Siemens are exclusive of taxes and any other charges. Customer agrees to pay or reimburse Siemens for any applicable taxes, duties, or other charges imposed by any government authority on Customer's use or receipt of Offerings. If Customer is required by law to make any income tax deduction or to withhold income tax, the amount payable to Siemens shall be increased so that Siemens receives a net amount equal to the amount invoiced. Customer will promptly provide all tax receipts in connection with the respective Order.

3. USE OF OFFERINGS

- 3.1 **Use Rights.** For Cloud Services contained within an Offering, Siemens grants Customer a nonexclusive, nontransferable, limited right to access and use such Cloud Services for Customer's internal business purposes during the applicable Subscription Term, solely in accordance with the Entitlements and this Agreement. For Software and Documentation contained within an Offering, Siemens grants Customer a nonexclusive, nontransferable, non-sublicensable, limited license to use Documentation and install and use Software for Customer's internal business purposes during the applicable Subscription Term or such other time period specified in the Order, solely in accordance with the Entitlements and this Agreement.
- 3.2 **Users.** The number and categories of users authorized to access an Offering are defined in the Entitlements. Customer will ensure that all users, whether accessing an Offering on Customer's behalf, at Customer's invitation, or by invitation of a Customer user, comply with Customer's obligations under this Agreement. If Customer becomes aware of any violation of this Agreement by a user or any unauthorized access to any user account, Customer will immediately notify Siemens and terminate the relevant user or user account's access to Offerings. Customer is responsible for any act or failure to act by any user or any person using or accessing the account of a user in connection with this Agreement. Customer acknowledges and agrees that users who submit declarations, notifications, or orders to Siemens are acting on Customer's behalf.
- 3.3 **General Use Restrictions.** Except as authorized in this Agreement, Customer will not, and will not permit any person or entity to, (i) resell, transfer, sublicense, publish, loan, or lease any Offering, or use any Offering for the benefit of any third party without the prior written consent of Siemens, (ii) modify, alter, tamper with, repair, or create derivative works of any Offering, (iii) reverse engineer, disassemble, decompile, or otherwise attempt to discover the source code of any Offering, (iv) use any Offering in a manner that could subject such Offering to any open source software license that conflicts with this Agreement or that does not otherwise apply to such Offering, (v) use any Offering for the purpose of developing or enhancing any product that is competitive with such Offering, or (vi) remove any proprietary notices or legends contained in or affixed to any Offering. Customer will only use APIs identified as 'published' in the Documentation, and only as described therein to support the authorized use of Offerings. Customer may copy Software or Documentation only as required to support use of the Offering as expressly authorized in this Agreement, and will ensure that any such copy includes all proprietary notices contained in the Software or Documentation or affixed thereto as received from Siemens. The restrictions set out in this Section do not apply to the extent they conflict with mandatory applicable law.
- 3.4 **Security of Customer Systems.** Customer is responsible for the security of Customer systems, including Software on Customer's systems, and will take commercially reasonable steps to exclude malware, viruses, spyware, and Trojans from Customer's systems.
- 3.5 **Reservation of Rights.** All Software, Cloud Services, and non-public Documentation are trade secrets of Siemens and its licensors. Siemens or its licensors retain title to and ownership of Software, Cloud Services, Documentation, and Siemens IP. Siemens reserves all rights in Offerings and Siemens IP not expressly granted in this Agreement.
- 3.6 **No-Charge Offerings; Previews.** All (i) Offerings provided at no charge to Customer ("**No-Charge Offerings**"), and (ii) features or services offered at no extra charge as part of Cloud Services prior to their general release that are labeled or otherwise communicated to Customer as 'preview', 'pre-release', 'early access', or 'non-general release' ("**Previews**"), are provided "AS IS" without warranty, indemnity, support, or other commitments. Siemens may change, limit, suspend, or terminate any Previews at any time. Customer acknowledges that Previews are not ready for production usage, and that Customer's use of any Previews is at its sole risk and discretion. Customer will only use No-Charge Offerings identified on an Order as being 'demo', 'test', 'evaluation', 'beta', or similar for internal test and evaluation purposes, and not for production or other commercial purposes.

