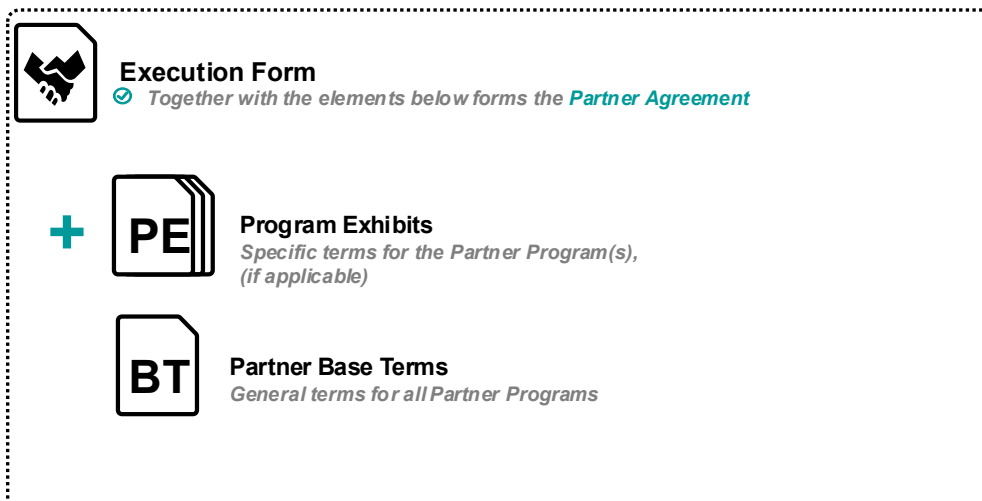


# Partner Base Terms

These “Partner Base Terms” are agreed between the Siemens entity (“Siemens”) and the partner (“Partner”), both referred to as “Party”, together as “Parties” by concluding an Execution Form.

Capitalized terms are defined [at the end of the document](#) or elsewhere in the Partner Agreement.

## Partner Agreement structure



## Partner Base Terms

### 1. Partner Agreement, order of precedence

The “Partner Agreement” consists of the following, listed in order of precedence:

- **Execution Form**
- **Program Exhibit, if applicable**
- **Partner Base Terms**

Each Execution Form, and Program Exhibit (if any) applies only to the partner relationship described therein.

## **2. Partner Program, Partner Policies, fees**

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### **2.1. Partner Program**

The scope of the relevant Partner Program and the roles and responsibilities of each Party and/or relevant Affiliates may be further described in the Execution Form or in one or more Program Exhibits.

### **2.2. Partner Policies**

Partner will comply with the Partner Policies which describe the benefits and requirements related to the Partner Program. Siemens may revise the Partner Policies with binding effect on Partner. All changes will be published on the Siemens Partner System or otherwise communicated to Partner in writing. Partner will be notified in advance of material changes to Partner Policies. If Partner objects to any such material changes, Partner may terminate the Partner Agreement on an extraordinary basis by providing 60 days' prior notice. Such notice must be provided within 30 days of Partner's receipt of the notification of material changes.

### **2.3. Fees**

Partner Programs are not subject to a partner fee unless otherwise foreseen in the Partner Agreement. The Partner Program may include additional paid services, which may be subject to separate conditions to be agreed between the Parties.

## **3. Partner classification and Partner Target Agreement**

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### **3.1. Partner classification**

Unless explicitly stated otherwise elsewhere in the Partner Agreement, Partner will be initially classified as Authorized Company. To become a Certified Partner, Partner must

- a. be accepted by Siemens into a specified Partner Program and
- b. fulfill the requirements as described in the Partner Policies. Certified Partners may be classified by Siemens either as Silver, Gold or Platinum Partner Level. Criteria for classification and any corresponding benefits and requirements of the Partner Programs are described in the Partner Policies.

### **3.2. Partner Target Agreement**

The specifics of the partnership may be set forth between the Parties in a Partner Target Agreement ("PTA").

## **4. Transactions**

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### **4.1. Transactions**

Transactions with Customers will be performed by Partner in its own name and on its own account. Transactions between Partner and Siemens, if any, will be subject to a separate Commercial Agreement if not regulated otherwise in other elements of the Partner Agreement.

### **4.2. Resale prices and commercial terms**

Partner is entitled to set its own resale prices and commercial terms with Customers.

### **4.3. Specific requirements for software and/or cloud Offerings for Resale**

For software and/or cloud Offerings for Resale, Siemens may determine specific requirements, e.g. that Offerings require acceptance of certain "Minimum Terms" for their use or the direct acceptance by Customer of terms of use with Siemens.

## **5. Roles and responsibilities**

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### **5.1. Reporting**

Partner and Siemens may agree on a method for conducting regular business reviews and submission of status reports. Each Party retains sole discretion regarding its offerings and roadmap. As reasonably

requested by Siemens, Partner, at its own expense, will provide information and reports relevant for the respective Partner Program. Partner will omit competitively sensitive information, such as end user pricing, from any such reports.

