

# EDA CONSULTING SERVICES TERMS

## Siemens Digital Industries Software



These “EDA Consulting Services Terms” set forth the provisions applicable to Customer’s purchase of consulting services associated with Siemens electronic design automation (EDA) products. As used herein, “SISW” means Siemens Industry Software Inc. (successor in interest to Mentor Graphics Corporation) or the Siemens affiliated company that issued the corresponding statement of work or quotation for consulting services (in either case “SOW”) or, if no SOW was issued, the applicable local Siemens entity. This is a legal agreement between SISW and the company ordering consulting services (“Customer”).

### 1. LICENSE.

- 1.1 SISW grants to Customer, subject to payment of applicable fees, a non-exclusive, non-transferable license to use internally any material and software SISW develops and provides to Customer pursuant to the SOW (“Deliverables”). The license is subject to the terms and conditions of Customer’s signed software license agreement with SISW for EDA products or, if the parties do not have such an agreement in place, to the End User License Agreement found at <https://www.siemens.com/sw-terms/eula> together with the Electronic Design Automation Supplemental Terms found at <https://www.siemens.com/sw-terms/supplements>, (in either case “Agreement”). SISW or its licensors retain all intellectual property rights in Deliverables, including without limitation any know-how, concepts, or ideas involved or discovered in their creation, whether developed solely by SISW or with Customer’s assistance or resources. If software Deliverables or portions thereof are provided in source code form, Customer will use the source code only to correct software errors and enhance or modify the software Deliverables for the authorized use. Customer shall not disclose or permit disclosure of source code, in whole or in part, including any of its methods or concepts, to anyone except Customer’s employees or on-site contractors whose job performance requires access and who are under obligations of confidentiality. For the purposes of the SOW, “on-site contractors” means persons or entities, excluding SISW competitors, working solely in support of Customer’s internal business purposes at a Customer site where the software Deliverables are authorized for use. Customer shall not copy or compile source code in any manner except to support this authorized use.
- 1.2 For the avoidance of doubt, each party retains all rights in its pre-existing software and other intellectual property, including without limitation its pre-existing know-how, methods, processes and ideas which may be used and/or provided to the other party during the course of an engagement (“Pre-existing Information”).
- 1.3 Customer shall not subject any Deliverables to any open source software (“OSS”) license that does not otherwise apply to such Deliverables. Notwithstanding anything in the SOW to the contrary, Customer’s ownership or license rights with respect to any OSS or third party materials that may be incorporated within or provided with any Deliverables shall be determined exclusively in accordance with the applicable OSS or third party agreement(s). In the event of conflict between the terms of the SOW and the OSS or third party agreement, the OSS or third party agreement will control solely with respect to the OSS or third party software.

2. **USE AND PROTECTION OF PROPRIETARY FILES.** Log files, data files, rule files and script files generated by or for SISW software (collectively “Files”), including without limitation files containing Standard Verification Rule Format (“SVRF”) and Tcl Verification Format (“TVF”) which are SISW’s trade secret and proprietary languages for expressing process rules, constitute or include confidential information of SISW. Customer may share Files with third parties, excluding SISW competitors, provided that the confidentiality of such Files is protected by written agreement at least as well as Customer protects other information of a similar nature or importance, but in any case with at least reasonable care. Customer may use Files containing SVRF or TVF only with SISW products. Under no circumstances shall Customer use Files or allow their use for the purpose of developing, enhancing or marketing any product that is in any way competitive with SISW products, or disclose to any third party the results of, or information pertaining to, any benchmark. The provisions of this section shall survive any expiration or termination of the SOW.

3. **SCOPE CHANGES AND DELAY.** SISW and Customer will follow a formal scope change procedure with regard to any requested changes to the SOW (including without limitation any change in functional specifications). Upon submission of a scope change request, SISW will provide Customer with a scope change document which describes the change and any impact to the schedule set forth in the SOW. Services provided as a result of any scope change will be invoiced at the rates or in the amount specified in the scope change document. Any delays caused by Customer, including but not limited to those caused by Customer’s failure to satisfy any Customer responsibilities or tasks identified in the SOW, may result in delivery delays beyond the control of SISW. SISW reserves the right to treat any such delay as a Customer-requested scope change.

