

PARTNER PROGRAM AGREEMENT

General Terms & Conditions

These General Terms & Conditions apply to all Partner Models agreed in the Partner Program Agreement (“**Agreement**”) between Siemens and Partner. Capitalized terms have the meaning defined in the last Section of this document or elsewhere in the Agreement.

1. ROLES & RESPONSIBILITIES

- 1.1
Partner Models One or more Model Addenda may be included under this Agreement to define the roles and responsibilities of each party for the applicable partner model. Either party may derive rights from these General Terms & Conditions for as long as at least one Model Addendum is in effect.
- 1.2
Partner Policies Partner must comply with Partner Policies. Siemens may update Partner Policies from time to time, at its reasonable discretion. In the event of a conflict between Partner Policies and this Agreement, this Agreement will take precedence.
- 1.3
Partner Portal Siemens will provide Partner access to the Partner Portal, Partner Policies or other information as necessary to allow Partner to fulfill its obligations under this Agreement. To access the Partner Portal or any Siemens system, each Partner employee with a need to access such systems must have a personal webkey in a format defined by Siemens and assigned to a unique Partner email address. Partner will not use any information accessed in the Partner Portal for purposes other than those described in this Agreement. Partner must promptly notify Siemens if and when (i) a new employee requires a webkey, (ii) a Partner employee with a webkey is no longer employed by Partner or no longer requires a webkey, or (iii) Partner becomes aware that any of its employees have accessed or used any information within the Partner Portal for purposes outside the scope of this Agreement. All materials and information contained within the Partner Portal or any Siemens systems constitutes Siemens Confidential Information.
- 1.4
Partner Marketing & Promotion Partner will use reasonable commercial efforts to promote, advertise, and market Offerings at Partner’s expense. Siemens-approved branding, marketing materials, and messaging may be used by Partner in accordance with this Agreement and any requirements posted on the Partner Portal. Partner will obtain written consent from Siemens before any media releases or public announcements are made by Partner related to this Agreement. Siemens will not unreasonably withhold such consent.
- 1.5
Siemens Marketing & Promotion Siemens will provide Partner with marketing and communications support for the activities described in this Agreement. Siemens may advertise the signing of this Agreement or any Model Addendum and disclose Partner’s company name, territory, products offered, general terms, and Partner’s rationale for selection of Siemens as a provider.
- 1.6
Representations & Warranties The Standard Terms & Conditions describe the Offering warranties. At its option, Partner may provide additional representations, warranties, or commitments to Customer that Partner alone will fulfill. Partner will ensure those additional commitments 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.
- 1.7
Piracy Reporting & Sales Partner will not directly engage with any cases of suspected piracy or unauthorized use of Offerings (including, but not limited to acceptance of new or pending orders, renewal orders, and discussion or other communication related to existing or new commercial proposals on software) but will instead report any suspicion of piracy to Siemens. If set forth in an applicable Model Addendum, Partner will receive compensation in accordance with Siemens’ policy provided Siemens assigns such case/deal to Partner. Siemens may conduct investigations related to alleged piracy, use of unauthorized software, violation of license restrictions by Partner, Customers, or prospective Customer. 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.

2. CUSTOMER INFORMATION

- 2.1
Customer Database Siemens may provide Partner with access to Siemens' customer database via the Partner Portal. Partner's access to the database will be limited to Customers with which Partner has a pre-existing business relationship. Customer information is dynamic and Siemens does not guarantee the accuracy of the database. All such customer data, databases, and records constitute Siemens' property and Confidential Information.
- 2.1
Third Party Requests Without limiting Partner's confidentiality obligations under this Agreement, if Partner receives an order from any third party for disclosure of Customer records, Partner will (i) use all reasonable efforts to redirect the third party to request data directly from Customer, (ii) promptly notify the applicable Customer, unless prohibited under applicable law, and if notification is so prohibited, use all lawful efforts to obtain the right to waive the prohibition to communicate as much information to Customer as soon as possible, and (iii) use all reasonable lawful efforts to challenge the order for disclosure on the basis of any legal deficiencies.
- 2.3
Customer Contact Siemens may contact Customers directly to validate customer satisfaction.

