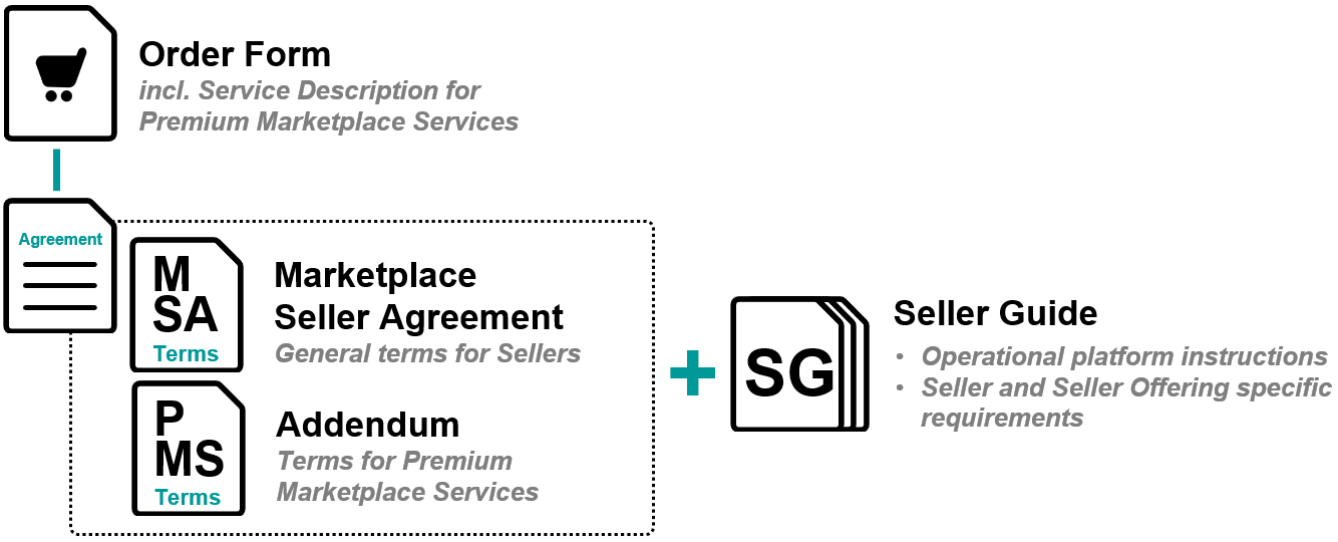
SIEMENS

Siemens Xcelerator Marketplace Seller Agreement

This Siemens Xcelerator marketplace seller agreement (the "Agreement") is entered into between the Siemens entity specified in the Order Form ("Siemens") and the legal entity that accepted this Agreement ("Seller"). The Order Form referencing the Agreement may be accepted by electronic signature, or through a specified electronic system provided by Siemens. By clicking acceptance in the electronic system or using any Marketplace Service, Seller acknowledges having read, understood, and agreed to this Agreement. If Seller does not agree, Seller must refrain from using any Marketplace Service.

Capitalized terms are defined **at the end of the document****.**

Agreement structure



Marketplace Seller Terms

1. Order Forms and Fees

1.1. Ordering

The Parties may enter into one or more Order Forms under this Agreement. Each Order Form is binding on the Parties and is governed by the terms of this Agreement.

1.2. Payment and Electronic Invoices

Unless otherwise agreed by the Parties, Seller will pay any fixed fees set forth in the applicable Order Form within 30 days of the invoice date and any transaction-based fees in accordance with section 6.3. Unless specified otherwise in the Order Form or any Addendum, fixed fees related to Marketplace Services are invoiced in advance, while transaction-based fees are invoiced monthly in arrears. Without limiting any other remedies available to Siemens, Seller will pay applicable fees for any excess use of a Marketplace Service at the then-current price within 30 days of the invoice date. Seller consents to receiving electronic invoices from Siemens.

2. Taxes

2.1. General Tax Obligations

All fees are exclusive of taxes, duties, and other charges ("Taxes"). The Seller agrees to pay or reimburse Siemens for any applicable taxes or duties, including but not limited to sales taxes, value added taxes, goods and services taxes, consumption taxes, or any other charge that is imposed by any government authority on Seller's use of any Marketplace Service.

2.2. Exemption and Documentation

If Seller is exempt from value-added, sales tax, or similar taxes, Seller must provide Siemens with a valid, timely, and executed exemption certificate, direct pay permit, or other government-approved documentation during Seller onboarding, and promptly communicate any changes in its status without undue delay.

2.3. Tax Deduction and Documentation

If Seller is required by law to make any Tax deduction or to withhold Taxes, Seller shall pay to Siemens the amount originally invoiced without any deduction. Seller will promptly effect payment to the applicable tax authorities and provide Siemens with all official tax receipts or other evidence issued by the tax authorities confirming such payment or withholding.