4. ADDITIONAL TERMS FOR SOFTWARE

The following additional terms apply to any Software contained within an Offering:

- 4.1 Software is provided in object code form only, unless otherwise specified in this Agreement. To the extent that any Software is provided by Siemens in source code form, Customer may only use that Software to modify or enhance the applicable Offering that such Software is a part of, and, as between the parties, all such modifications or enhancements will be owned by Siemens and subject to the license set forth in Section 3.1. Customer hereby consents to the installation of Software on systems used by Customer, as may be facilitated by Cloud Services.
- 4.2 Software may contain third-party software, technology, and other materials, including open source software, licensed by third parties ("**Third-Party Technology**") under separate terms ("**Third-Party Terms**"). Third-Party Terms are specified in the Documentation, Supplemental Terms, "read me" files, header files, notice files, or similar files. In the event of a conflict with the terms of this Agreement, the Third-Party Terms control with respect to Third-Party Technology. If Third-Party Terms require Siemens to furnish Third-Party Technology in source code form, Siemens will provide it upon written request and payment of any shipping charges.

5. **ADDITIONAL TERMS FOR CLOUD SERVICES**

The following additional terms apply to any Cloud Services contained within an Offering:

- 5.1 **Service Level Agreements.** During the Subscription Term, Siemens will comply with the applicable service level agreements for Cloud Services as set forth in any applicable Supplemental Terms.
- 5.2 **Changes to Cloud Services.** Cloud Services may be modified, discontinued, or substituted by Siemens from time to time. During a Subscription Term, Siemens will not materially degrade core features or functionalities of Cloud Services or discontinue Cloud Services without making available substitute Cloud Services, except as necessary to address (i) new legal requirements, (ii) changes imposed by Siemens' vendors or subcontractors (e.g. the termination of Siemens' relationship with a provider of software or services which are required for the provision of such Cloud Services), or (iii) security risks that cannot be resolved in a commercially reasonable manner. Siemens will notify Customer of any such material degradation or discontinuation of Cloud Services as soon as reasonably practicable, and Customer may terminate the Order for the applicable Offering by providing Siemens with written notice within 30 days after Customer's receipt of notice of degradation or discontinuation. In the event of such termination or discontinuation of Cloud Services, Siemens will refund any prepaid fees for the applicable Offering on a pro-rata basis for the remainder of the Subscription Term for that Offering.
- 5.3 **Use of Messaging Services.** Customer may use Cloud Services to send emails or other messages to users and third parties. Customer is solely responsible for any such messages and their content. Messages may be blocked, delayed, or prevented from being delivered by destination servers and other reasons outside of Siemens' control, and there is no warranty that messages will reach their intended destination in a given timeframe.
- 5.4 **Out of Scope.** Any contractual relationship regarding Third Party Content is solely between Customer and the relevant third party vendor and may be governed by separate terms made available by Siemens with or as part of Third Party Content. Siemens will have no responsibility for Third Party Content or Customer's use of such Third Party Content. Cloud Services specifically exclude (i) access to the internet or any other network, (ii) suitable connectivity or any other resources necessary for accessing or using Cloud Services, and (iii) the transmission of Content to and from the exit of the wide area network of the data centers used by Siemens to provide Cloud Services.
- 5.5 **Acceptable Use Policy; Indemnity.** Customer will comply, and ensure that all users of any Offering comply, with the AUP. Customer will indemnify Siemens, its affiliates, its subcontractors, and their representatives against any third party claims, damages, fines, and cost (including attorney's fees and expenses) relating in any way to (i) any violation of the AUP by Customer or any user, (ii) any violation of laws, regulations, or rights of others by Customer's or any user's use of any Offering, or (iii) Customer Content.
- 5.6 **Ownership and Use of Customer Content.** Siemens will not acquire any title to or ownership of Customer Content by virtue of this Agreement. Siemens and its subcontractors will use Customer Content only for the purpose of providing Offerings, or as otherwise permitted by this Agreement or agreed by the parties. Customer is responsible for the content, management, transfer, use, accuracy, and quality of Customer Content and the means by which Customer acquires such Customer Content. Siemens recommends Customer confirm the geographic area in which Customer Content will be stored, which may be outside the country in which Customer is located. Customer will ensure that Customer Content can be processed and used as contemplated by this Agreement without violating any rights of others or any laws or regulations.
- 5.7 **Protection of Customer Content.** Cloud Services will be provided using processes and safeguards designed to protect the integrity and confidentiality of Customer Content. Customer remains responsible for taking appropriate steps regarding protection, deletion, and retrieval of Customer Content, including by maintaining backup copies. Some Cloud Services may provide features that allow Customer to share Customer Content with third parties or make Customer Content public through use of certain Cloud Services. If Customer elects to use such features, Customer Content may be accessed, used, and shared by third parties to whom Customer provides such access or shares such Customer Content, and Customer's election to use such features is at its sole discretion and risk.

