

Terms and Conditions

1. General

- 1.1 The scope, quantity, quality, functionality and technical specifications of any goods, equipment, documentation, software, work or services to be provided by Siemens (collectively referred to as "**Supplies**") are exclusively defined as the case may be either in the order confirmation of Siemens or the Contract signed by the Customer and Siemens.
- 1.2 The offer letter from Siemens together with these terms and conditions and those other documents expressly identified in the offer letter as forming part of the contract shall together constitute the entire agreement between the parties (the "**Contract**"). Any terms and conditions of the Customer shall apply only where expressly accepted in writing by Siemens.

2. Right of Use

- 2.1 Except as expressly otherwise agreed in this Contract, as between the parties all intellectual and industrial property rights in the Supplies, in all documents provided by Siemens in connection with this Contract (the "**Documents**") and in all software, hardware, knowhow ("**IPR**") and other things provided with or as part of the Supplies and the Documents shall be the exclusive property of and vest in Siemens. The Customer shall not reverse engineer, decompile, or reproduce the Supplies or parts thereof and shall ensure that third parties will not reverse engineer, decompile, or reproduce the Supplies or parts thereof in each case to the extent mandatory law does not prohibit such limitation.
- 2.2 The Customer may use the Documents unmodified and to the extent necessary for operation and routine maintenance of the Supplies by the Customer's own personnel, unless explicitly agreed otherwise in writing by Siemens.
- 2.3 If the Supplies include Siemens software, such software is licenced under the license terms contained in the software documentation, the software itself or in the attached license terms (in each case the "**applicable license conditions**"), which shall prevail over this Clause 2. The software is issued in object code without source codes. The license hereunder only grants the non-exclusive right to use the software as described in the applicable license conditions or, if there are no applicable license terms, for the purpose of operation and routine maintenance of the Supplies.
- 2.4 The Supplies may include third party software. Insofar as specific license terms of the third party licensor apply, Siemens will provide such license terms together with the Supplies. The Customer shall comply with such third party license terms.
- 2.5 Insofar as the software contains Open Source Software ("**OSS**"), Siemens will provide the applicable OSS license terms together with the Supplies. The OSS license terms shall prevail over this Contract. Details regarding any third-party software and OSS contained in the Supplies are available in the software documentation (e.g. README_OSS).
- 2.6 The rights granted in Clause 2 shall be transferable to a third party only together with the transfer of ownership of all of the Supplies to that third party.
- 2.7 Without prejudice to the Customer's intellectual property rights and subject to compliance with applicable law, Siemens and its Affiliates may for its own business purposes collect, use, modify, and copy any data received in connection with the Supplies. Any legal obligations regarding personal data shall remain unaffected.

3. Prices and Terms of Payment

- 3.1 Unless agreed otherwise in writing, Prices exclude additional charges (such as storage, inspections by third parties). The price payable by the Customer under this Contract shall be referred to in this Contract as the "**Contract Price**".

- 3.2 Unless otherwise stated in the offer, the Contract Price is exclusive of any indirect taxes (such as property, license, sales, use, value added or similar tax) and/or any duties, customs or public charges related to the Contract. The Customer agrees to pay or reimburse Siemens for any taxes, customs, duties or other public charges levied on Siemens in relation to the Supplies. All payments shall be made to Siemens' bank account without deduction unless such deduction is imposed by law, within 30 days after issuance of the invoice. The Customer shall provide to Siemens tax receipts from the relevant tax authorities in connection with the payments in due course.
- 3.3 Without prejudice to any other rights it may have, Siemens may charge interest at 5 percent per annum on any overdue payments.
- 3.4 Each party must pay all sums that it owes to the other party under this Contract free and clear without any set-off, counterclaim, deduction or withholding of any kind, save as agreed otherwise in writing or as may be required by law.