2.4. Electronically Supplied Services and Marketplace Intermediation Rules

If the Seller Offering qualifies as an Electronically Supplied Service or as any offering subject to marketplace intermediation rules under applicable tax laws, the following applies: Seller, not Siemens, will be the supplier of the Electronically Supplied Service or offering subject to marketplace intermediation rules on the Marketplace to any Buyer. Siemens is solely responsible for providing the Marketplace Services to Seller. Seller, not Siemens, shall issue or make available to its Buyers invoices identifying the Electronically Supplied Service or offering subject to marketplace intermediation rules and Seller as supplier thereof.

For tax purposes, Siemens as the Marketplace operator does not authorize Buyers' payments for, or the provision of any Electronically Supplied Service or offering subject to marketplace intermediation rules, nor does Siemens set the general terms and conditions of supply between Seller and any Buyer.

If, at any point, Siemens is deemed under applicable tax law to be the provider of the Electronically Supplied Service or offering subject to marketplace intermediation rules, Siemens will assume the relevant tax obligations as the service provider, including authorizing Buyers' payments, collecting Taxes and providing Buyers with a compliant tax invoice. Siemens will report all required information to tax authorities in compliance with legal obligations. Seller will cooperate with Siemens to ensure compliance with applicable laws, including providing any required information or documentation for invoicing and tax reporting purposes.

2.5. US Tax Responsibilities

For Sellers offering goods and services for sale within the United States of America, while for state sales tax purposes, states typically deem a marketplace facilitator such as Siemens to be responsible for collecting and remitting sales tax on marketplace transactions, this does not relieve a seller from other tax related responsibilities. The Seller continues to be the seller of record for sales tax purposes and for all other tax matters. Therefore, you as Seller are responsible for determining whether you have income which is effectively connected with a trade or business withing the United States, nexus with a particular state for income tax purposes, and registration and filing requirements within a state or for the Federal Income Tax purposes. Siemens highly recommends that you consult with a tax advisor regarding your responsibilities with respect to tax compliance. Seller also retains the responsibility to provide Siemens with all information necessary to make an accurate sales tax determination.

3. Seller Obligations and Seller Account

3.1. Seller Account and Eligibility

To access and utilize Marketplace Services, Seller must create an account through the Marketplace ("Seller Account") and meet specific eligibility criteria, including fulfilling requirements in the Marketplace Seller Guide. The Seller commits to promptly updating this Seller Account to ensure that the information remains accurate, current, and complete.

3.2. Seller Information

When creating a Seller Account, Seller must provide true, accurate, current, and complete data about Seller and its activities, as specified in the Marketplace Seller Guide. Such data may include a verified bank account, Seller's VAT number (where applicable), other financial, business, tax or personal information, as well as further Know Your Customer (KYC) data as requested by the payment processing services provider ("Payment Processor") Siemens uses to provide payment processing services for Transactions to Seller.

Siemens may make, directly or through third parties, any inquiries Siemens considers necessary to validate information that Seller provides to Siemens, including checking commercial databases. Seller authorizes Siemens to obtain one or more of Seller's credit reports to establish, update, or renew the Seller Account with Siemens or in the event of a dispute relating to this Agreement and activity under the Seller Account.

3.3. Confidentiality and Security of Seller Account

Seller is solely responsible for maintaining the confidentiality of the Seller Account (including access credentials provided thereto) and the information in the Seller Account. Except where otherwise required by applicable law, Seller is solely responsible for all use of the Seller Account, whether authorized by Seller or not. Seller agrees to immediately notify Siemens of any unauthorized use of the Seller Account or any other security breach related to Seller's use of the Marketplace Services.

4. Contractual Relationships on the Marketplace

4.1. Seller of Record

Siemens as Marketplace operator will act as mere facilitator with respect to the Seller Offering (including electronically supplied services as per section 2.4) on the Marketplace. Seller will be the seller of record for the Seller Offering.

4.2. Terms and Conditions for Buyers

Seller will establish the pricing, license rights and other terms governing Buyers' use of a Seller Offering. It is Seller's responsibility to provide Siemens with the terms and conditions for Transacting the Seller Offering in the manner requested by Siemens, as indicated in the Marketplace Seller Guide.

Seller shall include express provisions in the terms and conditions to Buyers that state:

a. Seller's company name and address and the contact information (telephone number, e-mail address) for questions, complaints, or claims with respect to the Seller Offering.

b. If Buyer is required by law to make any tax deduction or to withhold Taxes, Buyer nevertheless pays the amount originally invoiced without any deduction and confirms that taxes have been paid or withheld to the applicable tax authority.

c. The purchase contract is solely between Seller and Buyer, and not between Siemens and Buyer.