6. **DATA**

- 6.1 **Security and Data Privacy.** Each party will comply with applicable data privacy laws governing the protection of personal data in relation to their respective obligations under this Agreement. Where Siemens acts as Customer's processor of personal data provided by Customer, the Data Privacy Terms available at <https://www.siemens.com/dpt>, including the technical and organizational measures described therein, apply to the use of the relevant Offering and are incorporated herein by reference.
- 6.2 **Systems Information.** Siemens and its affiliates and their subcontractors may collect and derive information, statistics, and metrics regarding usage, operation, support, and maintenance of Offerings or from Customer Content (collectively, "**Systems Information**"), and may use Systems Information to support, maintain, monitor, operate, develop, and improve its products and services or enforce

its rights, provided that any Systems Information derived from Customer Content is aggregated with other information so that the original Customer Content is not identifiable. Siemens may disclose Systems Information to a Siemens-authorized solution partner solely to the extent reasonably required for such partner to fulfill its support obligations to Customer. To determine unauthorized use of Software licenses, Siemens reserves the right to embed a reporting mechanism in Software.

7. WARRANTIES AND DISCLAIMERS

- 7.1 **Software Warranty.** Siemens warrants that Software will perform substantially in accordance with the features and functionalities described in the Documentation for a period of 90 days following the date the Offering is initially made available to Customer. To the extent permissible under applicable law, as Siemens' entire liability and Customer's sole and exclusive remedy for a breach of this warranty, Siemens will, at its option (i) correct errors or provide work-arounds, (ii) replace defective Software, or (iii) require Customer to return the defective Software, terminate the Order for the non-conforming Offering, and refund fees paid for such Offering. The warranty for Software excludes (a) No-Charge Offerings, (b) Software provided upon re-mix, (c) Software that is designated as retired or not generally supported as of the date of the Order, (d) Software made available under the maintenance services terms set forth in any applicable Supplemental Terms, and (e) issues, problems, or defects arising from use of Software not in accordance with the terms of this Agreement.
- 7.2 **Cloud Services Warranty.** Siemens warrants that Cloud Services will perform substantially in accordance with the features and functionalities described in the Documentation. To the extent permissible under applicable law, as Siemens' entire liability and Customer's sole and exclusive remedy for a breach of this warranty, at its option (i) Siemens will use commercially reasonable efforts to restore the non-conforming Cloud Services so that they comply with this warranty, or (ii) if such restoration would not be commercially reasonable, Siemens may terminate the Order for the non-conforming Offering and refund any prepaid fees for such Offering on a pro-rata basis for the remainder of the Subscription Term for that Offering. The warranty for Cloud Services excludes (a) No-Charge Offerings and Previews, and (b) issues, problems, or defects arising from Customer Content, Third Party Content, or use of Cloud Services not in accordance with the terms of this Agreement.
- 7.3 **Disclaimers.** Siemens makes only the limited warranties expressly stated in this Agreement, and disclaims all other warranties including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. Siemens does not warrant or otherwise guarantee that (i) reported errors will be corrected or support requests will be resolved to meet Customer's needs, (ii) Offerings or any Third Party Content will be uninterrupted, error free, fail-safe, fault-tolerant, or free of harmful components, or (iii) any Content, including Customer Content and Third Party Content, will be secure or not otherwise lost or damaged. Representations about Offerings or features or functionality in any communication with Customer constitute technical information, not a warranty or guarantee.