4. **NON-SOLICITATION.** During SISW’s performance of services under the SOW and for a period of two years following completion, Customer will not solicit, induce, or attempt to hire any employee or contractor of SISW involved with the performance of such services.

5. **EXCHANGE OF CONFIDENTIAL INFORMATION; PUBLICITY.** In addition to SISW’s rights under the Agreement with respect to software, any other information disclosed to one party by the other party in connection with the SOW that the disclosing party considers confidential information shall be disclosed and protected in accordance with the provisions of a mutually acceptable confidentiality agreement, which the parties will sign prior to disclosure. Notwithstanding the confidentiality provisions in the SOW, SISW and its affiliates may name Customer as a customer on their websites and in customer lists and other marketing materials.

6. **LIMITED WARRANTY.** SISW warrants that the services provided under the SOW will be performed using generally accepted industry standards and practices. Customer must notify SISW of any warranty claim within 90 days from completion of the applicable services. SISW’S ENTIRE

LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY SHALL BE, AT SISW'S OPTION, EITHER (I) PROVIDING REPLACEMENT SERVICES SO THAT THE SERVICES MEET THIS LIMITED WARRANTY, OR (II) REFUND OF A REASONABLE PORTION OF THE FEES PAID FOR THE APPLICABLE SERVICES. THE WARRANTY SET FORTH IN THIS SECTION IS EXCLUSIVE. SISW MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, WITH REGARD TO THE SERVICES OR DELIVERABLES. SISW SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

7. **INFRINGEMENT.** Customer acknowledges that Deliverables (i) are not standard SISW products, (ii) are customized to Customer's requirements and/or specifications, and (iii) may incorporate Pre-existing Information of Customer over which SISW has no control. ACCORDINGLY, DELIVERABLES ARE PROVIDED WITH NO INDEMNIFICATION FOR INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.
8. **LIMITATION OF LIABILITY.** TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL SISW OR ITS LICENSORS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR SAVINGS WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY. IN NO EVENT SHALL SISW'S OR ITS LICENSORS' LIABILITY UNDER THE SOW EXCEED THE FEE PAID BY CUSTOMER FOR THE SERVICES GIVING RISE TO THE CLAIM. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE COMPLETION OF SERVICES UNDER, AND/OR ANY EXPIRATION OR TERMINATION OF, THE SOW.

## 9. THIRD PARTY CLAIMS

- 9.1 Customer acknowledges that SISW has no control over the testing of Customer's products, or the specific applications and use of Deliverables. SISW and its licensors shall not be liable for any claim or demand made against Customer by any third party.
- 9.2 In the event that a third party makes a claim against SISW arising out of the use of Customer's products, SISW will give Customer prompt notice of such claim. At Customer's option and expense, Customer may take sole control of the defense and any settlement of such claim. CUSTOMER WILL REIMBURSE AND HOLD HARMLESS SISW FOR ANY LIABILITY, DAMAGES, SETTLEMENT AMOUNTS, COSTS, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, INCURRED BY OR AWARDED AGAINST SISW OR ITS LICENSORS IN CONNECTION WITH SUCH CLAIMS.
- 9.3 The provisions of this Section 9 shall survive any expiration or termination of the SOW.

10. **RELATIONSHIP.** The relationship of Customer and SISW established by the SOW is that of independent contractors. Neither has the authority to bind the other to any third person or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by authorized representatives of both parties. The SOW in no way prohibits SISW from performing similar or identical services for other parties.

11. **THIRD PARTY MATERIALS.** If the work contemplated in the SOW would require that SISW use (i) software licensed to Customer by a third party, or (ii) other information or material (including designs) provided by Customer in which a third party has intellectual property rights (collectively "**Third Party Materials**"), Customer shall ensure that SISW has the right to use the Third Party Materials on Customer's behalf. SISW shall limit its use of such Third Party Materials to work performed for Customer under the SOW. Customer will indemnify SISW against any claims, expense, or liability of any kind arising out of SISW's use of Third Party Materials on Customer's behalf. The provisions of this section shall survive any expiration or termination of the SOW.

