

XaaS ADDENDUM

Siemens Digital Industries Software

This XaaS Addendum (“**XaaS Addendum**”) is entered into between the Siemens entity (“**Siemens**” or “**SISW**”) and the customer (“**Customer**”) named in the Order, and supplements and amends the applicable agreement (including any applicable supplemental terms) between the parties that governs the products or services in the Order (collectively “**Base Agreement**”) solely with respect to any Offering identified as ‘XaaS’ in the applicable Order. This XaaS Addendum together with the Base Agreement forms the agreement between the parties and is collectively referred to as the “**Agreement**”. All references in the Base Agreement to the “**Agreement**” will be deemed to refer to the Agreement as defined herein. Unless otherwise specified herein, capitalized terms have the meaning given to them in the Base Agreement. In the event of a conflict between this XaaS Addendum and the Base Agreement, this XaaS Addendum will control. This XaaS Addendum may be accepted by manual signature or electronic signature on the applicable Order. If Customer does not accept this XaaS Addendum, Customer must not install or use any Offering.

1. DEFINITIONS

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

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

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

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

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

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

“**Offering**” means an individual offering made available by Siemens which consists of a combination of Cloud Services and Software, and any associated support services and Documentation, and which is identified in an Order as ‘XaaS’.

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

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

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

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

2. USE OF OFFERINGS

- 2.1 **Use Rights.** For Cloud Services contained within an Offering, Siemens grants Customer a nonexclusive, nontransferable, limited right to access and use such Cloud Services for Customer’s internal business purposes during the applicable Subscription Term, solely in accordance with the Entitlements and the Agreement. Software and Documentation contained within an Offering are licensed to Customer under the license grant for Software in the Base Agreement, subject to the Entitlements.
- 2.2 **Users.** The number and categories of users authorized to access an Offering are defined in the Entitlements. Customer will ensure that any access or use of an Offering on Customer’s behalf, at Customer’s invitation, or by invitation of a Customer user, complies with Customer’s obligations under the Agreement. If Customer becomes aware of any violation of this Agreement by a user or any unauthorized access to any user account, Customer will immediately notify Siemens and terminate the relevant user or user account’s access to Offerings. Customer is responsible for any act or failure to act by any user or any person using or accessing the account of a user in connection with the Agreement. Customer acknowledges and agrees that users who submit declarations, notifications, or orders to Siemens are acting on Customer’s behalf. If a Customer affiliate accesses or uses an Offering, Siemens may enforce its rights directly against that affiliate.
- 2.3 **General Use Restrictions.** The covenants, restrictions, limitations, or conditions set forth in the Base Agreement that apply with respect to software, services, and documentation provided by Siemens, including but not limited to any confidentiality provisions, (collectively,

“**Use Restrictions**”) will be deemed to apply to Customer’s use of Offerings (including Cloud Services contained within an Offering), and Customer will ensure that all users comply with the Use Restrictions.

- 2.4 **Reservation of Rights.** All Software, Cloud Services, and non-public Documentation are trade secrets and confidential information of Siemens and its licensors. Siemens or its licensors retain title to and ownership of Software, Cloud Services, Documentation, and Siemens IP. Siemens reserves all rights in Offerings and Siemens IP not expressly granted in the Agreement.
- 2.5 **Previews.** All features or services offered as part of Cloud Services prior to their general release that are labeled or otherwise communicated to Customer as ‘preview’, ‘pre-release’, ‘early access’, or ‘non-general release’ (“**Previews**”), are provided “AS IS” without warranty, indemnity, support, or other commitments. Siemens may change, limit, suspend, or terminate any Previews at any time. Customer acknowledges that Previews are not ready for production usage, and that Customer’s use of any Previews is at its sole risk and discretion.
- 2.6 **Feedback.** If Customer provides any ideas or feedback regarding any Offering, including suggestions for changes or enhancements, support requests (including any related information), and error corrections (collectively “**Feedback**”), Feedback may be used by Siemens without condition or restriction.