Customer is responsible for assessing the suitability of each Offering for Customer's intended use, selecting the Offering necessary to achieve Customer's intended results, and for the use of Offerings. By using an Offering, Customer agrees that such Offering meets Customer's requirements to enable compliance with applicable laws. Customer will obtain, at its own expense, any rights, consents, and permits from vendors of software and services used by Customer in connection with any Offering which are required for such use. Customer agrees that Orders are not contingent on any future features or functionality of Offerings.

Siemens does not control Customer's processes or the creation, validation, sale, or use of Customer's (or any client of Customer's) products or services and will not be liable for any claim or demand made against Customer by any third party, except for Siemens' obligations to indemnify Customer against infringement claims as expressly set forth in this Agreement.

8. LIMITATION OF LIABILITY

- 8.1 The entire, aggregate liability of Siemens related in any way to this Agreement is limited as follows: (i) for liability solely arising from Software licensed on a perpetual basis or purchased Hardware, the fees paid to Siemens for that Offering, or (ii) in all other cases, the fees paid to Siemens for the Offering that gave rise to the liability during the 12-month period immediately preceding the first event giving rise to the claim, provided that the aggregate liability for all claims in any 12-month period will not exceed the fees paid during such 12-month period for the Offering. The foregoing limitation does not apply to Siemens' indemnity obligation in Section 9.
- 8.2 In no event will Siemens be liable for (i) any indirect, incidental, consequential, special, exemplary, or punitive damages, loss of production or data, interruption of operations, or lost revenue or profits, even if such damages were foreseeable, or (ii) any No-Charge Offerings or Previews.
- 8.3 Siemens will not be liable for any claim in connection with this Agreement if such claim is brought more than two years after the first event giving rise to such claim is or should have been discovered by Customer.
- 8.4 The foregoing limitations and exclusions apply (i) to the benefit of Siemens and its affiliates, and their respective officers, directors, licensors, subcontractors, and representatives, and (ii) regardless of the form of action, whether based in contract, statute, tort (including negligence), or otherwise.
- 8.5 The foregoing limitations and exclusions will not apply to the extent that liability cannot be limited or excluded according to applicable law.

9. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNITY

- 9.1 **Infringement Claim Indemnity.** Siemens will indemnify and defend, at its expense, any action brought against Customer to the extent that it is based on a claim that Customer's use of an Offering as authorized under this Agreement infringes any copyright, any trade secret, or a patent or trademark issued or registered by the United States, Japan, or a member of the European Patent Organization, and will pay all damages finally awarded against Customer by a court of competent jurisdiction or agreed in a settlement, provided that Customer gives Siemens (i) prompt written notice of the claim, (ii) all requested information and reasonable assistance related to

the claim and (iii) sole authority to defend or settle the claim. Siemens will not admit liability or incur obligations on Customer's behalf without Customer's prior written consent, which will not be unreasonably withheld.

- 9.2 **Injunction.** If a permanent injunction is obtained against Customer's use of an Offering due to an infringement claim, Siemens may, at its sole option, obtain for Customer the right to continue using the Offering, or replace or modify the Offering to become non-infringing. If such remedies are not reasonably available: (i) Siemens will refund prepaid fees for the enjoined Offering on a pro-rata basis (a) for Hardware or Software licensed to Customer on a perpetual basis, for the remainder of an amortization period of 60 months from the initial delivery to Customer, or (b) for any other Offering, for the remainder of the Subscription Term for that Offering; (ii) any applicable licenses to such Offering will automatically terminate; and (iii) Customer will immediately cease to use the enjoined Offering and return all related Software in its possession. Siemens may, in its sole discretion, provide any of the foregoing remedies to mitigate infringement prior to the issuance of an injunction.
- 9.3 **Exclusions.** Notwithstanding anything to the contrary in this Agreement, Siemens will not have any liability or indemnification obligation to Customer to the extent that an infringement claim arises out of (i) use of a prior version of the Offering to the extent that a current version is non-infringing, (ii) failure to use a replacement, correction, patch, or new version of the Offering offered by Siemens that performs substantially the same functions, (iii) use of the Offering in combination with Content, equipment, or products not provided by Siemens, (iv) use of No-Charge Offerings or Previews, (v) deliverables resulting from Professional Services, (vi) any adjustment, modification, or configuration of the Offering not made by Siemens, or (vii) instructions, assistance, or specifications provided by Customer.
- 9.4 **Sole and Exclusive Remedy.** Section 9 sets forth Siemens' entire liability and Customer's sole and exclusive remedy for infringement of third-party intellectual property rights.