4. Delivery Times and Delay

- 4.1 Any agreed dates in respect of the Supplies or any part of them shall be extended by a reasonable period of time if and to the extent that Siemens is delayed or impeded in the performance of its obligations by any third party or by the failure of the Customer to perform its obligations. This includes without limitation the delivery of required documents (such as necessary permits and approvals), timely performance of any work to be undertaken by the Customer or any third party appointed by the Customer, and compliance with the terms of payment.
- 4.2 Siemens may, if it is reasonable to do so, deliver the Supplies in stages or instalments and shall be entitled to invoice for the Supplies on a corresponding basis.
- 4.3 If Siemens does not meet the agreed final delivery date solely due to the fault of Siemens, the Customer shall be entitled to liquidated damages amounting to 0.5% of the price of the delayed part of the Supplies per each completed week of delay, in which the Customer suffered loss as a result of such delay. Liquidated damages payable in case of delay shall be limited to 5% of the price of the delayed part of the Supplies but in any case shall not exceed 5% of the total Contract Price.
- 4.4 Any other liability of Siemens and any claims, rights, and remedies of the Customer in case of delay except as expressly stipulated in this Clause 4 shall be excluded.
- 4.5 If the Customer, the Customer's contractors, or any other third party appointed by the Customer causes a delay to the provision of the Supplies, the Customer shall reimburse Siemens all reasonable additional costs and expenses incurred due to such delay.

5. Transfer of Risk and Title

- 5.1 Risk of damage to or loss of any part of the Supplies shall pass to the Customer upon delivery. Unless agreed otherwise in writing, delivery shall be considered as achieved (i) when the Supplies arrive to Site, or; (ii) according to the relevant incoterms agreed upon.
- 5.2 The Supplies shall be deemed delivered if and when the Customer fails to take over the delivery without cause. In such case, the Supplies can be stored and insured at the risk and expense of the Customer and any payment shall become due, the defect liability period as per Clause 9 shall commence and all other consequences of delivery shall apply accordingly. The same consequences shall apply on the scheduled date of delivery if the dispatch is postponed for reasons attributable to the Customer.
- 5.3 Title in any part of the Supplies shall remain with Siemens until Siemens has received full payment for that part of the Supplies. Until full payment, Siemens shall have the right to enter any premises where Supplies are being held in order to inspect to Supplies and to provide any guidance in relation thereto in order to maintain its title in the Supplies. If the Customer is not or shall not be the sole end user and ultimate owner of the works forming part of the Supplies or is procuring them for the benefit of any kind of joint venture, the Customer shall include a clause in its contracts with the end user, ultimate owner or

joint venture participants so that the title shall remain with Siemens until Siemens received full payment for the Supplies, even if the Supplies were transferred to such third parties, or were performed in their premises. Upon conclusion of the Contract the Customer authorises Siemens to notify or enter their retention of title into public registers, books or similar records kept for this purpose by the competent authorities of the relevant countries and to fulfil all necessary formalities.

6. Force Majeure

- 6.1 A "**Force Majeure Event**" means any event which is beyond the reasonable control of a party or its subcontractors, which could not have been prevented by reasonable means and which results in a party (the "**Affected Party**") being unable to perform or being delayed in performing in whole or in part its obligations under this Contract. Force Majeure Events include, among others, acts of war, riot, civil commotion, terrorism, natural disaster, epidemic, strikes, lock-outs, attacks on Siemens' IT systems (such as virus attacks, hacker attacks), non-issuance of licences, permits or approvals, or any other act or failure to act by any public authority, or embargos or any other trade sanctions.
- 6.2 If a Force Majeure Event occurs, the Affected Party will be deemed not to be in breach of its obligations under the Contract for so long as and to the extent necessary to overcome the effects of the Force Majeure Event and the Customer shall compensate Siemens for all additional costs incurred by it as a result of the Force Majeure.
- 6.3 The Affected Party shall notify the other party as soon as reasonably practicable of the Force Majeure Event and of its affected obligations.
- 6.4 If one or more Force Majeure Events and their effect lasts for a period of 180 days in aggregate either party may terminate the Contract by giving to the other a written notice of termination with regard to the part of the Supplies not yet delivered. With regard to the part of the Supplies not delivered, Siemens shall be entitled to reimbursement from the Customer of its unavoidable costs related to such termination. In no event shall the Customer's obligation to pay Siemens for Work performed be excused due to a Force Majeure event.