3. **ADDITIONAL TERMS FOR CLOUD SERVICES**

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

- 3.1 **Entitlements.** Cloud Services contained within an Offering may be used (i) worldwide by the number of Authorized users set forth in the Order with respect to such Cloud Services, subject to Customer’s obligations in the Agreement regarding compliance with export controls, and (ii) solely in conjunction with the Software contained within such Offering. With respect to use of Cloud Services, Authorized users means the users authorized to use the Software contained within an Offering under the Base Agreement, regardless of whether such users access Cloud Services from Customer’s premises or off-site on an occasional basis. Where Cloud Services allow Customer to provide access to additional users in a ‘guest’ (guest) capacity, such guest user access may be provided to any individual who requires access to such Cloud Services in support of Customer’s internal business as Customer’s employee, customer, client, supplier, consultant, agent, contractor or other business partner, subject to restrictions on access by Siemens competitors, if any. Guest users shall be considered Authorized users under the Agreement, but will not count towards the limited number of Authorized users set forth in the Order for that subscription. In any case, each user must be a specific Authorized user identified by name. Customer may re-assign each entitlement to access and use Cloud Services from one Authorized user to another Authorized user within the same entitlement category once per calendar month. Additional use limitations may apply to Customer’s use of Cloud Services, which may be technically enforced via Cloud Services settings.
- 3.2 **Service Level Agreements.** Siemens’ technical support for Cloud Services and the applicable service levels are governed by the Cloud Support and Service Level Framework found at <https://www.siemens.com/sw-terms/sla>, which is incorporated herein by reference. Technical support and service levels are not applicable to Cloud Services used in conjunction with Software for which maintenance or support services are no longer provided.
- 3.3 **Changes to Cloud Services.** Cloud Services may be modified, discontinued, or substituted by Siemens from time to time. During a Subscription Term, Siemens will not materially degrade core features or functionalities of Cloud Services or discontinue Cloud Services without making available substitute Cloud Services, except as necessary to address (i) new legal requirements, (ii) changes imposed by Siemens’ vendors or subcontractors (e.g. the termination of Siemens’ relationship with a provider of software or services which are required for the provision of such Cloud Services), or (iii) security risks that cannot be resolved in a commercially reasonable manner. Siemens will notify Customer of any such material degradation or discontinuation of Cloud Services as soon as reasonably practicable, and Customer may terminate the Order for the applicable Offering by providing Siemens with written notice within 30 days after Customer’s receipt of notice of degradation or discontinuation. In the event of such termination or discontinuation of Cloud Services, Siemens will refund any prepaid fees for the applicable Offering on a pro-rata basis for the remainder of the Subscription Term for that Offering.
- 3.4 **Use of Messaging Services.** Customer may use Cloud Services to send emails or other messages to users and third parties. Customer is solely responsible for any such messages and their content. Messages may be blocked, delayed, or prevented from being delivered by destination servers and other reasons outside of Siemens’ control, and there is no warranty that messages will reach their intended destination in a given timeframe.
- 3.5 **Out of Scope.** Any contractual relationship regarding Third Party Content is solely between Customer and the relevant third party vendor and may be governed by separate terms made available by Siemens with or as part of Third Party Content. Siemens will have no responsibility for Third Party Content or Customer’s use of such Third Party Content. Cloud Services specifically exclude (i) access to the internet or any other network, (ii) suitable connectivity or any other resources necessary for accessing or using Cloud Services, and (iii) the transmission of Content to and from the exit of the wide area network of the data centers used by Siemens to provide Cloud Services.
- 3.6 **Acceptable Use Policy; Indemnity.** Customer will comply, and ensure that all users of any Offering comply, with the AUP. Customer will indemnify Siemens, its affiliates, its subcontractors, and their representatives against any claims, damages, fines, and cost (including attorney’s fees and expenses) arising from (i) any violation of the AUP by Customer or any user, (ii) any violation of laws, regulations, or rights of others by Customer’s or any user’s use of any Offering, or (iii) Customer Content.
- 3.7 **Ownership and Use of Customer Content.** Siemens will not acquire any title to or ownership of Customer Content by virtue of the Agreement. Siemens and its subcontractors will use Customer Content only for the purpose of providing the Offerings, or as otherwise permitted by the Agreement or agreed by the parties. Customer is responsible for the content, management, transfer, use, accuracy, and quality of Customer Content and the means by which Customer acquires such Customer Content. Siemens recommends Customer confirm the geographic area in which Customer Content will be stored, which may be outside the country in which Customer is located. Customer will ensure that Customer Content can be processed and used as contemplated by the Agreement without violating any rights of others or any laws or regulations.

3.8 **Protection of Customer Content.** Cloud Services will be provided using processes and safeguards designed to protect the integrity and confidentiality of Customer Content, including encryption of data in transit and at rest. Customer remains responsible for taking appropriate steps regarding protection, deletion, and retrieval of Customer Content, including by maintaining backup copies. Some Cloud Services may provide features that allow Customer to share Customer Content with third parties or make Customer Content public through use of certain Cloud Services. If Customer elects to use such features, Customer Content may be accessed, used, and shared by third parties to whom Customer provides such access or shares such Customer Content, and Customer's election to use such features is at its sole discretion and risk.

4. DATA

4.1 **Security and Data Privacy.** Each party will comply with applicable data privacy laws governing the protection of personal data in relation to their respective obligations under the Agreement. Where Siemens acts as Customer's processor of personal data provided by Customer, the Data Privacy Terms available at <https://www.siemens.com/dpt/sw>, including the technical and organizational measures described therein, apply to the use of the relevant Offering and are incorporated herein by reference.