10. RENEWAL, SUSPENSION, TERMINATION

- 10.1 **Subscription and Renewals.** If indicated on the Order or otherwise agreed by the parties in writing or in an electronic system made available by Siemens, the Subscription Term for the applicable paid Offering will automatically renew for successive Subscription Terms unless either party notifies the other at least 60 days prior to the end of the then-current Subscription Term that it has elected not to renew. Any renewed Subscription Term will be the same length as the preceding term or 12 months, whichever is greater. The then-current Agreement as made available under links referenced in this Agreement or Order or as made available to Customer by other means will apply for the following Subscription Term in lieu of this Agreement. The fees during any renewed Subscription Term will be the same as those charged during the preceding Subscription Term, unless (i) Siemens notifies Customer about different future fees at least 90 days prior to the end of the then-current Subscription Term or (ii) fees for the renewed Subscription Term(s) are specified on the Order.
- 10.2 **Suspension.** Siemens may suspend or limit Customer's or any user's access to and use of Offerings, in whole or in part, immediately (i) if Siemens reasonably determines that the use of the Offering poses a security risk to the Offering, Siemens, or any third party, or subjects Siemens or any third party to liability, (ii) if Customer materially breaches this Agreement, or (iii) upon the occurrence of any of the circumstances that give Siemens the right to immediate termination under Section 10.3. Suspension or limitation will not limit any other rights available to Siemens under this Agreement, will not relieve Customer of its obligation to pay fees, and will be lifted when the reason for such suspension or limitation no longer exists.
- 10.3 **Termination.** Neither party will terminate an Order for convenience during the applicable Subscription Term. Either party may terminate an Order for a particular Subscription Term based Offering with immediate effect in the event of the other party's material breach of this Agreement which remains uncured for a period of 30 days from receipt of notice specifying the breach; provided that such termination will only be effective with respect to the Offering affected by the material breach. Siemens may immediately terminate any or all Orders or this Agreement upon notice to Customer in the event of Customer's unauthorized installation or use of Siemens software, Customer's filing for bankruptcy or having bankruptcy proceedings filed against it, Customer ceasing to do business, any breach by Customer of Sections 2.3, 3, 5.5, 11, 11.6, or 13.2, or in order to comply with applicable law or the requests of government authorities.
- 10.4 **Effect of Expiration or Termination.** Upon expiration of the applicable Subscription Term or termination of any Order for one or more Offerings or this Agreement for any reason, Customer's rights to access, use, or receive the affected Offering(s) automatically terminate. Customer will immediately cease using the affected Offering(s), remove and destroy all Software and other Siemens Confidential Information relating to such Offering in its possession or control, and certify such removal and destruction in writing to Siemens. Customer may retrieve Customer Content available for download for a period of 30 days after expiration or termination, provided Customer is in compliance with this Agreement and pays any applicable fees. After such period, all Customer Content may be deleted. Termination of this Agreement or any Order for one or more Offerings will not relieve Customer of its obligation to pay the total fees set forth in any Order, which fees will become due and payable immediately upon termination. In the event of Customer's termination for Siemens' material breach in accordance with Section 10.3, Siemens will refund a reasonable portion of any prepaid fees on a pro-rata basis for the remainder of the Subscription Term for the affected Offering(s). Sections 2.3, 2.4, 3.1, 3.4, 3.5, 3.6, 5.5, 6.2, 7.3, 8, 10.4, 11, 11.6, 13.4 and 13.8 survive termination of this Agreement.