Seller shall remain fully responsible for the enforceability and enforcement of these terms and conditions, and for ensuring the terms and conditions comply with applicable laws.

Seller shall permit Siemens to display Seller's legal name, physical address, email address, telephone number, and any other identifying or contact information required by applicable law on the Seller Offering page, order confirmation, receipt, or other Buyer-facing location. Seller shall not provide false or misleading identity information or use a business name that obscures the legal seller of record.

4.3. Transacting Seller Offerings

By ordering a Seller Offering on the Marketplace, Buyer is making a binding Transaction offer to Seller for the Seller Offering at the price defined by Seller. Seller agrees to promptly react to received

Transaction offers through the Marketplace platform, either by accepting or rejecting such offers within the timeframe specified in the Marketplace Seller Guide. If Seller accepts the Transaction offer, a binding purchase contract between Seller and the Buyer for the Transaction of the Seller Offering will be formed, which Seller is bound to fulfill by delivering the Seller Offering to the Buyer within the agreed upon timeframe (provided that such delivery is not prevented by any impediments arising out of Foreign Trade Regulations).

If Seller rejects Buyer's Transaction offer, Seller shall communicate such decision promptly through the Marketplace platform, providing reasons for rejection. Seller's failure to react within the timeframe specified in the Marketplace Seller Guide to received Transaction offers may result in consequences as outlined in sections 5.4 and 13-15 of this Agreement, including but not limited to suspension of Seller's use of the Marketplace or indemnification obligations.

Siemens will provide a mechanism on the Marketplace to inform Buyers of the legal entity Transacting the Seller Offerings and to require Buyers to click to accept the terms under which the Seller Offerings are offered. Siemens makes no warranty that this mechanism creates a binding agreement between Seller and Buyers.

If there is no other obligation under tax laws, Seller is responsible for issuing tax invoices to Buyers in compliance with applicable laws and will notify Siemens when the invoice is issued. In such cases, Seller shall bear sole and exclusive responsibility for the accurate issuance, transmission, amendment, and, where necessary, correction of invoices to Customer, as well as for ensuring full compliance with all applicable laws, regulations, and other legal requirements relating to invoicing. Such responsibility shall include, without limitation, compliance with any applicable electronic invoicing requirements (including e-invoicing) and any national or international transaction reporting or e-reporting, disclosure, record-keeping, transmission to the tax authorities or similar obligations.

4.4. Disputes between Seller and Buyer

Siemens is not responsible for any dispute between Seller and Buyer, but Siemens may elect to assist in resolving any dispute between Seller and Buyer. If Siemens elects to assist in the resolution of any dispute, Seller agrees to cooperate with Siemens to resolve the dispute.

5. Seller Offerings

5.1. Submission

The Seller Offering and the Seller Offering listing must comply with the Marketplace Seller Guide and any other requirements specified in this Agreement. Seller is responsible for evaluating and testing the Seller Offering for technology, functionality, performance, security, and user interface. Seller must complete any technical self-certification process provided by Siemens.

5.2. Responsibility for the Seller Offering

Seller is responsible for the Seller Offering and any related Marketing Material. Seller specifically represents and warrants the following:

a. Seller owns all rights necessary to distribute each Seller Offering listed on the Marketplace as intended by this Agreement;

b. Each Seller Offering conforms in all material respects to the description and documentation made available by Seller on the Marketplace and elsewhere;

c. No Seller Offering infringes any third party's intellectual property rights;

d. Each Seller Offering (including information about applicable fees) and all Marketing Material are, at all times, accurate, complete, not misleading, and in compliance with applicable law and the terms of the Agreement. In particular, they comply with privacy and data protection laws and meet any security or other standards of the industries for which they are intended or useful;

e. Distribution of the Seller Offering is not legally prohibited in any of the countries where the Seller Offering will be distributed.

Seller shall ensure that all Seller Offering descriptions, price and discount claims, comparisons, performance and security claims, testimonials, endorsements, environmental claims, subscription claims, and statements that an offering is free are truthful, adequately substantiated, and not misleading. Seller shall clearly and conspicuously disclose material qualifications and any material connection between an endorser and Seller. Content generated automatically by Siemens from a Seller Offering is not a representation of Seller, and the Seller Offering listing prevails.

5.3. Review

Siemens reserves the right to review each Seller Offering either directly or through a subcontractor, and may accept or reject it for any reason. Siemens is not obliged to conduct such reviews. Neither a review nor the absence of one shall be represented by Seller as an endorsement by Siemens. Review standards and processes may be included in the Marketplace Seller Guide. Seller agrees to cooperate with Siemens during the review process and provide any reasonably requested information, including business operation details. Siemens may modify review standards and procedures as deemed appropriate. Seller's Confidential Information accessed by Siemens during review will remain confidential.