4.2 **Systems Information.** Siemens and its affiliates and their subcontractors may collect and derive information, statistics, and metrics regarding usage, operation, support, and maintenance of Offerings or from Customer Content (collectively, "**Systems Information**"), and may use Systems Information to support, maintain, monitor, operate, develop, and improve its products and services or enforce its rights, provided that any Systems Information derived from Customer Content may only be used to improve products and services when aggregated with other information so that the original Customer Content is not identifiable. Siemens may disclose Systems Information to a Siemens-authorized solution partner solely to the extent reasonably required for such partner to fulfill its support obligations to Customer. To determine unauthorized use of Software licenses, Siemens reserves the right to embed a reporting mechanism in Software.

5. WARRANTIES AND DISCLAIMERS

5.1 **Warranty.** Siemens warrants that Cloud Services will perform substantially in accordance with the features and functionalities described in the Documentation. To the extent permissible under applicable law, as Siemens' entire liability and Customer's sole and exclusive remedy for a breach of this warranty, at Siemens' option (i) Siemens will use commercially reasonable efforts to restore the non-conforming Cloud Services so that they comply with this warranty, or (ii) if such restoration would not be commercially reasonable, Siemens may terminate the Order for the non-conforming Offering and refund any prepaid fees for such Offering on a pro-rata basis for the remainder of the Subscription Term for that Offering. The warranty for Cloud Services excludes (a) Previews and any Offerings provided at no charge, and (b) issues, problems, or defects arising from Customer Content, Third Party Content, or use of Cloud Services not in accordance with the terms of the Agreement. The Software warranty specified in the Base Agreement applies to Software contained within an Offering, provided that in the event Siemens elects to require the return of the Software as the remedy for a valid Software warranty claim, Customer's associated refund will consist of any prepaid fees for the applicable Offering on a pro-rata basis for the remainder of the Subscription Term for that Offering.

5.2 **Disclaimers.** Siemens makes only the limited warranties expressly stated in the Agreement, and disclaims all other warranties including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. Siemens does not warrant or otherwise guarantee that (i) reported errors will be corrected or support requests will be resolved to meet Customer's needs, (ii) Offerings or any Third Party Content will be uninterrupted, error free, fail-safe, fault-tolerant, or free of harmful components, or (iii) any Content, including Customer Content and Third Party Content, will be secure or not otherwise lost or damaged. Representations about Offerings or features or functionality in any communication with Customer constitute technical information, not a warranty or guarantee.

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

6. **LIMITATION OF LIABILITY.** The exclusions of liability and time limits on claims specified in the Base Agreement apply with respect to Offerings provided by Siemens under the Agreement. Without limiting the foregoing, the entire, aggregate liability of Siemens and its affiliates, and their respective officers, directors, licensors, subcontractors, and representatives related in any way to any Offering is limited to the fees paid to Siemens for the Offering that gave rise to the liability during the 12 month period immediately preceding the first event giving rise to the claim, provided that the aggregate liability for any Offering will not exceed the amount paid for that Offering during the Subscription Term, regardless of the form of action, whether based in contract, statute, tort (including negligence), or otherwise. The foregoing limitation will not apply to the extent that liability cannot be limited according to applicable law.

7. RENEWAL, SUSPENSION, TERMINATION

7.1 **Subscription and Renewals.** If indicated on the Order or otherwise agreed by the parties in writing or in an electronic system made available by Siemens, the Subscription Term for the applicable paid Offering will automatically renew for successive Subscription Terms unless either party notifies the other at least 60 days prior to the end of the then-current Subscription Term that it has elected not to renew. Any renewed Subscription Term will be the same length as the preceding term or 12 months, whichever is greater. If the Agreement or Order applicable to the Offering incorporates online terms by reference, the then-current online terms will apply to the renewed Subscription Term. The fees for any renewed Subscription Term will be the same as those in effect at the end of the preceding Subscription Term, unless (i) Siemens notifies Customer about different future fees at least 90 days prior to the end of the then-current Subscription Term or (ii) fees for the renewed Subscription Term(s) are specified on the Order.

7.2 **Suspension.** Siemens may suspend or limit Customer's or any user's access to and use of Offerings, in whole or in part, immediately if (i) Siemens reasonably determines that the use of the Offering poses a security risk to the Offering, Siemens, or any third party, or subjects Siemens or any third party to liability, (ii) if Customer materially breaches the Agreement, or (iii) upon the occurrence of any of the

circumstances that give Siemens the right to immediate termination under Section 7.3. Suspension or limitation will not limit any other rights available to Siemens under the Agreement, will not relieve Customer of its obligation to pay fees, and will be lifted when the reason for such suspension or limitation no longer exists.