## **5.2. Partnership managers**

If required by the respective Partner Program, both Parties will appoint a designated individual to drive the strategic direction of the partnership and manage the PTA (“Partnership Manager”). The Partnership Manager will coordinate the work of necessary resources of either Party, as well as actively support the field organizations in pursuits, sales and delivery activities. Either Party may change its Partnership Manager by giving notice to the other.

## **5.3. Partner marketing & promotion**

To the extent applicable for the Partner Program or agreed otherwise, Partner will use reasonable commercial efforts to promote, advertise, and market Offerings for Resale with a focus primarily on the Territory at Partner’s expense. Siemens-approved branding, marketing materials, and messaging may be used by Partner in accordance with the Partner Agreement and any additional requirements for such use posted on the Siemens Partner System. Partner will obtain written consent from Siemens before any media releases or public announcements are made by Partner related to the Partner Agreement. Siemens will not unreasonably withhold such consent.

## **5.4. Siemens marketing & promotion**

Siemens will provide Partner with marketing and communications support for the activities described in the Partner Agreement. Such support services may be subject to a fee if explicitly stated elsewhere in the Partner Agreement. Siemens may advertise the signing of the Partner Agreement or any Program Exhibit and disclose Partner’s company name, Territory, products offered, general terms, and Partner’s rationale for selection of Siemens as a provider.

## **5.5. Representations & warranties**

- a. Except as otherwise expressly provided in the Partner Agreement, Siemens makes no representations or warranties, express or implied, regarding any matter, including merchantability or satisfactory quality, suitability, originality, fitness for a particular use or purpose, or results to be derived from the use of any Offering, confidential information, or other materials provided under the Partner Agreement.
- b. If there is a Commercial Agreement between Siemens and Partner, this describes Siemens’ warranties for the Offerings for Resale towards Partners. At its option, Partner may provide additional representations, warranties, or commitments to Customer that Partner alone will fulfill. Partner will ensure that those additional commitments are technically feasible, not contradictory to the technical documentation of the Offerings for Resale, and that they are not attributable to Siemens. Partner agrees to indemnify, hold harmless, and defend Siemens against any and all claims by Customers or third parties arising out of or related to any such additional representations, warranties, or commitments made by Partner.

## **5.6. Piracy**

- a. Partner will report to Siemens any suspicion of piracy of Offerings or unauthorized use of software or cloud Offerings sold by Partner and take reasonable measures to stop and prevent such unauthorized use in alignment with Siemens.
- b. If set forth in the Partner Agreement, Partner will receive compensation in accordance with Siemens’ policy provided Siemens assigns such case to Partner. Siemens may conduct investigations related to alleged piracy, use of unauthorized software, violation of license restrictions by Partner, Customers, or prospective Customers. If Partner, a Customer, or a prospective Customer has engaged in prohibited activities, Siemens reserves the right, in addition to all other rights and remedies available to Siemens, to reject new or pending orders from Partner or the relevant Customer or prospective Customer until successful conclusion of the applicable investigation and/or settlement negotiation. Siemens has the sole right to determine the settlement value of a license compliance settlement. Furthermore, if Partner is found to be involved in prohibited activities, Partner will reimburse Siemens for the costs of such investigation.

## 5.7. Safety and security reporting

If Partner should become aware of any alleged or actual safety- or cyber security risks or other risks associated with Offerings, Partner will inform Siemens without undue delay. Partner will cooperate with Siemens in applying any remediation measures regarding product safety and cyber security directed by Siemens with respect to such Offerings. Such remediation measures may include but are not limited to implementation of product safety instructions or updates, upgrades and patches required from a cyber security perspective as released by Siemens or its third-party licensors for Offerings as well as implementation of any further product safety and cyber security related actions reasonably requested by Siemens.

## 6. Training, qualification, certification and training material

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### 6.1. Training, qualification and certification

Partner will employ and maintain personnel and resources with the technical expertise reasonably necessary to fulfill Partner's obligations under the Partner Agreement. Throughout Partner's participation in a Partner Program, Partner is responsible for ensuring that its employees have the qualifications and certifications required by the relevant Partner Policies. Parties may agree on training, qualification, and certification requirements and measures in the PTA.

### 6.2. Training programs and training material

6.2.1. **Training programs.** Training programs may be offered by Siemens online, at Siemens' offices, or at other locations designated by Siemens. Such training programs are subject to Siemens' standard training terms and conditions. Siemens may provide Partner access to online training materials solely to train its personnel. Partner has no right to use, copy, develop, change, prepare derivative works of, or sublicense such training materials except as expressly provided in the Partner Agreement. No other use of training materials is permitted unless explicitly agreed otherwise elsewhere in the Partner Agreement. Training materials are provided "as-is" and "as-available" without warranties or indemnities of any kind, including any implied warranty of merchantability or of fitness for any particular purpose.

6.2.2. **Training material.** Only if explicitly allowed in the Partner Program or with Siemens' prior written consent, Partner may change training materials for its internal business purposes. In such cases, Partner's right to change and personalize the training materials will be limited to allow Partner to

- a. add its logos, trade names, and/or contact information to the modified training materials,
- b. translate or otherwise localize the training materials for more efficient or acceptable use,
- c. truncate, rearrange, or combine parts or training materials with other methodologies, tools, or materials used by Partner.