5.4. Maintenance and Removal

Seller will ensure that each Seller Offering is kept up-to-date with current bug fixes and patches. Siemens reserves the right to remove or suspend the listing of a Seller Offering if Siemens determines the Seller Offering does not meet the requirements set out in this Agreement or the Marketplace Seller Guide. Siemens may also request Seller to update a Seller Offering within a time frame determined by Siemens to ensure compliance with such requirements.

Seller may remove the listing of a Seller Offering from the Marketplace at any time in accordance with the Marketplace Seller Guide. Any removal by Seller of a Seller Offering listing from the Marketplace will apply only to prospective Buyers. Seller will continue to enable Buyers with an active subscription to use the Seller Offering (including related support) after the removal of the listing, until all then-current subscriptions terminate.

5.5. Support and User Documentation

Seller is solely responsible for providing technical support, if any, for the Seller Offering. Should Siemens receive support queries related to a Seller Offering, Siemens will forward these queries to Seller. Seller must provide Buyers with user documentation that accurately reflects the functionalities of the Seller Offering, including details on security safeguards.

5.6. Insurance

Upon Siemens' request, Seller must provide details of any insurance policies covering the Seller Offering. Siemens may require Seller to obtain and maintain, at Seller's own cost and expense, specific levels of insurance for certain types of Seller Offerings.

5.7. Placement and Feedback

Subject to any Premium Marketplace Service ordered by Seller, the type of placement, category, or order in which a Seller Offering is listed on the Marketplace is determined solely by Siemens, though Seller preferences may be considered. Siemens may identify placement obtained through a Premium Marketplace Service as sponsored or paid.

Siemens may implement mechanisms to rate or allow Buyers to rate and provide feedback on a Seller Offering, as well as on the Seller's performance in connection with a Seller Offering and the Marketplace. Siemens may make these ratings and feedback publicly available. If Seller provides any ideas or feedback regarding the Marketplace or any Marketplace Service, including suggestions for changes or enhancements, support requests, and error corrections, such feedback may be used by Siemens without condition or restriction.

5.8. No guarantee

Siemens makes no guarantee that any Seller Offering will sell or that Seller will achieve specific financial results. There are no guarantees that Buyers will complete purchases or have the means to pay.

5.9. Buyer's Data

Seller shall inform Buyers of, and where legally required obtain their consent for, any collection, storage, processing, modification, disclosure, or other use of Buyers' data in connection with the Seller Offering. Seller may only use Buyers' data for the Performance of the Transaction, Transaction related communications with Buyers or as otherwise permitted by this Agreement. Where required, Seller shall conclude adequate data protection terms with Buyers.

Each Party shall maintain reasonable administrative, technical, and physical safeguards appropriate to the nature of personal data and Confidential Information it processes. A Party shall notify the other Party without unreasonable delay, and in any event within 48 hours, after confirming unauthorized access to or acquisition, use, disclosure, alteration, loss, or destruction of such information that may affect the other Party or a Buyer. The Parties shall cooperate in containment, investigation, remediation, evidence

preservation, and legally required notices. Costs shall be allocated according to each Party's responsibility for the incident.

6. Payment Processing

Seller may enable for its Seller Offerings the payment methods Siemens makes available, as described in the Marketplace Seller Guide. Siemens may add, change or withdraw payment methods. Sections 6.1 to 6.4 apply where a Transaction is processed through a Payment Processor.

6.1. Direct Agreement with Payment Processor

Seller acknowledges the following:

f. In order to Transact Seller Offerings through a Payment Processor, Seller must enter into a direct agreement with Payment Processor under its terms and conditions;

g. Payment Processor's services will depend on Seller's acceptance of Payment Processor's terms and conditions, any specific requirements imposed due to applicable law or requirements of competent regulatory authorities or the relevant payment scheme for the chosen payment method;

h. Payment Processor reserves the right to maintain a deposit as security ("Deposit") and to withhold this Deposit from the Transaction Proceeds in accordance with the agreement between Seller and Payment Processor; and

i. Payment Processor may reject Seller if Seller fails to meet its internal due diligence procedures.

6.2. Mandate to Represent Seller

Seller hereby mandates Siemens AG as provider of the payment gateway implemented on the Marketplace ("Solution Operator") to perform certain actions in the Payment Processor's systems, exchange business information and make and receive declarations to the Payment Processor on behalf of Seller ("Delegated Actions"). The agreement between Seller and Payment Processor describes these Delegated Actions in detail, which include handling of refunds, processing of chargebacks and reconciliation activities. The Solution Operator has no authority to vary that agreement, initiate an unauthorized debit, settle or compromise a claim, or otherwise bind Seller.