3. CONFIDENTIALITY

- 3.1
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. Confidential Information includes the terms of this Agreement, Offerings, documentation, services, any information disclosed to Partner via the Partner Portal, information learned by either party related to the other party's respective business, including but not limited to customer data and records, and any information Partner 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' Customers, 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 authorized by 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 this Section 3 by each of its recipients.
- 3.2
Exclusions The obligations in Section **Error! Reference source not found.** 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 before 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.

4. TERM & TERMINATION

The Model Addendum that applies to the specific partner relationship describes the applicable term length and terms related to any termination of that particular Model Addendum. This Agreement will automatically terminate upon expiration or termination of all applicable Model Addenda.

- 4.1
Termination Rights
- (a) Termination for Convenience. The Model Addendum will state the initial term for that Addendum. After that initial term, either party may terminate this Agreement or any Model Addendum for convenience by providing at least 60 days prior written notice, unless the Model Addendum has different terms relating to termination for convenience.
 - (b) Termination for Breach. Either party may terminate this Agreement or any Model Addendum with immediate effect if the other party is in material breach of this Agreement or fails to observe or perform its obligations under this Agreement and the breach or failure remains uncured for a period of 30 days from receipt of notice from the other party.
 - (c) Termination for Insolvency. Unless prevented by applicable insolvency laws, either party may terminate this Agreement or any Model Addendum upon written notice to the other party if the other party (i) becomes insolvent, (ii) makes a general assignment for the benefit of creditors, (iii) 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 (iv) files or has filed against it any other proceedings

under applicable insolvency law. If Partner is in default, Siemens may withhold or suspend, in whole or in part, delivery of Offerings to Partner or Customers under this Agreement.

- (d) 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 this Agreement, Siemens may terminate this Agreement immediately upon written notice to Partner.
- (e) Termination for Good Cause. Siemens shall be entitled to terminate this Agreement or any applicable Model Addendum at any time for Good Cause with immediate effect. Siemens shall give notice in writing to the Partner of Siemens' intention to terminate the Agreement for Good Cause. Such notice shall include the reasons supporting its determination that there is Good Cause for termination. Partner will have 10 business days after receipt of such notice to request Siemens perform an audit in accordance with this Agreement to confirm whether the cited Good Cause has merit. During the unobstructed performance of such audit and the preparation of the audit report, Siemens will refrain from terminating the Agreement. Following completion of the audit report, Siemens shall inform the Partner in writing either that Siemens finds (a) the Good Cause to terminate the Agreement is confirmed, in which case the Agreement will be terminated with immediate effect; or (b) the cited Good Cause has no merit and, therefore, the Agreement will remain in full force and effect

4.2

Effect of Notice of Termination

Upon the effective date of termination or expiration of this Agreement, Partner will (i) cease to represent itself as an authorized Partner of Siemens, and (ii) cease using Offerings and services provided to Partner under this Agreement. 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. Termination does not relieve either party of its payment obligations under this Agreement or operate to discharge any liability incurred by either party prior to the effective date of termination. If this Agreement is terminated, Siemens shall only be obliged to make payments, whether under this Agreement or otherwise, for tasks already performed that are lawful and legally compliant. Sections 9 (Taxes), **Error! Reference source not found.** (Effect of Termination), 3 (Confidentiality), 8 (LOL), 5 (Trademarks and Intellectual Property), 12 (Export), **Error! Reference source not found.** (Feedback) survive termination or expiration of this Agreement.

5. TRADEMARKS & OTHER INTELLECTUAL PROPERTY

5.1

Intellectual Property

Each party will retain all rights in any patents, trade secrets, trademarks, copyrights, ideas, concepts, know-how, methodologies, processes, development tools, techniques, or any other proprietary material or information that it owned or developed before the effective date of this Agreement or acquired or developed thereafter, without reference to or use of the intellectual property of the other party ("**Intellectual Property**"). The Intellectual Property of each party is subject to the confidentiality obligations set forth in Section 3. Except as otherwise expressly provided in this Agreement, neither party grants the other party any license to its Intellectual Property. The provisions of this Section will survive the expiration or termination of this Agreement for any reason.