11. EXPORT CONTROL COMPLIANCE

- 11.1 **General.** Customer shall comply with all applicable sanctions, embargoes and (re-)export control, regulations, and, in any event, with those of the European Union, the United States of America and any locally applicable jurisdiction(s) (collectively "Export Regulations").
- 11.2 **Checks.** Prior to any transfer of Offerings (including all kinds of technical support and/or technology) to a third party, Customer shall check and ensure by appropriate measures that (i) there will be no infringement of an embargo imposed by the European Union, the United States of America and/or by the United Nations by such transfer, by brokering of contracts concerning Offerings or by provision of other economic resources in connection with Offerings, also taking into account any prohibitions to circumvent these embargos (e.g., by undue diversion); (ii) such Offerings are not intended for use in connection with armaments, nuclear technology or weapons,

if and to the extent such use is subject to prohibition or authorization, unless required authorization has been obtained; (iii) the regulations of all applicable sanctioned party lists of the European Union and the United States of America concerning the trading with entities, persons and organizations listed therein are considered and (iv) Offerings within the scope of the respective Annexes to EU Regulations Nos. 833/2014 and 765/2006 as well as of Annex I to EU Regulation No. 2021/821 (in their current versions, respectively), will not, unless permitted by EU law, be (a) exported, directly or indirectly (e.g., via Eurasian Economic Union (EAEU) countries), to Russia or Belarus, or (b) resold to any third party business partner that does not take a prior commitment not to export such Goods and Services to Russia or Belarus.

- 11.3 **Non-Acceptable Use of Software and Cloud Services.** Customer shall not, unless permitted by the Export Regulations or respective governmental licenses or approvals, (i) download, install, access or use the Software, Cloud Services and/or Documentation from or in any location prohibited by or subject to comprehensive sanctions (currently Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk and Luhansk regions of Ukraine) or to license requirements according to the Export Regulations; (ii) grant access to, transfer, (re-)export (including any 'deemed (re-)exports'), or otherwise make available the Software, Cloud Services and/or Documentation to any individual or entity designated on a sanctioned party list of the Export Regulations; (iii) use the Software, Cloud Services and/or Documentation for any purpose prohibited by the Export Regulations (e.g. use in connection with armaments, nuclear technology or weapons); (iv) upload to the Cloud Services platform any Customer Content unless it is non-controlled (e.g. in the EU: AL = N; in the U.S.: ECCN = N or EAR99); (v) facilitate any of the aforementioned activities by any user. Customer shall provide any user(s) with all information necessary to ensure compliance with the Export Regulations.
- 11.4 **Information.** Upon request by Siemens, Customer shall promptly provide Siemens with all information pertaining to user(s), the **intended use and the location of use of the Offerings.**
- 11.5 **Indemnification.** Customer shall indemnify and hold harmless Siemens from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with (re) Export Regulations by Customer and/or user(s) and/or Customer's third parties business partner re-exporting Offerings in violation of embargoes or sanctions referred to in 11.2 above, and Customer shall compensate Siemens for all losses and expenses resulting thereof.
- 11.6 **Reservation.** Siemens shall not be obligated to fulfill this Agreement if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions. Customer acknowledges that Siemens may be obliged under the Export Regulations to limit or suspend access by Customer and/or user(s) to the Offerings.