For the avoidance of doubt, any authorization or right granted to the Solution Operator by the Seller under this section to represent the Seller or otherwise give instructions to the Payment Processor only means that Solution Operator forwards the respective instructions and payment-related data to Payment Processor on behalf of Seller. Neither Siemens nor Solution Operator have any power of disposal over Seller's account held with Payment Processor.

The Payment Processor, and not Siemens or the Solution Operator, receives, holds, settles, and transmits Buyer funds. Neither Siemens nor the Solution Operator accepts deposits, maintains a payment account for Seller, or obtains possession or control of Seller funds. Any administrative communication by the Solution Operator is subject to the Payment Processor agreement.

6.3. Settlement of Transaction Proceeds

Transaction Proceeds from Buyers charged for validly processed Transactions that are acquired from Payment Processor will be settled to the account held by Payment Processor in accordance with the agreement between Seller and Payment Processor, withholding

a. the applicable Deposit,

b. the applicable Transaction-based fees for the Marketplace Services that Payment Processor shall settle to Siemens, and

c. any Taxes which Siemens is required to remit on Seller's behalf by the tax laws of either Seller's or Buyer's country of residence.

6.4. Risk of fraud or loss

Seller will bear the risk of fraud or loss associated with a Transaction, including the risk of chargebacks or credit card fraud. In the event of a chargeback or if Siemens determines that a payment related to a Transaction was a result of fraud, Seller will promptly reimburse Siemens or Solution Operator for any costs, claims, as well as all credit card association, bank or other payment processing fees, re-presentment and/or penalty fees associated with the original Transaction.

If Seller's account held with Payment Processor has a debit balance, such as a result of a chargeback or refund, Seller will settle such debit balance immediately upon Siemens' request. Fees charged for

executing the original Transaction will not be refunded in part or in whole to Seller if the Transaction is refunded or made subject to a chargeback.

6.5. Payment Outside a Payment Processor

Where a Transaction is not processed through a Payment Processor, Seller invoices and collects from the Buyer directly, unless applicable law requires otherwise. Seller bears the risk of Buyer non-payment. Siemens does not assess or guarantee Buyer creditworthiness, and transaction-based fees remain due regardless of whether the Buyer pays. Siemens invoices those fees in accordance with section 1.2.

Additional terms related to Marketplace Operation

7. Rights

7.1. Rights in the Marketplace and Marketplace Services

All rights, title, and interest in and to the Marketplace and the Marketplace Services, including any know-how and any part and improvement thereof, and all intellectual property rights in or to the foregoing shall remain wholly vested in Siemens, its affiliates, its business partners, and/or licensors.

7.2. Rights in the Seller Offering

All rights, title and interest in and to the Seller Offering remain with Seller and its licensors. During the term of this Agreement and for as long as Buyers are permitted to use the Seller Offering Promoted or Transacted on the Marketplace, Seller grants Siemens and its business partners a worldwide, nonexclusive, transferable, sub-licensable, royalty-free right to:

a. List, promote, distribute and otherwise digitally make available the Seller Offering on the Marketplace;

b. Use Seller's Marketing Material as authorized by Seller; and

c. Access, display, promote, and otherwise use the Seller Offering in connection with demonstrating it to potential Buyers.

d. Reproduce, index, analyse and create derived content from the Seller Offering, including by automated means, to operate and improve Marketplace search, discovery and recommendation functions.

8. Service Provisions and Ancillary Marketplace Services

8.1. General Use Restrictions

Unless otherwise provided in this Agreement or any Addendum to this Agreement, Seller will not cause or permit the resale, transfer, sublicensing, or publication of any Marketplace Service, or use it for the benefit of any third party without the prior written consent of Siemens. Seller will comply with the AUP. Seller will not use Marketplace Services for the purpose of developing or enhancing any product that is competitive with the Marketplace or any Marketplace Service. The restrictions set out in this section do not apply to the extent they conflict with mandatory applicable law.

8.2. Support and Availability

Siemens provides general support for the Marketplace via the following e-mail address: marketplace-operations.x@siemens.com. Siemens reserves the right to interrupt the availability of the Marketplace and/or Standard Marketplace Services to conduct maintenance or perform updates or other changes, whether scheduled or unscheduled, in Siemens' sole discretion.

8.3. Amendments

As the Marketplace evolves over time, Siemens reserves the right to change this Agreement, any Addendum or any Marketplace Service provided hereunder from time to time. Siemens will notify Seller of any material changes at least 90 days prior to the change effective date specified in the notice. If the change has a material adverse impact on Seller and Seller does not agree to the change, Seller may terminate the affected Order Forms 30 days prior to the change effective date.