5.2

Trademark License

Siemens hereby grants to Partner a nonexclusive, non-transferable, royalty-free license to use Trademarks of Siemens or its Affiliates during the term of this Agreement, and only to the extent reasonably necessary for the proper performance of Partner's rights and obligations under this Agreement. Partner's use of Trademarks is subject to the guidelines available at http://www.plm.automation.siemens.com/en_us/about_us/trademark-guidelines/index.shtml for Trademarks owned and controlled by Siemens or its Affiliates and the Partner Emblem requirements available at <https://brandville.siemens.com/en>, if applicable, which may change from time to time. Partner will at all times follow the guidelines and requirements for use of Trademarks set forth herein. Partner acknowledges that Siemens' grant of license to Trademarks under this Section 5 is expressly conditioned upon Partner's compliance with the provisions of this Agreement. Except as explicitly granted herein, Partner will have no right or license to use any trademark or trade name of Siemens or its Affiliates.

5.3

Siemens Trademark Rights

Partner acknowledges and agrees that Siemens either owns or has rights in and authority to license Trademarks, as well as all copyright, trademark, trade dress, trade name, service mark, domain name, and other related intellectual property rights. Partner acknowledges the ownership and validity of the federal and international registrations for Trademarks and the goodwill associated therewith, as more fully described in Section **Error! Reference source not found.** below. Partner acknowledges that all trademarks, trade names, service marks, copyrights and other proprietary rights relating to the Offerings, and other Confidential Information are the property of Siemens. Partner will not acquire or attempt to acquire any proprietary rights in or to any of Siemens' trademarks, trade names, service marks or copyrights. Partner will only market the Offerings and accompanying documentation using the Trademarks specified in this Agreement. Partner will not at any time file any trademark application with the United States Patent and Trademark Office or with any other governmental entity in the

United States or elsewhere for any Trademarks, any similar trademark, or any trademark that incorporates the Trademarks, in whole or in part. Partner will not use any Trademarks or any similar trademark as, or as part of, a trademark, service mark, trade name, domain name, product name, fictitious name, company, or corporate name anywhere in the world unless approved by Siemens in writing. Siemens represents and warrants that it owns or has the right to license the Trademarks.

5.4

Goodwill

Partner recognizes the value of the goodwill associated with Trademarks and acknowledges that such goodwill belongs to Siemens, and that Trademarks have secondary meaning and/or repute. Partner will not, during the term of this Agreement or thereafter, attack the property rights of Siemens or its licensors, or use Trademarks or any similar trademark in any manner other than as provided herein.

5.5

Notice of Claim

Partner agrees to assist Siemens, including its licensors, in the protection of Trademarks and will provide evidence, documents, and testimony concerning the use by Partner of any one or more of Trademarks, which Siemens may request for use in obtaining, defending, or enforcing rights in any Trademarks or related applications or registrations. Partner will notify Siemens in writing if it is or becomes aware of any infringement of Trademarks by third parties. Siemens retains the sole right to determine whether to take action in connection with any such infringement of Trademarks. Partner will neither institute suit nor take any action in connection with such infringement without first obtaining Siemens' written consent. Partner agrees that it is not entitled to share in any proceeds received by Siemens (by settlement or otherwise) in connection with any action brought by Siemens or its designee to protect Trademarks. Partner will, upon request, provide Siemens with samples of all promotional, packaging, and other written materials which use Trademarks. Siemens will supply at no cost to Partner any applicable logo(s) via JPEG format or other available electronic format, for example GIF or EPS. If at any time the applicable logo is updated, Siemens will provide such updated logo to Partner. Partner will use appropriate Trademarks to identify Offerings in connection with its marketing efforts in connection with this Agreement, provided that Siemens is satisfied that the use of Trademarks and the marketing of Offerings is in accordance with Siemens' standards of quality and only so long as such standards are maintained by Partner. In any event, Partner will not use any Trademarks for its own company name, either in whole or part. Upon termination or expiration of this Agreement, Partner will immediately discontinue all use of Trademarks owned or controlled by Siemens or its Affiliates.

5.6

Partner Trademarks

Partner agrees that Siemens and its Affiliates may include Partner's name and logo on its website and in proposals and other marketing materials describing in general terms the business arrangement or work to be performed. 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 this 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 this Agreement, Siemens will immediately discontinue all use of trademarks owned or controlled by Partner. Siemens will provide reasonable assistance to Partner to assist Partner in the protection of Partner's trademarks as used in Partner's performance of its obligations under this Agreement.