7. Obligations of the Customer

- 7.1 The Customer shall apply for and obtain all necessary licenses, permits and approvals required for the commissioning, acceptance, and use of the Supplies.
- 7.2 The Customer is solely responsible for the conception, implementation and maintenance of a holistic, state-of-the-art security concept to protect its enterprise, plants, systems, machines and networks (including the Products) against Cyberthreats. "**Cyberthreat**" means any circumstance or event with the potential to adversely impact the Customer's plants, systems, machines and networks (including the Product/s) via unauthorized access, destruction, disclosure and/or modification of information, denial of service attacks or comparable scenarios. Such concept should inter alia include:
- a) installation of Updates as soon as they are available in accordance with the installation instructions given by Siemens and using the latest Product versions (this might include the purchase of upgrades of hardware and software by the Customer). "**Update**" means any software which primarily contains a correction of software errors in the Product, an Update that fixes a vulnerability ("**Patch**") and/or minor enhancements or improvements of the Product, but does not contain significant new features. Use of Product versions that are no longer supported, and failure to install the latest Updates may increase Customer's exposure to Cyberthreats;
 - b) complying with security advisories, installing Patches and implementing other related measures, published, among others, under <http://www.siemens.com/cert/en/cert-security-advisories.htm>.
 - c) regular vulnerability scanning, and testing, provided however, that (i) it is not performed while the Product is in use, (ii) the system configuration and security level of the Product are not modified; and (iii) if vulnerabilities are identified by the Customer, the Customer shall align with Siemens, shall not refuse acceptance of the Product if Siemens classifies the vulnerability to be irrelevant, and shall not disclose the vulnerability without the prior written consent from Siemens;
 - d) Implementing and maintaining a state-of-the-art password policy;

- e) only connecting the Customer's systems, machines and components as well as the Products to an enterprise network or the internet if and to the extent such a connection is necessary and only when appropriate security measures (e.g. firewalls, network client authentication and/or network segmentation) are in place and the manufacturers' guidelines are fulfilled;
- f) minimizing the risk of a malware infection (e.g. through content of USB-storage media and other removable storage devices connected to the Products) through malware scanners or other appropriate means.

- 7.3 The Customer shall be responsible for the collection and disposal of the waste electrical and electronic equipment and batteries at the end of their use phase at its own expense according to the law at the place of use.
- 7.4 If Supplies are delayed due to circumstances for which Siemens is not responsible, the Customer shall pay Siemens all additional costs arising from such delay.

8. Changes

If applicable laws, rules and regulations, engineering standards and codes of practice, and decisions or guidance issued by courts or public authorities are amended or added to after the date of Contract signature, Siemens shall be entitled to an adjustment of the Contract, including inter alia an adjustment of the Contract Price to reflect any additional costs to be incurred by Siemens, the time schedules and scope of Supplies, as necessary in order to compensate for any adverse effects or additional requirements deriving from such changes.

9. Defects Liability

- 9.1 In this Contract, and subject to Clause 9.2, a defect shall mean any non-conformity of the Supplies with the express terms of this Contract resulting from circumstances existing in the Supplies at the time of the transfer of risk to the Customer ("**Defects**").
- 9.2 In particular, the following shall not be Defects:
- a) normal wear and tear, non-conformity resulting from excessive strain,
 - b) non-conformity resulting from faulty or negligent handling; non-compliance with instructions or recommendations in operation or maintenance manuals and other documents;
 - c) installation, erection, modification, commissioning, or pre-commissioning, in each case not carried out by Siemens,
 - d) non-reproducible software errors,
 - e) defects which do not significantly impair the use of the respective Supplies.
- 9.3 The Customer shall immediately inspect the Supplies upon delivery and shall notify Siemens in writing of any Defects without undue delay. The Customer's claims in respect of defects shall be excluded for any apparent defects if the Customer has failed to do so.

Upon such written notification, Siemens shall, at its option, remedy a Defect by repair, replacement, or re-performance. Siemens shall be given a reasonable period of time and opportunity to remedy the Defect. For this purpose, the Customer shall grant Siemens working access to the non-conforming Supplies, shall undertake any necessary dis-assembly and re-assembly, and shall provide access to operation and maintenance data, all at no charge to Siemens. Upon Siemens' request, the Customer shall ensure that the title to the replaced parts/items shall pass to Siemens.

- 9.4 Unless otherwise agreed, the defects liability period for any part of the Supplies is 12 months. It starts at the date of transfer of risk (as stipulated in Clause 5).

For replaced or repaired parts of the Supplies, the defects liability period is 6 months from the date of replacement or repair, if the original defects liability period for the Supplies expires earlier. In any event, the defects liability period shall end no later than 24 months from the beginning of the original defects liability period.