- 7.3 **Termination.** Neither party will terminate an Order for convenience during the applicable Subscription Term. Either party may terminate an Order for a particular Subscription Term based Offering with immediate effect in the event of the other party's material breach of the Agreement which remains uncured for a period of 30 days from receipt of notice specifying the breach; provided that such termination will only be effective with respect to the Offering affected by the material breach. Siemens may immediately terminate any or all Orders or the Agreement upon notice to Customer in the event of Customer's unauthorized installation or use of Siemens software, Customer's filing for bankruptcy or having bankruptcy proceedings filed against it, Customer ceasing to do business, any breach by Customer of Sections 2, 3.6, or 8, or the confidentiality and anti-assignment provisions of the Base Agreement, or in order to comply with applicable law or the requests of government authorities.
- 7.4 **Effect of Expiration or Termination.** Upon expiration of the applicable Subscription Term or termination of any Order for one or more Offerings or the Agreement for any reason, Customer's rights to access, use, or receive the affected Offering(s) automatically terminate. Customer will immediately cease using the affected Offering(s), remove and destroy all Software and other Siemens confidential information relating to such Offering in its possession or control, and certify such removal and destruction in writing to Siemens. Customer may retrieve Customer Content available for download for a period of 30 days after expiration or termination, provided Customer is in compliance with the Agreement and pays any applicable fees. After such period, all Customer Content may be deleted. Termination of the Agreement or any Order for one or more Offerings will not relieve Customer of its obligation to pay the total fees set forth in any Order, which fees will become due and payable immediately upon termination. In the event of Customer's termination for Siemens' material breach in accordance with Section 7.3, Siemens will refund a reasonable portion of any prepaid fees on a pro-rata basis for the remainder of the Subscription Term for the affected Offering(s). Sections 2.3, 2.4, 2.6, 3.6, 4.2, 5.2, 6, 7.4, 8, and 9 survive termination of the Agreement, as well as any other provisions in the Base Agreement which are specified as surviving termination.
8. **EXPORT CONTROL AND SANCTIONS COMPLIANCE**
- 8.1 **General.** Customer 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**").
- 8.2 **Checks for Goods and Services.** Prior to any transaction by Customer 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, Customer shall check and certify by appropriate measures that (i) the Customer'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) Customer 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.
- 8.3 **Non-Acceptable Use of Software and Cloud Services.** Customer shall not, unless permitted by the Export Regulations or respective governmental licenses or approvals, (i) download, install, access or use the 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 the 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 the Cloud Services for any purpose prohibited by the Export Regulations (e.g. use in connection with armaments, nuclear technology or weapons); (iv) upload to the Cloud Services platform any Customer Content unless it is non-controlled (e.g. in the EU: AL = N; in the U.S.: ECCN = N or EAR99); or (v) facilitate any of the aforementioned activities by any user. Customer shall provide all users with all information necessary to ensure compliance with the Export Regulations.
- 8.4 **Semiconductor Development.** Customer will not, without advance written authorization from Siemens, use 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.
- 8.5 **No (Re-)Export to Russia or Belarus.** Customer 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. Customer shall undertake its best efforts to ensure that the purpose of this Section is not frustrated by third parties, including authorized solution partners. Customer shall establish and maintain an adequate monitoring mechanism to detect conduct by any third parties that would frustrate the purpose of this paragraph.
- 8.6 **Information.** Upon request by Siemens, Customer 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. Customer will notify Siemens prior to Customer disclosing any information to Siemens that is defense-related or requires controlled or special handling pursuant to applicable government regulations and will use the disclosure tools and methods specified by Siemens.
- 8.7 **Indemnification.** Customer 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 Customer's noncompliance with this Section 8, including Customer's and its users' and third party business partners' violation or alleged violation of any Export Regulations and Customer will compensate Siemens for all losses and expenses resulting thereof.
- 8.8 **Reservation.** Siemens shall not be obligated to fulfill this Agreement if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions. Customer acknowledges that Siemens may be obliged under the Export Regulations to limit or suspend access by Customer and/or users to the Offerings.

9. **NOTICES.** Siemens may notify Customer under the Agreement by (i) posting a notification on Cloud Services or on the administrative user account that Customer maintains with Siemens to manage subscriptions to Offerings ("**Subscription Console**"), (ii) sending an email or other text message to the address or contact number provided by Customer for business contact or then-associated with the Subscription Console, or (iii) sending an email to relevant users. It is Customer's responsibility to regularly visit Cloud Services and the Subscription Console and to always provide Siemens with current email addresses of Customer representatives. If Customer does not comply with such obligation or if Customer's receipt of a notice fails because of technical issues related to equipment or services which are under Customer's or Customer subcontractors' control, notices will be deemed to have been provided to Customer three days following the date of such notice. Notwithstanding the foregoing, notices regarding claims or disputes will always be sent to the party's address as specified in the applicable Order. A party may change its address for receipt of notice by delivery of written notice to the other party.