6. SIEMENS INDEMNIFICATION OBLIGATION

6.1

Infringement Claim Indemnity

Siemens will indemnify and defend, at its expense, any action brought against Partner to the extent that it is based on a claim that an Offering 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 Partner by a court of competent jurisdiction or agreed in a settlement, provided that Partner 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 Partner's behalf without Partner's prior written consent, which will not be unreasonably withheld.

6.2

Injunction

If a permanent injunction is obtained against Partner's use of an Offering due to an infringement claim, Siemens may, at its sole option, obtain for Partner the right to continue using the Offering, or replace or change the Offering to become non-infringing. If such remedies are not reasonably available: (i) Siemens will grant Partner a credit or refund prepaid fees/royalties for the enjoined Offering on a pro-rata basis (a) for hardware or software licensed on a perpetual basis, for the remainder of an amortization period of 60 months from the initial delivery, or (b) for any other Offering, for the remainder of the then-current license term for that Offering; (ii) any applicable licenses to such Offering will automatically terminate; and (iii) Partner will immediately cease use of the enjoined Offering and return all related software in its possession. If Siemens, in its reasonable discretion, deems that neither of the foregoing options are commercially feasible, Partner will, upon Siemens' request, cease from using, promoting, and advertising the affected Offering and, at Siemens' option, destroy or return to Siemens any such Offering and all copies thereof in its possession within one month from Siemens' written request. Siemens may, in

its sole discretion, provide any of the foregoing remedies to mitigate infringement before the issuance of an injunction.

6.3

Exclusions

Notwithstanding anything to the contrary in this Agreement, Siemens will not have any liability or indemnification obligation to Partner 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 Offerings, or elements thereof, provided at no charge, (v) deliverables resulting from services, (vi) any adjustment, modification, or configuration of the Offering not made by Siemens, or (viii) instructions, assistance, or specifications provided by Partner.

6.4

Sole & Exclusive Remedy

This Section 6 sets forth Siemens' entire liability and Partner's sole and exclusive remedy for infringement of third-party intellectual property rights.

7. WARRANTY

Except as otherwise expressly provided in this Agreement, Siemens makes no representations or warranties, express or implied, regarding any matter, including the 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 this Agreement.

8. LIMITATION OF LIABILITY

- 8.1 The entire, aggregate liability of each party under this Agreement is limited to the greater of (i) the fees paid or owed to the other party for the Offering or services that gave rise to the liability during the 12 month period immediately preceding the first event giving rise to the claim, or (ii) fifty thousand U.S. dollars (\$50,000).
- 8.2 Neither party will be liable for 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. Except in the case of personal injury, SISW or Partner, including their employees, subcontractors or agents acting within the course of their employment during the performance of its obligations under this Agreement, will not be liable for damages arising out of slight negligence.
- 8.3 In no event will Siemens be liable for any Offering or services provided at no charge
- 8.4 The limitations and exclusions set out in this Section do not apply to either party's (i) breach of its payment obligations, license terms, or use restrictions, (ii) fraudulent misrepresentation, intentional breach, willful misconduct or gross negligence, (iii) indemnification obligations under this Agreement, (iv) breach of its obligations or representations and warranties under this Agreement regarding confidentiality, export compliance, compliance with laws, software piracy, or data privacy, or (v) the misuse or misappropriation of intellectual property rights.
- 8.5 The foregoing limitations and exclusions apply (i) to the benefit of each party 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.
- 8.6 Neither party will 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 the claim is or should have been discovered by the party making the claim.
- 8.7 **The foregoing limitations and exclusions will not apply to the extent that liability cannot be limited or excluded according to applicable law.**

9. TAXES

9.1

Payment of Taxes

All amounts Siemens invoices are exclusive of taxes, duties, and any other charges ("Tax"). Partner will pay or refund Siemens for any applicable Tax imposed by any government authority for Partner's use, receipt, or resale of the Offerings or services.

9.2

Tax Exemptions

If Partner is exempt from value-added or sales tax, or similar taxes, then it must provide a valid and executed exemption certificate, direct pay permit, or other such government approved documentation.

9.3

Withholding Tax

If Partner is required by law to deduct or withhold Tax, Partner will increase the amount it pays to Siemens so that Siemens still receives the amount originally invoiced. Partner will promptly provide all tax receipts confirming it has paid Tax or has withheld Tax.

10. 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. Additional data privacy obligations and restrictions may be set forth in Model Addenda as required for the applicable partner relationship.