- 9.5 Siemens does not warrant or guarantee that the Product will be secure from Cyberthreats and does not contain any vulnerability. If software is defective, Siemens shall only be obliged to provide the Customer with an updated version of the software in which the Defect has been remedied when such updated version is reasonably available from Siemens or, if Siemens is only licensee, from Siemens' licensor. If the software has been modified or individually developed by Siemens, Siemens shall in addition provide the Customer with a workaround or other interim corrective solution until the provision of an updated version of the software, if such workaround or interim solution is feasible at reasonable expense and if otherwise the Customer's business operations would be substantially impeded.
- 9.6 If Siemens carries out remedial work and it is ultimately not established that there was a Defect, the Customer shall pay Siemens for such remedial work including error diagnosis.
- 9.7 Any other liability of Siemens and any claims, rights and remedies of the Customer in case of defects of the Supplies shall be excluded except as expressly stipulated in this Clause 9. All warranties, representations, conditions, and all other terms of any kind whatsoever implied by statute or law are, to the fullest extent, excluded from this Contract.

10. Intellectual Property Rights

- 10.1 If a third party asserts legitimate claims against the Customer that the Supplies infringe an IPR owned by such third party, then subject to the following provisions of this Clause 10, Siemens shall, at its option and expense, either
- obtain a right to use the relevant IPR in connection with the Supplies; or
 - modify the Supplies so as not to infringe the relevant IPR; or
 - replace the infringing part of the Supplies.

If, in the opinion of Siemens, none of the foregoing is reasonably possible, Siemens may take back the relevant part of the Supplies and reimburse the price for such part.

- 10.2 Siemens' obligations in Clause 10.1 are subject to the following conditions:
- The Customer has immediately notified Siemens in writing of the third party's claim and furnished Siemens with a copy of each communication, notice or other action relating to the alleged infringement,
 - the Customer does not acknowledge an infringement and provides Siemens with the authority, information and assistance reasonably required by Siemens to defend or settle such claim, and
 - Siemens is given sole control of the defence (including the right to select counsel), and the sole right to settle such claim.

If the Customer ceases to use the Supplies or any relevant portion thereof, it shall notify the third party in writing that its cessation of use is not an admission of IPR infringement.

- 10.3 Any claims of the Customer shall be excluded if the Customer (including its agents, employees or contractors) is responsible for the IPR infringement. The Customer shall be deemed responsible for the claimed IPR infringement if, without limitation, it was caused by (i) specific demands of the Customer, (ii) use of the Supplies for a purpose or in a manner not foreseeable by Siemens, (iii) a modification of the Supplies by the Customer, or (iv) use of the Supplies in connection with other equipment.
- 10.4 This Clause 10 sets forth Siemens' entire liability for infringement of third party IPRs. Any other claims, rights, and remedies of the Customer shall be excluded.

11. Liability

Unless explicitly stipulated in this Contract, this Clause 11 shall exclusively govern the liability of Siemens for damages, costs and expenditures, regardless of the legal theory upon which it is based, including, but not limited to liability in Contract, in tort (including negligence), misrepresentation, indemnity, under warranty or otherwise.

- 11.1 Siemens shall be liable for bodily injuries and for intentional acts or omissions pursuant to the applicable law.
- 11.2 Siemens shall in no event be liable, whether pursuant to any indemnity or in contract, tort (including negligence and statutory duty) or otherwise for loss of profit or revenue, loss of production, interruption of operations or loss of use, cost of capital, loss of interest, loss of information and/or data, for claims arising from Customer's contracts with third parties, or for any indirect or consequential damage.
- 11.3 Siemens' total liability, whether pursuant to any indemnity or in contract, tort (including negligence and breach of statutory duty), Defects, warranty or otherwise arising by reason of or in connection with the Contract or the termination thereof shall not exceed 20% of the Contract Price per event and shall, under any circumstances, be limited in aggregate to 100% of the Contract Price.
- 11.4 Any limitations of liability set forth in this Contract shall also apply for the benefit of Siemens' Affiliates, subcontractors, employees, agents or any other person acting for Siemens.
- 11.5 Reserved.
- 11.6 If the Customer is not or shall not be the sole end user and ultimate owner of the Supplies or is procuring them for the benefit of any kind of joint venture, the Customer shall include a clause in its contracts with the end user, ultimate owner or joint venture participants so that Siemens is given the benefit of the indemnities, exclusions and limitations of liability in the Contract by all such users, owners or participants (which shall apply as if the user, owner or participant were the Customer) and shall indemnify Siemens against claims by them to the extent that Siemens would not be liable therefore to the Customer under the Contract if the claim had been made by the Customer.
- 11.7 Any and all liability of Siemens under this Contract shall cease with the expiry of the defects liability period of the Supplies.
- 11.8 Any rights and remedies of the Customer against Siemens that are not expressly stipulated in the Contract shall be excluded.