8.4. Tax Calculation Service

Siemens does not provide any legal or tax advice, and Sellers are solely responsible for consulting their own tax advisors regarding their tax obligations. For Transactions, Seller commissions Siemens to facilitate a connection to a third-party tax engine to calculate all sales, use, value-added and similar taxes related to the Transaction. Seller expressly authorizes Siemens to enable this service.

As part of the Seller onboarding process, Seller is required to provide Siemens with all necessary and accurate Seller-related information and Seller Offering-related information to enable the proper functioning of the third-party tax engine. Failure to provide complete and accurate information may result in incorrect tax calculations, for which the Seller assumes full responsibility.

Unless explicitly required by the applicable tax law, Siemens is not obliged to determine whether any Taxes apply to any Transaction, and Siemens is not responsible for remitting Taxes to any tax authority or reporting any information (including the payment of Taxes) with respect to any Transaction.

Notwithstanding any contrary provision, Siemens shall collect, report, and remit Taxes to the extent applicable law treats Siemens as a marketplace facilitator, marketplace provider, retailer, dealer, or similar statutory seller. Seller shall timely provide accurate product taxability, classification, sourcing, exemption, resale, nexus, and other information Siemens reasonably requires. Seller remains responsible for Taxes not imposed by law on Siemens and for liabilities caused by Seller's inaccurate or incomplete information. Seller agrees to indemnify Siemens for any Taxes related to any Seller Transaction which a tax authority may assert against Siemens.

8.5. Reporting Service

Siemens will provide Seller with regular reports, the details of which are further outlined in the Marketplace Seller Guide.

Disclaimer, Limitation of Liability and Indemnification

9. Disclaimer

Except as otherwise expressly set forth in this Agreement or any Addendum, Marketplace Services are provided "AS IS" and Siemens disclaims all warranties including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. Siemens does not warrant or otherwise guarantee that

a. Reported errors will be corrected or support requests will be resolved to meet Seller's needs, or

b. Marketplace or Marketplace Services will be uninterrupted, error free, fail-safe, fault-tolerant or free of harmful components.

Representations about Marketplace or Marketplace Services or features or functionality in any communication with Seller constitute technical information, not a warranty or guarantee.

10. Limitation of Liability

The entire, aggregate liability of Siemens related in any way to this Agreement is limited to the fees paid to Siemens for the Standard Marketplace Service that gave rise to the liability during the 12 month period before the first event occurred giving rise to the claim, provided that the aggregate liability for any Standard Marketplace Service will not exceed the amount paid for that service during the Subscription Term. For Premium Marketplace Services, liability is limited to the fees paid for that service.

In no event will Siemens 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, or any claims related to no-charge-services or previews.

Siemens will not be liable for any claim in connection with this Agreement or any Addendum if such claim is brought more than two years after the first event giving rise to such claim is or should have been discovered by Seller.

The foregoing limitations and exclusions apply to the benefit of Siemens and its affiliates, and their respective officers, directors and licensors, subcontractors, and representatives, and regardless of the form of action, whether based in contract, statute, tort (including negligence) or otherwise.

Nothing in this section limits a Party's liability to the extent a limitation is prohibited by applicable law, including liability for fraud or fraudulent misrepresentation, willful misconduct, death or personal injury caused by negligence where such liability cannot be limited, or statutory remedies that may not be waived.

11. Indemnification

11.1. General

Seller will indemnify, defend and hold harmless Siemens, its affiliates and its suppliers and contractors, including their respective employees, officers, directors, and representatives, from and against any claims, damages, liabilities, losses, costs and expenses (including reasonable attorney's fees) arising from or in connection with:

a. The Seller Offering and/or its Promotion or Transaction on the Marketplace;

b. Any violation of laws or rights of others by Seller's use of the Marketplace Services;

c. Any breach by Seller of this Agreement or any Addendum;

d. Any breach of Seller's representations or warranties set forth in this Agreement or any Addendum;

e. The use of Seller's intellectual property rights or other content provided by Seller, including but not limited to trademarks, designations and logos as authorized by Seller; and

f. Any claim or demand for (1) payment of any taxes imposed in connection with any Transaction, (2) any fines, penalties, or similar charges imposed as a result of Seller's failure to collect, remit or report any taxes or to provide accurate and complete tax information in connection with any Transaction, or (3) any fines, penalties, or similar charges imposed as a result of Transaction cancellations, chargebacks, Buyer complaints or Seller's breach of its obligations under its agreement with Payment Processor.