11. COMPLIANCE WITH LAWS AND REGULATIONS

11.1

Partner Representations & Warranties

- (a) Partner represents and warrants that it, its employees, and any party acting on its behalf will comply with all applicable laws and regulations under or in relation to this Agreement or any other agreement with a company of the Siemens group anywhere in the world, including, but not limited to, any laws and regulations relating to anti-corruption, anti-money laundering, antitrust, export control, taxation or any criminal law, rule, or regulation.
- (b) Partner represents and warrants that no portion of its compensation, reimbursement, or any other benefit including discounts under or in relation to this Agreement is, has been or shall be, directly or indirectly, including through any third party, offered, promised, or guaranteed, granted, given, or paid, to any person for illegal purposes.
- (c) Partner represents and warrants that it, its employees, and any party acting on its behalf will adhere to the Siemens' Code of Conduct or any equivalent conduct guidelines applicable to Partner available at <https://www.siemens.com/global/en/company/about/supply-chain-management/sustainability-in-the-supply-chain/code-of-conduct.html>.
- (d) Partner represents and warrants that, except as disclosed in writing and specified in the Compliance Disclosure Exhibit attached as an exhibit to the Execution Form (as may be updated by the parties from time to time), neither Partner nor any of its directors, officers, and employees who may perform tasks under this Agreement has a relationship with any person(s) who are in a position to directly or indirectly affect or influence the award of business or confer other advantages to any party to and under this Agreement, and none of the aforementioned has been or is charged with unlawful conduct under the criminal laws of the applicable jurisdiction.
- (e) Partner represents and warrants that it takes appropriate measures (e.g. communication and training) to ensure compliance with this Section 11 by Partner and all of its directors, officers, and employees who may perform tasks under this Agreement.
- (f) If, during the term of this Agreement, Partner learns or suspects that any of the representations and warranties set forth in this Section 11 are no longer true and correct, Partner must notify the other party in writing within latest 10 days. Such notification shall be without prejudice to any right of Siemens under this Agreement.
- (g) Partner agrees that Siemens may, upon written request from any government or government agency, disclose the existence and the terms of this Agreement. Further, Siemens may disclose the before-mentioned information upon written request from any other contractual partner, if that party has been requested respectively by any government or government agency.
- (h) Partner agrees to cooperate in good faith with any investigation by Siemens and its auditors and representatives in the event of any actual or alleged violation of this Section 11, Anti-Corruption Laws, Siemens' Code of Conduct, any equivalent conduct guidelines applicable to Partner or applicable laws and regulations by Partner or its owners, affiliates, officers, directors, employees, and agents. Such cooperation includes providing Siemens and its representatives prompt and complete access to Partner's books and records and to Partner's ownership, affiliates, officers, directors, employees, and agents for interviews.

11.2

Payments Due to Partner by Siemens

If applicable, the compensation to be received or retained by Partner, including any reimbursement of costs and expenses to Partner shall be as described in the Agreement. Partner represents and warrants that each bank account provided to Siemens for purposes of payments to Partner for all payments under this Agreement is held exclusively in its name and solely for its account. Unless otherwise agreed to in writing by Siemens, all payments to Partner shall be paid directly to the named bank account via an electronic banking arrangement. Siemens will only make electronic payments to an account in the country in which Partner has its principal place of business or in which the tasks under this Agreement are performed. Prior to receiving any such compensation, Partner shall submit to Siemens on a quarterly basis an invoice showing a calculation of all compensation earned during the immediately preceding quarter and a detailed statement of the tasks performed under this Agreement and expenses to be reimbursed by Partner during the applicable period, including sufficient documentation. Under no circumstances will Siemens make any payment or reimburse any expenses that are unlawful and/or legally non-compliant.