Partner agrees to indemnify, hold harmless, and defend Siemens and its Affiliates against all third party claims, damages, fines, and costs (including attorney's fees and expenses) relating in any way to Partner's provision of professional consulting, training, services in connection with Offerings.

## 7. Purchase and usage of Siemens Offerings

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### 7.1. Internal use of Offerings

Siemens may offer Partner limited, non-transferable access to Offerings for internal use such as training personnel, marketing demonstrations, and internal evaluation free of charge or for a fee.

### 7.2. Applicable terms for Offerings

Unless agreed otherwise in the Execution Form or the applicable Program Exhibit, the purchase of Offerings, whether for Partner's internal use or for resale, and the respective usage is not governed by the Partner Agreement but will be subject to a separate Commercial Agreement.

### 7.3. Commercial Agreement with an Authorized Party

To protect the Siemens brand from reputational damage (e.g. in case of counterfeit products), the Partner will procure Offerings for Resale in the scope of this Partner Agreement only from Siemens or an Authorized Party under a respective Commercial Agreement. The Partner will not purchase third party offerings that are counterfeit products of Offerings if the Partner knows or should have known of their counterfeit nature. Any violation against this Section is a material breach of this Partner

Agreement. Siemens' audit rights set forth in the Section Compliance of these Partner Base Terms apply accordingly to this Section.

#### **7.4. Discounts for Offerings**

For the avoidance of doubt, the Partner Agreement itself does not entitle Partner to discounts for Siemens Offerings.

### **8. Data privacy, Siemens Partner System, Partner data**

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#### **8.1. Access to Siemens Partner System**

Siemens will provide Partner access to Siemens Partner System. To access a Siemens Partner System or any Siemens system, each Partner employee with a need to access such systems may be required to

- a. agree to the system's applicable terms of use and
- b. obtain a personal webkey in a format defined by Siemens and assigned to a unique Partner email address.

All materials and information contained within the Siemens Partner System constitute Siemens' Confidential Information. Partner will not use any information accessed in the Siemens Partner System for purposes other than those described in the Partner Agreement.

#### **8.2. Required information**

Partner will promptly notify Siemens if and when

- a. a new employee requires a webkey,
- b. a Partner employee with a webkey is no longer employed by Partner or no longer requires a webkey, or
- c. Partner becomes aware that any of its employees have accessed or used any information within the Siemens Partner System for purposes other than those described in the Partner Agreement.

#### **8.3. Partner data**

The data of Partner and its employees available via the Siemens Partner System ("Partner Data") will be processed in Siemens' partner databases. Such partner databases will only be accessible for entitled employees of Siemens and Siemens' Affiliates, consultants or IT providers. Siemens reserves the right to add, modify and revise the data entered in the Siemens Partner System, if reasonably required. Furthermore, Siemens will add to the Siemens Partner System personal data of selected Partner's employees (e.g. contact details, certification status, competencies and performed trainings). Parts of the company data entered into the Siemens Partner System may be published in a "Partner Finder" tool for the duration of the Partner Agreement. Partner herewith consents to such publication.

#### **8.4. Financing options**

For the assessment of financing options that may be offered to Partner, Siemens may share with Siemens Affiliates data in relation to the Partner obtained within the scope of the business relationship of the Parties.

#### **8.5. Partner data administrator**

If applicable in the relevant Partner Program, Partner will nominate one of its employees as the "Partner Data Administrator" in the Siemens Partner System. Partner Data Administrator will be granted necessary administration rights for the Siemens Partner System and is entitled to amend or add Partner Data. In case Partner data cannot be corrected, Partner Data Administrator will notify Siemens. Partner Data Administrator can create data entries for Partner branches and offices, provided they are part of the Partner legal entity of the Partner Agreement.

#### **8.6. Data privacy**

Each Party will comply with applicable data privacy laws governing the protection of personal data in relation to their respective obligations under the Partner Agreement. Partner is responsible for fulfilling the legal prerequisites to enable Siemens and third parties to use personal data of relevant Partner's employees as set out in the Partner Agreement without infringing any rights or laws. If Siemens is established within Brazil, the European Economic Area or the United Kingdom, the Joint Controller

Agreement as available under the following link: <http://www.siemens.com/ptm-specific-partner-terms>, as amended from time to time, applies to the processing of personal data contained in Partner Data or other jointly managed data as described therein.

## 9. Data Sharing

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If applicable to the Partner Program, the Parties will share relevant data related to the partnership for the benefit of improving the distribution of Offerings for Resale under the following conditions and as further described in the Partner Policies.

### 9.1. Definitions for Data Sharing

- a. **“Distribution Data”** means data shared via Siemens Partner System by Partner with Siemens that is related to the partnership, especially in relation to the distribution of Offerings via partners, such as information about the Customer, the relevant sales region and verticals, relevant Offerings and their availability via Partner, Siemens part numbers, actual stock and inventory information about Offerings. For the avoidance of doubt, Partner will not share any information on its resale prices with Siemens.
- b. **“Data Insights”** means data provided by Siemens based on Siemens’ enriched analysis of the Partner Distribution Data and other data available to Siemens, including information about potential cross-selling opportunities and proposals to the Partner for next best actions.
- c. **“Shared Data”** means data exchanged between the Parties in relation to the partnership, especially Distribution Data and Data Insights.
- d. **“Data Sharing”** means the exchange of Shared Data between the Parties for the Purpose.