11.2. Process

Siemens will promptly notify Seller of any claim subject to section 11.1. Siemens' failure to promptly notify Seller will only affect Seller's obligations under section 11.1. to the extent that it prejudices Seller's ability to defend the claim.

Seller may use counsel of Seller's own choosing (subject to Siemens' written consent) to defend against any claim subject to section 11.1., and settle the claim as Seller deems appropriate, provided that Siemens' prior written consent is obtained before entering into any settlement. Siemens reserves the right to assume control of the defense and settlement of the claim at any time and recover all reasonable costs of such defense from Seller. Siemens will not settle in a way that admits Seller's liability or imposes obligations on Seller beyond this section, without Seller's consent.

Renewal, Suspension and Termination

12. Subscription and Renewal

This section applies unless an Order Form, Service Description or Addendum provides otherwise.

If indicated on the Order Form or otherwise agreed writing or in an electronic system provided by Siemens, the Subscription Term for the applicable Marketplace Service will automatically renew for successive Subscription Terms unless either Party notifies the other Party at least 60 days prior to the end of the then-current Subscription Term of their decision not to renew.

Any renewed Subscription Term will be 12 months. The terms of the then-current Marketplace Seller Agreement (or successor terms) will govern the renewed Subscription Term instead of this Agreement. The fees for any renewed Subscription Term will remain the same as those at the end of the preceding Subscription Term unless Siemens notifies Seller of different future fees at least 90 days before the end of the then-current Subscription Term or different fees for the renewed Subscription Term are specified on the Order Form.

13. Termination

This section applies unless an Order Form or Addendum provides otherwise.

Siemens may terminate an Order Form or this Agreement for convenience upon 30 days' notice. Either Party may terminate an Order Form for a particular Marketplace Service with immediate effect in the event of the other Party's material breach of this Agreement or any Addendum that remains uncured for a period of 30 days from receipt of a notice specifying the breach. Such termination will only be effective with respect to the Marketplace Service affected by the material breach, unless the breach affects all Marketplace Services.

Siemens may immediately terminate any or all Order Forms or this Agreement upon notice to Seller for reasonable cause, including, without limitation, Seller's non-compliance with the Marketplace Seller Guide, Seller's filing for bankruptcy or being subject to bankruptcy proceedings, Seller ceasing to do business, Seller's failure to provide adequate assurance of future performance within 14 days of Siemens' written request, termination of the agreement between Seller and Payment Processor, any breach by Seller of sections 1.2, 2, 3, 4.2, 4.3, 5, 6.4, 7.2, 8.1, 16, 17 or 22 or in order to comply with applicable law or the requests of government authorities.

14. Effect of Termination

This section applies unless an Order Form or Addendum provides otherwise.

Upon expiration of the applicable Subscription Term (if not seamlessly renewed) or termination of any Order Form for one or more Marketplace Services or this Agreement for any reason, all of Seller's rights to access, use or receive the affected Marketplace Service automatically terminate. Seller will immediately cease using the affected Marketplace Service, remove and destroy all copies of Siemens' Confidential Information except where retention is required by law, and certify such removal and destruction in writing to Siemens. Following termination, Siemens will remove the listing of the Seller Offerings from the Marketplace, unless otherwise agreed in writing.

Termination of this Agreement or any Order Form for one or more Marketplace Services will not relieve Seller of its obligation to pay the total fees set forth in any Order Form. These fees will become due and payable immediately upon termination. No refunds or credit will be issued for any termination under section 13, except in the event of Seller's termination for Siemens' material breach. In the event of Siemens' termination for convenience, Siemens will refund any prepaid fees for the part of the Marketplace Service not performed. Sections 1.2, 2, 5.2, 5.4, 5.9, 9-11, 14, and 16-26 survive termination of this Agreement.

15. Suspension

Siemens reserves the right to suspend or limit Seller's access to and use of the Marketplace or Marketplace Services, in whole or in part, immediately upon notice to Seller under the following circumstances:

a. If Siemens reasonably determines that the use of the Marketplace or Marketplace Services poses a security risk to the Marketplace, the Marketplace Services, Siemens, or any third party, or subjects Siemens or any third party to liability;

b. If Seller materially breaches this Agreement, any Addendum or the requirements in the Marketplace Seller Guide, or

c. Upon the occurrence of any circumstances that authorize Siemens to immediately terminate the Agreement under section 13.

Suspension or limitation will not limit any other rights available to Siemens under this Agreement or any Addendum, will not relieve Seller of its obligation to pay any fees, and will be lifted when the reason for such suspension or limitation no longer exists.