12. CONFIDENTIALITY

- 12.1 **Confidential Information.** "Confidential Information" means all information disclosed by one party or any of its affiliates or subcontractors to the other party under this Agreement that is marked as confidential or the confidential nature of which is evident to a reasonable person. Siemens Confidential Information includes the terms of this Agreement and any Order, Offerings, Systems Information, Siemens IP, and any information Customer derives from benchmarking any Offering. The receiving party will (i) not disclose Confidential Information, except (a) on a need-to-know basis to its and its affiliates' employees, consultants, contractors, and financial, tax, and legal advisors that are bound by confidentiality obligations and use restrictions at least as restrictive as those in this Agreement, or (b) as otherwise authorized by the disclosing party or this Agreement, (ii) use Confidential Information only as required to exercise or enforce rights or perform obligations under this Agreement, and (iii) use reasonable care to protect against unauthorized use and disclosure of the disclosing party's Confidential Information. The receiving party will be liable for compliance with Section 11.6 by each of its recipients. Siemens and its affiliates may name Customer as a customer on their websites and in customer lists and other marketing materials.
- 12.2 **Exclusions.** The obligations in Section 12.1 will not apply to any Confidential Information that (i) is or becomes generally available to the public other than as a result of disclosure by the receiving party in violation of this Agreement, (ii) becomes available to the receiving party from a source other than the disclosing party, provided that the receiving party has no reason to believe that such source is itself bound by a legal, contractual, or fiduciary obligation of confidentiality, (iii) was in the receiving party's possession without an obligation of confidentiality prior to receipt from the disclosing party, (iv) is independently developed by the receiving party without the use of, or reference to, the disclosing party's Confidential Information, or (v) is required to be disclosed by a government authority or law, so long as the receiving party promptly provides the disclosing party with written notice of the required disclosure, to the extent such notice is permitted by law, and cooperates with the disclosing party to limit the scope of such disclosure.

13. GENERAL PROVISIONS

- 13.1 **Siemens Affiliates and Subcontractors.** Siemens' ultimate parent company or companies directly or indirectly owned or controlled by Siemens' ultimate parent company may exercise Siemens's rights and fulfill Siemens' obligations under this Agreement. Siemens may use resources in various countries to provide Offerings, including unaffiliated subcontractors. Siemens remains responsible for its obligations under this Agreement.
- 13.2 **Assignment.** This Agreement will extend to and be binding upon the successors, legal representatives, and permitted assignees of the parties. However, this Agreement and the rights granted under this Agreement may not be assigned, sublicensed, or otherwise transferred (by operation of law or otherwise) by Customer without the prior written consent of Siemens. Any attempted assignment in violation of this Section will be void.
- 13.3 **License Rights Applicable to the U.S. Government.** Offerings are commercial products that were developed exclusively at private expense. If Offerings are acquired directly or indirectly for use by the U.S. Government, then the parties agree that such are considered 'Commercial Items' and 'Commercial Computer Software' or 'Computer Software Documentation', as defined in 48 C.F.R. §2.101 and 48 C.F.R. §252.227-7014(a)(1) and (a)(5), as applicable. Offerings may only be used under the terms of this Agreement as required by 48 C.F.R. §12.212 and 48 C.F.R. §227.7202. The U.S. Government will only have the rights set forth in this Agreement, which supersedes any conflicting terms or conditions in any government order document, except for provisions which are contrary to applicable

mandatory federal laws. Siemens will not be required to obtain a security clearance or otherwise be involved in accessing U.S. Government classified information.