### 9.2. Purpose and benefits of Data Sharing

- 9.2.1. **Purpose of Data Sharing.** The purpose of Data Sharing (“Purpose”) is to improve the distribution of Offerings by e.g.
  - a. enabling Partner to better serve its Customers and to increase its sales performance, e.g. by improving its resource management, based on Data Insights and reflect availability of Offerings at Partner;
  - b. optimizing the distribution of Offerings based on the analysis of the Distribution Data, e.g. improving the Offerings and the support by Siemens;
  - c. enabling Siemens to verify Partner’s adherence to the Partner Agreement and the Commercial Agreement;
  - d. enabling Siemens to provide applicable warranty or support to Customers and to verify their entitlement; and
  - e. optimizing other aspects of the partnership.
- 9.2.2. **Benefits of Data Sharing.** In addition to Data Insights, Siemens may provide to Partner other benefits as specified in the Partner Agreement or the Partner Policies.

### 9.3. Rights on Distribution Data

Partner grants to Siemens all rights to use the Distribution Data within the Purpose as described above, including its sharing with Affiliates.

### 9.4. Quality of Shared Data

Each Party confirms it has the necessary authorizations to the Shared Data, including that Partner is permitted to share such Shared Data under the applicable agreements with its Customers. The Parties will make reasonable efforts that all Shared Data is accurate, complete, and up to date. They will promptly notify each other of any discovered inaccuracies and provide correct Shared Data.

## 10. Intellectual Property, Siemens Partner Emblem, Partner trademarks, indemnification

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### 10.1. Intellectual Property

Each Party will retain all rights in any Intellectual Property or any other proprietary material or information that it owned or developed before the Effective Date or acquired or developed thereafter, without reference to or use of the Confidential Information of the other Party. The Intellectual Property of

each Party is subject to the confidentiality obligations set forth in the Partner Agreement. Except as otherwise expressly provided in the Partner Agreement, neither Party grants the other Party any license to its Intellectual Property.

## 10.2. Siemens Partner Emblem

From the Effective Date Partner has the right to use the Partner Emblem granted to it under the Execution Form and the SIEMENS trademark under the conditions specified in the Siemens Partner Emblem Terms, as available under the following link: <http://www.siemens.com/ptm-specific-partner-terms>. This Section will replace any existing rights to use a Partner Emblem, comparable logos, partner emblems or trademarks of Siemens or any legal entity that, directly or indirectly is controlled by Siemens, controls Siemens or is controlled by a legal entity that directly or indirectly controls Siemens ("Siemens Affiliate") or the mark "SIEMENS" if not expressly stated otherwise herein.

## 10.3. Partner trademarks

Partner grants to Siemens a non-transferable, non-exclusive, royalty-free, limited license to use Partner's trademarks, trade names, or logos for the term of the Partner Agreement and only to the extent reasonably necessary for the purposes described in this Section. Siemens recognizes the value of the goodwill associated with Partner's trademarks and that such goodwill belongs to Partner. Upon termination or expiration of the Partner Agreement, Siemens will discontinue the use of trademarks owned or controlled by Partner upon request. Siemens sales and product documentation that reference Partner and its Trademarks will be reasonably phased- out. Siemens will provide reasonable assistance to the Partner to assist Partner in the protection of Partner's trademarks to the extent used by Siemens.

## 10.4. Third party claims

- a. The Partner will inform Siemens without undue delay in the event a third party, directly or indirectly, raises a claim against Siemens. The Partner will not acknowledge such claims by third parties. The Partner will assist Siemens in defending such claims, including but not limited to claims arising in a lawsuit, and will act only according to the written instructions of Siemens. Siemens will reimburse the Partner for actual reasonable expenses incurred in such defense.
- b. If a third party, based on an alleged infringement of its industrial property rights or copyrights by Offerings used in conformity with the applicable conditions, asserts legitimate claims against the Partner, and Partner has procured the Offerings from Siemens under a respective Commercial Agreement, Siemens will be liable to the Partner in accordance with the relevant provisions of the applicable Commercial Agreement,
- c. If issues arise beyond those mentioned in Section (b) above, Siemens and Partner will negotiate in good faith to reach an amicable settlement agreement, considering their mutual interests.

## 10.5. Indemnification

Partner will indemnify and defend, at its expense, any action brought against Siemens to the extent that it is based on a claim that any Intellectual Property provided by Partner infringes any copyright, any trade secret, or a patent or trademark of a third party provided that Siemens gives Partner

- a. written notice of the claim without undue delay and
- b. all requested information and reasonable assistance related to the claim.

Siemens will not acknowledge such claims of the third party without Partner's consent.

## 11. Compliance

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### 11.1. General compliance

Both Parties are committed to responsible business conduct and together achieve commercial success through legal, ethically responsible, and dependable actions. Each Party will comply with applicable laws and regulations under or in relation to the Partner Agreement, including, without limitation, those relating to anti-corruption, antitrust, anti-money laundering, fraudulent behavior, human rights, data privacy, and trade compliance/export control. Any violation by a Party to the foregoing part of this Section about General Compliance will be considered a material breach. Each Party agrees to maintain an adequate and effective compliance management system to ensure compliance with applicable laws and regulations. Information about Siemens Compliance System can be found here:

<https://www.siemens.com/global/en/company/about/compliance.html>.