Books & Records, Audit Right

- (a) Partner shall keep and maintain accurate, complete and reasonably detailed books and financial records. Any costs, fees, or expenses shall be: (i) recorded in a timely manner; (ii) accurately described in the books and records in sufficient detail (categorizations such as “other”, “miscellaneous” or “various” are not permissible) and in a manner that reflects their true nature; and (iii) shall not be paid in cash.
- (b) Partner represents and warrants that it will (i) maintain books, records, and accounts that accurately reflect any and all payments made, expenses incurred, and assets disposed of, and have and will maintain an internal control system to ensure the proper authorization, recording and reporting of all transactions and (ii) provide reasonable assurances that violations of any applicable law, particularly such relating to anti-corruption, will be prevented, detected, and deterred.
- (c) Siemens shall have the right to audit Partner’s compliance with: (i) the provisions of this Section 11; (ii) the Siemens’ Code of Conduct; or (iii) any equivalent conduct guidelines applicable to Partner, (iii) Anti-Corruption Laws, and all other applicable laws and regulations. Upon request by Partner or at the discretion of Siemens, Siemens shall select an independent third party to conduct an audit.
- (d) If a breach of one or more of Partner’s obligations, representations or warranties specified in this Agreement is reasonably identified, Siemens shall be entitled to claim reimbursement for the costs of a retained audit company from Partner.
- (e) Partner agrees to fully cooperate in any audit that may be conducted during normal business hours. Siemens will provide to Partner a written notice of an intended audit ten (10) days in advance. Once such notice is provided, Partner must make available to Siemens, or a third party retained by Siemens, all documents described in this Section **Error! Reference source not found.** and evidence to establish its fulfillment of its obligations under Section **Error! Reference source not found.** (e). Partner shall also make available for interviews all persons within the control of Partner who performed tasks, incurred expenses, or are otherwise knowledgeable with regard to such tasks or expenses.

12. EXPORT CONTROL & SANCTIONS COMPLIANCE

12.1

General

Both parties shall comply with all applicable sanctions, embargoes, and (re-)export control, laws, and regulations, and, in any event, with those of the European Union, the United States of America and any locally applicable jurisdiction (collectively “**Export Regulations**”).

12.2

Checks for Goods & Services

Prior to any transaction by Partner concerning goods (including hardware, documentation and technology) delivered by Siemens, or services (including professional services, maintenance and technical support) performed by Siemens to a third party, Partner shall check and certify by appropriate measures that:

- (i) the Partner’s use, transfer, or distribution of such goods and services, the brokering of contracts or the provision of other economic resources in connection with goods and services will not be in violation of any Export Regulations, also taking into account any prohibitions to circumvent these (e.g., by undue diversion);
- (ii) the goods and services are not intended or provided for, prohibited or unauthorized non-civilian purposes (e.g. armaments, nuclear technology, weapons, or any other usage in the field of defense and military); and
- (iii) Partner has screened all direct and indirect parties involved in the receipt, use, transfer, or distribution of the goods and services against all applicable restricted party lists of the Export Regulations concerning trading with entities, persons and organizations listed therein

12.3

Non-Acceptable Use of Software & Cloud Services

Partner shall not, unless permitted by the Export Regulations or respective governmental licenses or approvals:

- (i) download, install, access or use software or cloud services from or in any location prohibited by or subject to comprehensive sanctions (or subject to license requirements according to the Export Regulations);
- (ii) grant access to, transfer, (re-)export (including any ‘deemed (re-)exports’), or otherwise make available software or cloud services to any entity, person, or organization identified on a restricted party list of the Export Regulations, or owned or controlled by a listed party;
- (iii) use software or cloud services for any purpose prohibited by the Export Regulations (e.g. use in connection with armaments, nuclear technology or weapons);
- (iv) upload to a cloud services platform any Partner Content unless it is non-controlled (e.g. in the EU: AL = N; in the U.S.: ECCN = N or EAR99); or
- (v) facilitate any of the aforementioned activities by any user.

Partner shall provide all users with all information necessary to ensure compliance with the Export Regulations.

12.4 Semiconductor Development	Partner will not, without advance written authorization from Siemens, authorize use of the Offerings for the development or production of integrated circuits at any semiconductor fabrication facility located in China meeting the criteria specified in the U.S. Export Administration Regulations, 15 C.F.R. 744.23.
12.5 No (Re-)Export to Russia or Belarus.	Partner shall not export or re-export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus any Offerings supplied by Siemens in connection with this Agreement. Partner shall undertake its best efforts to ensure that the purpose of this Section is not frustrated by third parties, including authorized solution partners. Partner shall establish and maintain an adequate monitoring mechanism to detect conduct by any third parties that would frustrate the purpose of this paragraph.
12.6 Information	Upon request by Siemens, Partner shall promptly provide Siemens with all information pertaining to users, the intended use, and the location of use, or the final destination (in the case of hardware, documentation and technology) of the Offerings. Partner will notify Siemens prior to Partner disclosing any information to Siemens that is defense-related or requires controlled or special data handling pursuant to applicable government regulations and will use the disclosure tools and methods specified by Siemens.
12.7 Indemnification	Partner will indemnify and hold harmless Siemens, its affiliates, subcontractors, and their representatives against any claims, damages, fines, and costs (including attorney's fees and expenses) relating in any way to Partner's noncompliance with this Section 12, including Partner's and its users' and third party business partners' violation or alleged violation of any Export Regulations and Partner will compensate Siemens for all losses and expenses resulting thereof.
12.8 Reservation	Neither party shall 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. Partner acknowledges that Siemens may be obliged under the Export Regulations to limit or suspend access by Partner, Customer and/or users to the Offerings.