- 13.4 **Feedback.** If Customer provides any ideas or feedback regarding any Offering, including suggestions for changes or enhancements, support requests (including any related information), and error corrections (collectively “**Feedback**”), Feedback may be used by Siemens without condition or restriction.
- 13.5 **Force Majeure.** Neither party will be liable for delay or failure to perform any obligations under this Agreement (except with respect to any payment obligations) due to any cause beyond its reasonable control. The delayed party will promptly notify the other party of any such event.
- 13.6 **Information Obligations; Audit.** Customer will provide information or other materials that Siemens reasonably requests to verify Customer’s compliance with this Agreement. Upon reasonable advance notice, Siemens may conduct an audit of Customer’s compliance with this Agreement. To minimize Customer disruption, Siemens may conduct remote audits using scanning tools operated by Customer to collect audit information. At Siemens’ discretion, Customer will permit Siemens or its authorized agents to access facilities, workstations, and servers and take all commercially reasonable actions to assist Siemens in the audit. Siemens and its agents will comply with reasonable security procedures communicated to Siemens while on Customer’s premises.
- 13.7 **Notices.** Siemens may notify Customer under this Agreement by (i) posting a notification on Cloud Services or on the administrative user account that Customer maintains with Siemens to manage subscriptions to Offerings (“**Subscription Console**”), (ii) sending an email or other text message to the address or contact number provided by Customer for business contact or then-associated with the Subscription Console, or (iii) sending an email to relevant users. It is Customer’s responsibility to regularly visit Cloud Services and the Subscription Console and to always provide Siemens with current email addresses of Customer representatives. If Customer does not comply with such obligation or if Customer’s receipt of a notice fails because of technical issues related to equipment or services which are under Customer’s or Customer subcontractors’ control, notices will be deemed to have been provided to Customer three days following the date of such notice. Notwithstanding the foregoing, notices regarding claims or disputes will always be sent to the party’s address as specified in the applicable Order. A party may change its address for receipt of notice by delivery of written notice to the other party.
- 13.8 **Language.** If Siemens provides a translation of the English language version of this Agreement, the English language version of this Agreement will control in the event of any conflict.
- 13.9 **Governing Law and Jurisdiction.** This Agreement will be subject to the applicable laws set forth in the table below, as set forth therein, without reference to any conflict of laws rules. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Any dispute arising out of or in connection with this Agreement will be resolved as set forth in the table below:

If the Siemens entity named on the Order is in:	the applicable law will be:	Any dispute arising out of or in connection with this Agreement will be:
a country in North or South America, with the exception of Brazil,	the laws of the State of Delaware, United States.	subject to the jurisdiction of the courts of the State of Delaware, USA. Each party hereby irrevocably submits itself to the personal jurisdiction of the relevant court of the State of Delaware for any such disputes.
Brazil,	the laws of Brazil.	subject to the jurisdiction and venue of the Court of Sao Caetano do Sul-SP, Brazil.
a country in Asia or Australia/Oceania, with the exception of Japan,	the laws of Singapore.	finally resolved by binding arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce (“ ICC Rules ”). The seat of arbitration will be Singapore
Japan,	the laws of Japan.	finally resolved by binding arbitration in accordance with the ICC Rules. The seat of arbitration will be Tokyo, Japan.
a country not covered by any of the above,	the laws of Switzerland.	finally resolved by binding arbitration in accordance with the ICC Rules. The seat of arbitration will be Zurich, Switzerland.

If a dispute is subject to arbitration as described in the table above, arbitrators will be appointed in accordance with the ICC Rules, the language used for proceedings will be English, and orders for the production of documents will be limited to the documents on which each party specifically relies in its submission. Nothing in this Section 13.9 will restrict the right of the parties to seek interim relief intended to preserve the status quo or interim measures in any court of competent jurisdiction. Notwithstanding the foregoing, to the extent permissible under applicable laws and to the extent it would not result in the invalidity or inapplicability of this Section 13.9, the parties agree that Siemens, at its sole discretion, may bring an action in the courts of the jurisdiction(s) where the Offering is being used or Customer has its place of business, (i) to enforce its intellectual property rights, or (ii) for the payment of amounts due for any Offering.

- 13.10 **No Waiver; Validity and Enforceability.** The failure to enforce any provision of this Agreement will not be construed as a waiver of such provision. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions will not be affected, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law. The parties agree that electronic signatures or acceptance of this Agreement via an electronic system specified by Siemens will have the same force and effect as manual signatures.
- 13.11 **Entire Agreement.** This Agreement constitutes the full and complete agreement between the parties with respect to the subject matter thereof and supersedes any previous or contemporaneous agreements or communications, whether written or verbal, relating to such

subject matter. The reference to a document that refers to another document will be deemed to also include such other document, unless otherwise stated therein. This Agreement may not be varied except as set out in Supplemental Terms or otherwise in writing executed by manual signatures or electronic signatures of authorized representatives of both parties or via an online mechanism, if so provided explicitly for such purpose by Siemens. No other terms and conditions will apply. The terms of any purchase order or similar Customer document are excluded and such terms will not apply to any Order, and will not supplement or modify this Agreement irrespective of any language to the contrary in such document.