## 11.2. Books and records

Each Party will keep and maintain accurate and reasonably detailed books and financial records, in connection with their activities contemplated in the Partner Agreement. Any costs, fees or expenses will be

- a. recorded in a timely manner,
- b. accurately described in the books and records in sufficient detail (categorizations such as “other”, “miscellaneous” or “various” are not permissible) and in a manner which reflects their true nature, and
- c. will not be paid in cash.

Detailed supporting documents will be retained by each Party.

## 11.3. Audit

If Siemens believes in good faith and based on credible information that any of the provisions of this Section about Compliance have been breached or is about to be breached by the Partner, it has the right to audit the Partner’s compliance with these provisions, in connection with their activities contemplated in the Partner Agreement. Upon request by the Partner or at the discretion of Siemens, Siemens will select an independent party to conduct the audit, particularly if the audit covers documents containing competitively sensitive information (e.g., resale prices). Partner will fully cooperate in any audit conducted by or on behalf of Siemens.

## 12. Confidentiality

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### 12.1. Non-disclosure of Confidential Information

The receiving Party will

- a. not disclose Confidential Information, except (a) on a need-to-know basis to 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 the Partner Agreement, or (b) as authorized by the Partner Agreement or otherwise by the disclosing Party;
- b. use Confidential Information only as required to exercise or enforce rights or perform obligations under the Partner Agreement, and
- c. 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 this Section about Confidentiality by each of its recipients.

### 12.2. Exclusions

The obligations in this Section about Confidentiality will not apply to any Confidential Information that

- a. is or becomes generally available to the public other than as a result of disclosure by the receiving party in violation of the Partner Agreement,
- b. 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,
- c. was in the receiving Party’s possession without an obligation of confidentiality before receipt from the disclosing party,
- d. is independently developed by the receiving party without the use of, or reference to, the disclosing party’s Confidential Information, or
- e. 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. Term & termination

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### 13.1. Term

The Partner Agreement will continue in full force and effect for an initial period of one year from the date of its acceptance by both Parties. Thereafter, the Partner Agreement will renew automatically for

successive one-year terms. Either Party may terminate the Partner Agreement in accordance with the terms and conditions of the Partner Agreement.

### 13.2. Termination rights

- 13.2.1. **Termination for convenience.** If not agreed otherwise, either Party may terminate the Partner Agreement by September 30th provided it gives at least 3 months prior written notice to the other Party.
- 13.2.2. **Termination for breach.** Either Party may terminate the Partner Agreement with immediate effect if the other Party is in material breach of the Partner Agreement or fails to observe or perform its obligations under the Partner Agreement and the breach or failure remains uncured for a period of 30 days from receipt of notice from the other Party.
- 13.2.3. **Termination for insolvency.** Unless prevented by applicable insolvency laws, either Party may terminate the Partner Agreement or any Program Exhibit upon written notice to the other Party if the other Party
- a. becomes insolvent,
  - b. makes a general assignment for the benefit of creditors,
  - c. files or has filed against it a petition in bankruptcy, for reorganization or similar arrangement, or for a receiver, trustee, or similar representative for either Party's property or assets or any part thereof, or
  - d. files or has filed against it any other proceedings under applicable insolvency law.
- 13.2.4. **Termination for change of control.** If a third Party acquires all or substantially all of Partner's assets or 50% or more of the voting power of Partner's capital stock, Partner will notify Siemens in writing and, if Siemens determines in good faith that there is a reasonable likelihood of a significant competitive threat to Siemens or uncertainty as to Partner's continued ability to perform its obligations under the Partner Agreement, Siemens may terminate the Partner Agreement immediately upon written notice to Partner.

### 13.3. Effect of notice of termination

- a. Upon the effective date of termination or expiration of the Partner Agreement, Partner will
  - cease to represent itself as a Partner of Siemens, and
  - cease using Offerings and services provided to Partner under the Partner Agreement.
- b. Partner will promptly, but in no event later than 15 days following the effective date of termination, deliver to Siemens all copies of any software and documentation, including summaries, abstracts, updates or changes thereof, and any other Confidential Information or proprietary information of Siemens in the possession of Partner.
- c. Termination does not relieve either Party of
  - its payment obligations under the Partner Agreement;
  - any liability incurred by either Party prior to the effective date of termination.
- d. Neither Party will have any claim against the other based on termination by the other Party, or as compensation for efforts of a Party during the term of the Partner Agreement which resulted in benefits of the other Party after its termination, unless required by mandatory applicable law.

## 14. Limitation of liability

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### 14.1. Entire and aggregate liability

The entire aggregate liability of each Party under the Partner Agreement is limited to the amounts paid or owed to that Party by the other Party under the Partner Agreement (if any) as compensation for its efforts in support of the partnership during the 12-month period immediately preceding the first event, giving rise to the claim. Siemens will only be liable for Offerings if procured by the Partner directly from Siemens and in accordance with the respective Commercial Agreement.