13. GENERAL

13.1 Independent Contractor	The relationship established by this Agreement is that of independent contractors, and nothing in this 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 this Agreement, and all financial obligations associated with Partner's business are Partner's sole responsibility.
13.2 Feedback	If Partner provides any ideas regarding Offerings or services, including suggestions for changes or enhancements, (collectively " Feedback "), Partner agrees that such Feedback may be used by Siemens without condition or restriction.
13.3 Notices	All notices required or authorized under this Agreement must be in writing and sent to the individuals and addresses specified in the Execution Form. Either party may update the contact and address for notices with advance written notice to the other party. Except for notices regarding disputes, claims, default, termination, or extension, communications will be effective if provided by electronic means, including but not limited to e-mail messages or postings within the Partner Portal.
13.4 Force Majeure	Neither party will be liable for delay or failure to perform any of its 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.
13.5 Assignment	Neither party may, in whole or in part, assign, subcontract, sublicense, or otherwise transfer, by operation of law or otherwise, this 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 this Agreement or the rights and responsibilities under it to an Affiliate or in connection with a sale, merger, corporate reorganization, or divestiture. This Agreement will extend to and be binding upon the successors, legal representatives, and permitted assignees of the parties.
13.6 No Exclusivity	Neither party grants nor commits to any exclusivity whatsoever with respect to the other party under this Agreement. Neither party makes any warranty to the other regarding either the success or profitability of their

relationship described in this Agreement nor any guarantee that any third party will enter into an agreement for the products or services of the other party.

13.7

Governing Law & 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 contracting Siemens entity 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, 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 of Sao Caetano do Sul-SP, Brazil.
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 (“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 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, (i) to enforce its intellectual property rights, or (ii) for the payment of amounts due for Offerings or services.

13.8

No Waiver; Validity & 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 will have the same force and effect as manual signatures.

13.9

Entire Agreement

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

14. DEFINITIONS

14.1

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

14.2

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

14.3

“**Customer Contract**” means the terms and conditions that Customer accepts to receive access to and use the applicable Offering.

- 14.4 “**Customer**” means the individual or entity that purchases Offerings or services under this Agreement, subject to the applicable Customer Contract.
- 14.5 “**Good Cause**” means a good faith belief of Siemens based on credible information that there has been a breach of one or more of Partner’s obligations, representations, or warranties specified in Section 11 (Compliance with Laws and Regulations) of this Agreement.
- 14.6 “**Model Addendum**” or “**Model Addenda**” means the addendum or addenda referenced in 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 (“**Execution Form**”). A Model Addendum will apply only when specified in the Execution Form.
- 4.7 “**Partner Policies**” means the then-current policies Siemens publishes on the Partner Portal or otherwise communicates to Partner, including but not limited to the Global Solution Partner Sales Engagement Policy and Guidelines.
- 14.8 “**Partner Portal**” means the online portals or websites which Siemens may make available to Partner from time to time. The Partner Portal 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.
- 14.9 “**Offering**” means the individual offering Siemens makes available. 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.
- 14.10 “**Standard Terms & Conditions**” means the standard terms and conditions applicable to an Authorized Offering as specified by Siemens from time to time. Such specification may be provided in an Order. By default, these terms will be the ones available at:
<https://www.altair.com/data-analytics-software-license-agreement/>;
<https://www.altair.com/enterprise-computing-software-license-agreement/>;
<https://www.altair.com/simulation-software-license-agreement/>; or
www.siemens.com/sw-terms
- 14.11 “**Trademarks**” means the registered and common law trademarks owned and controlled by Siemens or its Affiliates.