12. Assignment

- 12.1 The Customer may not assign this Contract or any part thereof without Siemens' prior written approval.
- 12.2 Siemens may transfer, assign, or novate the Contract or any part of it to an affiliated company ("**Affiliate**"), being any legal entity ("**Company**") which directly or indirectly is controlled by Siemens, controls Siemens or is controlled by a Company which directly or indirectly controls Siemens.
- 12.3 Siemens shall further be entitled to assign the whole Contract or a part of it to any third party, in the event of a sale or other transfer of the business or a part of the business of Siemens to a third party.
- 12.4 Siemens may sub-contract the Supplies, or any part of them.

13. Confidentiality

- 13.1 The parties shall use any documents, know-how, data or other information provided by the other party ("**Information**") exclusively for the purpose of this Contract and keep the same confidential subject to the following. The parties may disclose Information to employees of the receiving party and to third parties who reasonably need to know such Information for the purpose of the Contract provided such employees and third parties are bound by equivalent confidentiality obligations. The party disclosing Information shall be held liable for a breach of such obligations by its employees or a third party.

- 13.2 This confidentiality obligation shall not apply to Information which
- a) is or becomes part of the public domain other than by fault of the receiving party;
 - b) is disclosed to the receiving party in good faith by a third party who is entitled to make such disclosure;
 - c) is developed independently by the receiving party without reliance on Information;
 - d) was known to the receiving party prior to its disclosure by the other party; or
 - e) is required to be disclosed by law (subject to the receiving party's obligation to notify the disclosing party in a timely manner of such requirement, to the extent permitted under law).
- 13.3 This confidentiality obligation shall survive the expiration or termination of this Contract for 5 years.
- 13.4 Siemens and the Customer shall comply with all relevant data protection laws, regulations, orders, decrees, directives etc. The Customer shall only provide Siemens with access to its personal data and trade secrets to the extent necessary for the performance of the Services. Where such access is required, the Customer shall inform Siemens in advance, obtain any consents which may be necessary and agree any other actions to be taken to ensure compliance with the law.

14. Suspension

- 14.1 Siemens may suspend performance of its obligations under the Contract, if (i) the Customer is in delay with any payment or in providing any payment security required under this Contract for more than 30 days, (ii) the Customer fails to perform those of its obligations necessary for Siemens to complete or deliver the Supplies, or (iii) the Customer otherwise materially breaches the Contract.
- 14.2 If Siemens suspends the Contract in accordance with Clause 14.1 or in the event the Customer suspends the Contract without the express written agreement with Siemens, the Customer shall become immediately liable to pay Siemens for all parts of the Supplies already provided. The Customer shall further reimburse Siemens all reasonable additional costs and expenses incurred as a result of such suspension (e.g. payments to subcontractors, cost of waiting time, demobilization and remobilization, etc.). Any contractual dates shall be extended for a reasonable period to overcome the effects of the suspension.

15. Termination

- 15.1 Either party may terminate this Contract with immediate effect by written notice, if the other party becomes bankrupt or insolvent, is under a 'stay of proceedings' order, has a receiving order made against it or compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors or goes into liquidation, or a third party commenced any liquidation or bankruptcy or receivership proceedings against the Party, which have not been terminated within 30 days thereafter.
- 15.2 Save as provided under Clause 6.4 and Clause 15.1, the Customer may terminate the Contract only in the circumstances set out below and in each case upon 14 days written notice to Siemens:
- a) Reserved.
 - b) in the event Siemens has materially breached the Contract and has not remedied the breach within a reasonable period after receiving written notification of the breach from the Customer.
- 15.3 Any termination by the Customer shall not affect those parts of the Supplies already delivered or performed in accordance with the Contract prior to the termination. In the event of termination in accordance with Clause 15.2, the Customer shall remain liable to pay Siemens for all parts of the Supplies already delivered prior to termination. The Customer shall be entitled to compensation for the reasonable costs incurred in excess of the Contract Price if it had the defective Supplies delivered/remedied by a third party. For the avoidance of doubt, Clause 11 shall apply in case of termination. The right to rescind the Contract is excluded.
- 15.4 Notwithstanding any other rights it may have under this Contract, Siemens may terminate the Contract

- a) if the Customer comes under the direct or indirect control of any competitor of Siemens, or
- b) if the Customer materially breached the Contract and has not remedied the breach within a reasonable period after a notification by Siemens or is in delay in making any payment or in providing any payment security required under this Contract for more than 60 days; or
- c) if the Contract has been suspended for more than 60 days.