### 14.2. Exclusions

Even if foreseeable, neither Party will be liable for:

- a. any indirect, incidental, consequential, special, exemplary, or punitive damages;
- b. loss of production;

- c. interruption of operations;
- d. loss of use;
- e. loss or corruption of data;
- f. contractual claims of third parties;
- g. loss of revenue, profits, capital and interest, or anticipated savings.

### 14.3. Non-applicability of limitations and exclusions

The limitations and exclusions set out in this Section do not apply to either Party's

- a. breach of its payment obligations, license terms, or use restrictions,
- b. intent, gross negligence, fraudulent misrepresentation, willful misconduct
- c. personal injury or death,
- d. indemnification obligations under the Partner Agreement,
- e. breach of its obligations or representations and warranties under the Partner Agreement regarding confidentiality, foreign trade compliance, compliance with laws, or data privacy, or
- f. the misuse or misappropriation of intellectual property rights.

### 14.4. Consideration of applicable law

Furthermore, the limitations and exclusions set out in this Section do not apply to the extent that liability cannot be limited or excluded according to applicable law.

### 14.5. Scope of limitations and exclusions

The foregoing limitations and exclusions apply

- a. to the benefit of each Party and its Affiliates, and their respective officers, directors, employees, licensors, subcontractors, and representatives, and
- b. regardless of the form of action, whether based in contract, statute, tort (including negligence), or otherwise.

### 14.6. Time limitation of claims

Neither Party will be liable for any claim in connection with the Partner Agreement if such claim is brought more than two years after the first event giving rise to the claim has been or should have been discovered by the Party making the claim.

## 15. Foreign trade

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### 15.1. Definitions

- 15.1.1. **Foreign trade regulations:** All applicable sanctions, embargoes, and (re-)export control regulations and in any event those of the European Union, the United States of America and any locally applicable jurisdiction.
- 15.1.2. **Restricted licenses and rights:** All intellectual property rights and trade secrets (including any related material or information) transferred or licensed by Siemens to Partner which relate to goods and technology subject to export restrictions as specified in the respective annexes to Council Regulation (EU) No 833/2014 or Council Regulation (EC) No 765/2006.

### 15.2. Foreign trade compliance

Partner will comply with Foreign Trade Regulations regarding all Offerings and intellectual property rights and trade secrets subject to the Partner Agreement.

### 15.3. Export checks for Offerings

Before Partner performs any transaction with a third party concerning the Offerings, it will ensure that:

- a. Partner 's use, transfer, or distribution of Offerings will not violate or circumvent any Foreign Trade Regulations;
- b. Offerings are not intended for prohibited or unauthorized non-civilian purposes (e.g. armaments, nuclear technology or other defense and military use); and

- c. Partner checked all parties involved in the transaction against restricted party lists issued under the Foreign Trade Regulations.

#### 15.4. No (re-)Export to Russia or Belarus

Partner will:

- a. not sell, export or re-export, directly or indirectly (e.g., via Eurasian Economic Union (EAEU) countries)), any Offerings to or for use in Russia or Belarus;
- b. undertake its best efforts to ensure that the purpose of this (re)-export prohibition is not frustrated by any third party;
- c. maintain an adequate monitoring mechanism to detect conduct by any third party that would frustrate the purpose of this (re)-export prohibition; and
- d. not utilize Restricted Licenses and Rights for sale, supply, service, manufacturing, transfer or export, directly or indirectly, to Russia or Belarus or for use in Russia or Belarus and will contractually impose these obligations on its sublicensees.

#### 15.5. Digital Offerings

Partner will:

- a. not download, install, access, or use software, or cloud services from or in any location prohibited by or subject to comprehensive sanctions according to the Foreign Trade Regulations;
- b. not grant access to, transfer, (re-)export (including any “deemed (re-)exports”), or make available software, or cloud services to any entity or person identified on a restricted party list issued under the Foreign Trade Regulations or owned or controlled by a restricted party;
- c. use software, or cloud services exclusively for purposes permitted by the Foreign Trade Regulations (e.g., no use in connection with armaments, nuclear technology, or weapons);
- d. upload to the cloud services platform only non-controlled content (e.g., in the EU: AL = N; in the U.S.: ECCN = N or EAR99);
- e. facilitate any of these activities by any user;
- f. be responsible for the use of software or cloud services by its users;
- g. provide its users with information necessary to ensure compliance with the Foreign Trade Regulations; and
- h. terminate any user’s access to the software or cloud services when becoming aware of any breach by such user of Foreign Trade Regulations.

Siemens may limit, suspend or terminate access to the Offerings by Partner or Partner’s users if required by Foreign Trade Regulations.

#### 15.6. Semiconductor development

Partner will not, without Siemens’ prior written consent, use Offerings to develop or produce integrated circuits at any advanced semiconductor fabrication facility located in the Peoples Republic of China and further restricted locations meeting the criteria specified in the U.S. Export Administration Regulations, 15 C.F.R. 744.23.