## 12. TERMINATION

- 12.1 Either party may terminate the performance of the services upon material breach of the SOW by the other party and failure to cure the breach within 30 days from receipt of written notice specifying the breach. Customer will remain liable to pay SISW for any services performed prior to the termination. The SOW may not otherwise be terminated.
- 12.2 In the event of termination for Customer's breach, Customer will cease use of all Deliverables provided under the SOW as of the effective date of the termination and return or destroy all copies, and will upon request provide SISW with certification, signed by an authorized representative of Customer, that all such Deliverables have been so returned or destroyed. In the event of termination other than for Customer's breach, Customer may retain and continue use of Deliverables provided under the SOW before the effective date of the termination pursuant to the provisions of Sections 1 and 2.

## 13. EXPORT COMPLIANCE

- 13.1 **Export.** SISW's obligations under the SOW are conditioned upon, and Customer agrees to comply with, all applicable export and re-export control regulations, embargoes, and sanctions including, but not limited to, those of the European Union and United States (the "**Export Laws**"). Customer represents that all Deliverables provided hereunder and any derivatives thereof will not be (i) downloaded, exported, re-exported (including any "deemed export"), or transferred, directly or indirectly, contrary to the Export Laws, (ii) used for any purpose prohibited by the Export Laws, or (iii) delivered to persons/entities otherwise ineligible to acquire or use the Deliverables provided hereunder.
- 13.2 **Semiconductor Development.** Customer will not, without advance written authorization from SISW, use the services or Deliverables 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.
- 13.3 **Information.** Upon request by SISW, Customer will promptly provide SISW with all information pertaining to users, the intended use, and the location of use, or the final destination of, the Deliverables. Customer will notify SISW prior to Customer disclosing any information to SISW 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 SISW.
- 13.4 **Indemnification.** Customer will indemnify and hold harmless SISW against any claim, action, damages, fines and costs relating in any way to Customer's noncompliance with the provisions of this Section 13.

14. **DATA PRIVACY.** Where SISW 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 and are incorporated herein by reference.
15. **U.S. GOVERNMENT LICENSE RIGHTS.** Deliverables provided hereunder were developed entirely at private expense. The parties agree that all Deliverables are commercial computer software within the meaning of the applicable acquisition regulations. Accordingly, pursuant to U.S. FAR 48 CFR 12.212 and DFAR 48 CFR 227.7202, use, duplication and disclosure of the Deliverables by or for the U.S. government or a U.S. government subcontractor is subject solely to the terms and conditions set forth in the SOW, which shall supersede any conflicting terms or conditions in any government order document, except for provisions which are contrary to applicable mandatory federal laws.
16. **FORCE MAJEURE.** Excluding any payment obligations of Customer, neither party shall be responsible for failure to perform or deliver or for a delay in performance or delivery where the failure or delay results from causes beyond that party's reasonable control.
17. **CONTROLLING LAW, JURISDICTION, AND DISPUTE RESOLUTION.** The SOW shall be subject to the governing law and jurisdiction provisions of the Agreement.
18. **ASSIGNMENT.** SISW may delegate, subcontract or assign any of its rights or duties to an affiliated company or third party, but no such delegation, subcontract or assignment shall relieve SISW of its obligations hereunder. The SOW and the rights and duties under it may not be sublicensed, assigned or otherwise transferred by Customer without SISW's prior written consent.
19. **SEVERABILITY.** If any provision of the SOW or these EDA Consulting Services Terms is held by a court of competent jurisdiction to be void, invalid, unenforceable or illegal, such provision shall be severed from the SOW or these EDA Consulting Services Terms and the remaining provisions will remain in force and effect.
20. **MISCELLANEOUS.** The SOW, together with these EDA Consulting Services Terms, contains the parties' entire understanding relating to the SOW and supersedes all prior or contemporaneous agreements, including but not limited to any purchase order terms and conditions. The SOW may only be modified in writing by authorized representatives of the parties. All notices required or authorized under the SOW must be in writing and shall be sent to the person who signs the SOW, at the address specified. Waiver of terms or excuse of breach must be in writing and shall not constitute subsequent consent, waiver or excuse.