15.5 In the event of termination by Siemens, Siemens shall be entitled to recover from the Customer (i) the Contract Price less any saved or avoided expenditure and (ii) any additional cost and expenses incurred by Siemens due to such termination.

16. Dispute Resolution, Applicable Law

16.1 The Contract and any dispute or claim arising out of, or in connection with, it or its subject matter or formation (including non-contractual disputes or claims) shall be governed exclusively and solely by and construed in accordance with the substantive laws of Israel excluding its choice of law rules. The UN Convention on Contracts for the International Sale of Goods shall not apply.

16.2 the courts of Tel Aviv-Jaffa shall have exclusive jurisdiction over any and all disputes, claims or lawsuits arising out of or in connection with this Agreement.

17. Export Regulations

17.1 Compliance with Export Control Regulations – General

17.1.1 If Customer transfers to a third party hardware and/or software and/or technology (including corresponding documentation,) delivered by Siemens (in this Clause 18 – “**Goods**”), or works and services (including all kinds of technical support and information) performed by Siemens (in this Clause 18 – “**Services**”), Customer shall comply with all applicable national and international (re-) export control regulations. In any event of such transfer of Goods and/or Services, Customer shall comply with the (re-) export control regulations of the Federal Republic of Germany, of the European Union (“EU”), of the United States of America (“USA”) and of the jurisdiction in which the Goods and Services are made available to Customer.

17.1.2 Prior to any transfer of Goods and/or Services to a third party, Customer shall in particular check and guarantee by appropriate measures that

- there will be no infringement of an embargo imposed by the EU, USA, the jurisdiction in which the Goods and Services are made available to Customer, and/or by the United Nations by such transfer, by brokering of contracts concerning Goods or Services or by provision of other economic resources in connection with Goods or Services;
- such Goods and Services are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization has been obtained;
- the regulations of all applicable sanctioned party lists of the EU, USA and the jurisdiction in which the Goods and Services are made available to Customer, concerning the trading with entities, persons and organizations listed therein are considered.

17.1.3 Upon request by Siemens, Customer shall promptly provide Siemens with all information pertaining to the particular end customer, the particular destination and the particular intended use of Goods and Services, as well as any export control restrictions existing.

17.1.4 Customer shall indemnify and hold harmless Siemens from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export

control regulations by Customer, and Customer shall compensate Siemens for all losses and expenses resulting thereof.

17.2 Compliance with Export Control Regulations – Software and Mobile Apps

- 17.2.1 Customer shall comply with all applicable sanctions, embargoes and (re-)export control regulations, and, in any event, with those of the European Union, the United States of America and of the jurisdiction in which the Goods and Services are made available to Customer (collectively “**Export Regulations**”). In particular, the information, software and documentation provided by Siemens shall not be used, accessed or transferred, unless permitted by the Export Regulations or respective governmental licenses or approvals, (i) in or to any location prohibited by or subject to comprehensive sanctions (including Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk and Luhansk regions of Ukraine) or license requirements according to the Export Regulations; (ii) by or to any individual or entity designated on a sanctioned party list of the Export Regulation; (iii) for any purpose prohibited by the Export Regulations (e.g. use in connection with armaments, nuclear technology or weapons); or (iv) to upload any content unless it is non-controlled (e.g. in the EU: AL = N; in the U.S.: ECCN = N or EAR99).
- 17.2.2 Upon request by Siemens, Customer shall promptly provide Siemens with all information pertaining to the Customer, the intended use and the location of use of the Goods and Services.
- 17.2.3 Customer acknowledges that Siemens may be obliged under the Export Regulations to limit or suspend access by Customer to the Goods and Services.