#### 15.7. Required information

15.7.1. **Information obligation of partner.** Partner will promptly:

- a. inform Siemens about any problems in applying the Section “No Re-Export to Russia and Belarus”; and
- b. provide upon Siemens’ request information about
  - users, the intended use, the location of use;
  - the final destination of the Offerings; and
  - its own as well as its users’ compliance with this Section on Foreign Trade.

15.7.2. **Defense-related information, requirement of special data handling.** If the information is defense-related or requires special data handling, Partner will notify Siemens in advance and use the disclosure methods Siemens specifies.

## 15.8. Reservation and suspension

- 15.8.1. **Reservation.** Siemens will not have to fulfil any Order if prevented by:
- a. impediments arising out of national or international foreign trade issues;
  - b. impediments arising out of customs requirements; or
  - c. any Foreign Trade Regulations.
- 15.8.2. **Suspension.** Siemens may limit or suspend access to the Offerings by Customer or Customer's users if required by Foreign Trade Regulations.

## 15.9. Breach of export regulations

Any violation by Partner of this Section on Foreign Trade is a material breach of the Agreement.

## 16. General

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### 16.1. Independent contractor

The relationship established by the Partner Agreement is that of independent contractors, and nothing in the Partner Agreement will be deemed to create an agency, partnership, employment, or joint venture relationship. Neither Party will have the right, power, or authority to act or create any obligation, express or implied, on behalf of the other Party. Partner is fully responsible for its performance under the Partner Agreement, and all financial obligations associated with Partner's business are Partner's sole responsibility.

### 16.2. Other Partner Programs

Partner confirms that it has informed Siemens about any existing partnerships or participation in partner programs run by Siemens' competitors in the scope of the respective Partner Program before the Effective Date. The Partner will immediately inform Siemens in writing of any changes in this regard.

### 16.3. Feedback

If Partner provides any ideas regarding Offerings, including suggestions for changes or enhancements, (collectively "Feedback"), Partner agrees that such Feedback may be used by Siemens without condition or restriction.

### 16.4. No representation

The Partner Agreement does not confer to the Partner any right or authority to obligate Siemens to accept any orders. The Partner is not entitled to enter into sales or other contracts with third parties on behalf of Siemens without the prior written consent of Siemens. Except as expressly authorized by Siemens in writing, the Partner will not make any representations or warranties on behalf of Siemens nor act in a way which will incur any liabilities on behalf of Siemens.

### 16.5. Notices

Communications under the Partner Agreement will be effective if provided in writing. "In writing" includes e-mail, unless otherwise stated. Siemens may provide notices via Siemens Partner Systems. Notices regarding disputes, claims, default, termination, or extension must be sent by letter to the individuals and/or address specified in the Execution Form. Either Party may update their contact information for such notices by advance written notice to the other Party.

### 16.6. Force Majeure

Neither Party will be liable for delay or failure to perform any of its obligations under the Partner 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.

### 16.7. Assignment

Neither Party may, in whole or in part, assign, subcontract, sublicense, or otherwise transfer, by operation of law or otherwise, the Partner Agreement, or any of the rights, duties, obligations, or licenses granted hereunder without the prior written consent of the other Party. Notwithstanding the foregoing, Siemens may assign the Partner Agreement or the rights and responsibilities under it to an Affiliate or in connection with a sale, merger, corporate reorganization, or divestiture. The Partner

Agreement will extend to and be binding upon the successors, legal representatives, and permitted assignees of the Parties.

#### 16.8. No exclusivity

Neither Party grants nor commits to any exclusivity whatsoever with respect to the other Party under the Partner Agreement. Neither Party makes any warranty to the other regarding either the success or profitability of their relationship described in the Partner Agreement nor any guarantee that any third party will enter into an agreement for the products or services of the other Party.

#### 16.9. No waiver; validity & enforceability

The failure to enforce any provision of the Partner Agreement will not be construed as a waiver of such provision. If any provision of the Partner 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 will have the same force and effect as manual signatures.

#### 16.10. Survival

The termination or expiration of a Partner Agreement does not affect the validity or enforceability of any provisions which, by their nature, are intended to survive such termination or expiration. Without limitation, the provisions about the following topics will survive:

- confidentiality obligations, which will remain in effect for five (5) years after the end of the Partner Agreement;
- compliance obligations, including export control, anti-corruption, data privacy and data protection;
- liability and indemnification obligations;
- Intellectual Property;
- applicable law and dispute resolution;
- any other provisions expressly stated to survive or which by their nature should survive termination or expiration.

#### 16.11. Entire agreement

The Partner Agreement, along with any additional requirements set forth in the Partner Policies, constitutes the full and complete statement of the agreement between the Parties with respect to the subject matter thereof and supersedes any previous or contemporaneous agreements, understandings or communications, whether written or verbal, relating to such subject matter. The Partner Agreement may not be varied except in writing executed by manual signatures or electronic signatures of authorized representatives of both Parties.

#### 16.12. Applicable law & dispute resolution

- 16.12.1. **Applicable law.** The Partner 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 the Partner Agreement. Any dispute arising out of or in connection with the Partner Agreement will be resolved as set forth in the table below.

<b>If the contracting Siemens entity is in:</b>	<b>the applicable law will be:</b>	<b>Any dispute arising out of or in connection with the Partner Agreement will be:</b>
a country in North or South America, except for 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 in the city where the Siemens entity that enters into the Partner Agreement is domiciled.
a country in Asia or Australia/Oceania, except for Japan, Israel, and Turkey,	the laws of Singapore.	finally resolved by binding arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce (“ <b>ICC Rules</b> ”). 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.

16.12.2. **Dispute resolution.** 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 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, the Parties agree that Siemens, at its sole discretion, may bring an action in the courts of the jurisdiction(s) where Offerings or services are being used or Partner has its place of business,

- to enforce its intellectual property rights, or
- for the payment of amounts due for Offerings or services.

## Definitions

<b>Affiliate</b>	means any legal entity that, directly or indirectly: <ul style="list-style-type: none"> <li>• is controlled by a Party</li> <li>• controls a Party; or</li> <li>• is controlled by a legal entity that directly or indirectly controls a Party.</li> </ul>
<b>Authorized Company</b>	means a third party that has been accepted by Siemens to enter a Partner Program at the entry level.
<b>Authorized Party</b>	means either an Authorized Company or a Certified Partner with a Resale Authorization.
<b>Certified Partner</b>	means an Authorized Company that has fulfilled the necessary requirements of a Partner Program as foreseen by the applicable Partner Policies and acknowledged by Siemens. Certified Partners may be classified by Siemens either as Silver, Gold or Platinum Partner Level.
<b>Commercial Agreement</b>	means the agreement between <ul style="list-style-type: none"> <li>• Siemens and the Partner or</li> <li>• an Authorized Party and the Partner</li> </ul> under which the Partner procures the Offerings for Resale, if applicable.
<b>Confidential Information</b>	means all information disclosed by one Party or any of its Affiliates to the other Party under the Partner Agreement that is marked or declared as confidential (or that any reasonable person can

recognize as confidential in its nature) Siemens' Confidential Information includes the terms of the Partner Agreement, Siemens Intellectual Property, information about Offerings, information provided by Siemens on the Siemens Partner System and any information Partner derives from benchmarking any Offering.

<b>Customer</b>	means the individual or entity that purchases Offerings from Partner in connection with the Partner Agreement.
<b>Effective Date</b>	means the date of the last signature of an Execution Form or a comparable document signed by both Parties to conclude or amend the Partner Agreement.
<b>Execution Form</b>	means the form that establishes the partner relationship, the rights and obligations of the Parties, and how the Parties will interact to support each other's business.
<b>Intellectual Property</b>	means all rights, title, and interest in and to any intellectual property, including but not limited to patents, utility models, patent applications, priority rights, trade secrets, trademarks, service marks, copyrights, mask works, database rights, design rights, and any other proprietary rights, whether registered or unregistered, and whether existing now or in the future. Intellectual Property also encompasses inventions, discoveries, ideas, concepts, know-how, methodologies, processes, software (including source code and object code), technical data, development tools, and techniques that are legally protectable under applicable law.
<b>Joint Controller Agreement</b>	means the terms & conditions applicable for situations in which Siemens is established within Brazil, the European Economic Area or the United Kingdom and Partner and Siemens jointly have access and control personal data of individuals, as available under the following link: <a href="http://www.siemens.com/ptm-specific-partner-terms">www.siemens.com/ptm-specific-partner-terms</a> .
<b>Offering</b>	means the individual offering Siemens makes available to the market. An Offering may consist of any Siemens software, cloud services, hardware, professional services or training services, or a combination of these, and any associated maintenance and support services and related user documentation.
<b>Offering for Resale</b>	means an Offering for which the Partner has a Resale Authorization
<b>Partner Emblem</b>	means the emblem as authorized by Siemens in writing for use by the Partner.
<b>Partner Emblem Terms</b>	means the terms governing the use of the Partner Emblem agreed in the Section about Siemens' Partner Emblem in these Partner Base Terms, as available under the following link: <a href="http://www.siemens.com/ptm-specific-partner-terms">www.siemens.com/ptm-specific-partner-terms</a> .
<b>Partner Policies</b>	means the then-current policies Siemens publishes on the Siemens Partner System or otherwise communicates to Partner in writing.
<b>Partner Program</b>	means one specific Siemens Partner Program as described in a Program Exhibit.
<b>Partner Target Agreement ("PTA")</b>	means a document updated by the Parties on a yearly basis containing the commercial cornerstones of the partnership for the relevant Partner Program(s). May also be referred to as a business plan or similar.
<b>Program Exhibit</b>	means the Exhibit as determined in the Execution Form describing the scope of one specific Partner Program.
<b>Resale Authorization</b>	means the authorization of a Partner to purchase and resell defined Offerings for Resale to Customers, documented by a Commercial Agreement or by other documents in connection with the Partner Agreement.
<b>Siemens Partner System</b>	means the online portals or websites which Siemens may make available to Partner from time to time. The Siemens Partner System includes, but is not limited to, the Siemens Partner Sales Portal, information about the Offerings, sales and marketing materials, training materials, certain Siemens' systems or tools, and Partner Policies.
<b>Territory</b>	The country in which the Partner is located or as otherwise defined in the Partner Agreement.