17.3 Compliance with Export Control Regulations – Cloud-based services

- 17.3.1 Customer shall comply with all applicable sanctions, embargoes and (re-)export control regulations, and, in any event, with those of the European Union, the United States of America and the jurisdiction in which the Goods and Services are made available to Customer (collectively “**Export Regulations**”).
- 17.3.2 In particular, Customer shall not, unless permitted by the Export Regulations or respective governmental licenses or approvals, (i) access or use the Goods and Services from any location prohibited by or subject to comprehensive sanctions (including Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk and Luhansk regions of Ukraine) or to license requirements according to the Export Regulations; (ii) grant access to, transfer or otherwise make available the Goods and Services to any individual or entity designated on a sanctioned party list of the Export Regulations; (iii) use the Goods and Services for any purpose prohibited by the Export Regulations (e.g. use in connection with armaments, nuclear technology or weapons); (iv) upload to the platform any content unless it is non-controlled (e.g. in the EU: AL = N; in the U.S.: ECCN = N or EAR99).
- 17.3.3 Customer shall provide any individual or entity to whom Customer grants access, transfers or otherwise makes available the Goods and Services (collectively “User(s)”) with all information necessary to ensure compliance with the Export Regulations. Customer shall (i) be responsible for the use of the Goods and Services by any User; (ii) procure to pass on all of Customer’s obligations under this Clause 17.3 to each User; (iii) ensure that all Users comply with Customer’s obligations under this Clause 17.3. Should Customer become aware of any violation of its obligations under this Clause 17.3, Customer shall immediately terminate the relevant User’s access to the Goods and Services.
- 17.3.4 Upon request by Siemens, Customer shall promptly provide Siemens with all information pertaining to User(s), the intended use and the location of use of the Goods and Services.
- 17.3.5 Customer shall indemnify and hold harmless Siemens from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with Export Regulations by Customer and/or User(s), and Customer shall compensate Siemens for all losses and expenses resulting thereof.

17.3.6 Customer acknowledges that Siemens may be obliged under the Export Regulations to limit or suspend access by Customer and/or User(s) to the Goods and Services.

17.3.7 Customer shall not:

- access the Services from any location prohibited by or subject to sanctions or license requirements according to applicable sanctions and/or (re-)export control regulations, including those of the European Union, the United States of America and/or any other applicable country/ies;
- grant access, transfer or otherwise make available to any individual or entity designated on any applicable sanctioned party list;
- use the Services for any purpose prohibited by applicable export control regulations; and
- upload to the Services platform any content unless it is non-controlled (e.g. in the EU: AL = N; in the U.S.: ECCN = N or EAR99).

18. Miscellaneous

18.1 Siemens shall not be obliged to fulfill this Contract 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.

18.2 If any provision of this Contract is prohibited or declared invalid or unenforceable by any court or tribunal of competent jurisdiction, this shall not affect the validity or enforceability of any other provision. The parties shall use their reasonable efforts to substitute such provision by a legal, valid or enforceable one with the same or a similar result.

18.3 Any amendments, changes or additions to this Contract must be made in writing in the form of a written agreement signed by authorised representatives of both parties. The Parties may waive this demand in writing only.

18.4 No delay or omission by either party in exercising any right, power or remedy provided by law or under this Contract shall affect, impair or operate as a waiver of such right, power or remedy.

18.5 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Contract.

18.6 The parties do not intend that this Contract shall be enforceable by any person who is not a party to this Contract, except in relation to Siemens Affiliates' rights under this Contract. Notwithstanding that this Contract may be or become enforceable by a person who is not a party, any and all of the terms of this Contract may be varied, amended or modified and this Contract may be suspended, cancelled, rescinded or terminated by agreement in writing between the parties (whether or not to the detriment of any person who is not a party but benefits under it), without requiring notice be given to or any consent being obtained from any such person who is not a party.

18.7 The words "including" and "includes" and any like words shall be construed without limitation to the generality of the preceding words.

- 18.8 Save as otherwise stated in any other provision of this Contract, each party shall pay its own costs and expenses in connection with the negotiation, preparation and implementation of this Contract.
- 18.9 Nothing in this Contract is intended to or shall operate to create a partnership or joint venture of any kind between the parties. Neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way.
- 18.10 No provision of this Agreement shall be applied or interpreted adversely to a party solely because that party was responsible for the preparation of this Agreement. The provisions of Section 25(b1) of the Contracts Law (General Part), 1973 shall not apply.
- 18.11 This Contract is drawn up in the English language. If this Contract is translated into another language, the English language text shall in any event prevail.