Export Control and Sanctions Compliance

16. Export Control and Sanctions Compliance

Seller will comply with Foreign Trade Regulations. Siemens reserves the right to stop any Transaction at its sole discretion, without any liability, if it becomes aware that the Transaction does not comply with the requirements outlined in this section. Seller must maintain a risk-based trade-controls and sanctions compliance program appropriate to its business, including management oversight, periodic risk assessment, internal controls, screening of relevant parties and beneficial owners at onboarding and

before Transactions, escalation and resolution of potential matches, record retention, training, and periodic testing. Seller will promptly comply with blocked-property, rejected-transaction, licensing, and reporting obligations applicable to a Transaction.

16.1. Representations and Warranties

Seller represents, warrants and undertakes the following:

a. Each Seller Offering is correctly classified under Foreign Trade Regulations and does not constitute a Controlled Product. Seller will immediately remove a Seller Offering from the Marketplace if it becomes a Controlled Product and Seller acknowledges that Siemens is entitled to ban any Controlled Product from the Marketplace when Siemens becomes aware of such product being offered in breach of this representation and warranty. When offering the Seller Offerings, Seller will provide the classification details (in particular AL/ECCN) to Siemens.

b. Any Seller Offering sold via the Marketplace or Marketplace Service provided hereunder, and any derivatives thereof will not be

(1) downloaded or accessed by a Sanctioned Person or from a location in a Sanctioned Country,

(2) exported, re-exported (including any 'deemed exports'), shipped, distributed, delivered, sold, resold, supplied, or otherwise transferred, directly or indirectly, to any Sanctioned Person or otherwise in a manner contrary to Foreign Trade Regulations,

(3) used for any purpose prohibited by Foreign Trade Regulations, or

(4) used for non-civilian purposes (e.g. armaments, nuclear technology, weapons, any other usage in the field of defense and military) prohibited by Foreign Trade Regulations.

c. Neither Seller nor any of its Buyers on the Marketplace is a Sanctioned Person.

d. Seller will conduct necessary Foreign Trade Regulations checks and will promptly provide Siemens with any necessary information upon request.

16.2. Information Disclosure

If Seller intends to disclose to Siemens any information that is defense-related or requires controlled or special data handling, Seller will notify Siemens in advance and use the disclosure methods Siemens specifies.

16.3. Indemnification

Seller will indemnify and hold harmless Siemens, its affiliates and their representatives against any claims, damages, fines, and costs (including attorney's fees and expenses) relating in any way to Seller's noncompliance with this section, including Seller's violation or alleged violation of any Foreign Trade Regulations. Section 11.2 applies accordingly.

16.4. Reservation

Siemens is not obliged to fulfill its obligations under this Agreement, any Addendum or any Order Form, if impediments out of national or international foreign trade regulations, customs requirements, embargoes or sanctions, in particular by the United Nations, the European Union or the United States of America, affect the fulfilment.

Siemens may limit or suspend Seller's access to Marketplace Services if Foreign Trade Regulations require so.

16.5. Violation

Any violation of this section is a material breach of the Agreement and entitles Siemens to:

a. suspend or remove any Seller Offering in accordance with section 5.4; and

b. suspend or terminate any Order Form or the Agreement in accordance with sections 13-15.

Confidentiality

17. Confidentiality

17.1. Confidential Information

"Confidential Information" is any information disclosed by one Party or any of its affiliates or subcontractors to the other Party under this Agreement or any Addendum that is marked or declared as confidential upon disclosure, or the confidential nature of which is evident to a reasonable person.

Confidential Information does not include information that (i) is or becomes generally available to the public other than by violation of this Agreement; (ii) becomes available to recipient from a source other than the discloser, provided that recipient has no reason to believe that the information is subject to an obligation of confidentiality; (iii) was in recipient's possession without obligation of confidentiality prior to receipt from discloser; or (iv) is independently developed by recipient without the use of the Confidential Information.

Siemens' Confidential Information includes the terms of any Order Form, the Marketplace Services, any Service Description, Siemens' intellectual property rights, and any information Seller derives from benchmarking the Marketplace Services.

17.2. Confidentiality Obligations

The recipient will protect the Confidential Information using the same means that it uses to protect its own information of a similar nature, and in any event not less than reasonable means. The recipient will use the Confidential Information only in connection with the activities under the Agreement and will only disclose Confidential Information to those of employees, employees of its affiliated entities, agents, advisors and contractors who have a need to know such Confidential Information to fulfil the activities under this Agreement or authorized in writing by the discloser, and who are bound by equivalent confidentiality obligations, for whose compliance the recipient remains liable.

The recipient may disclose Confidential Information to the extent required by a governmental agency or law, provided that the recipient gives written notice to the discloser promptly upon receipt of notice of the required disclosure to the extent such notice is permitted by law, and cooperates with Discloser to limit the scope of disclosure.

General Provisions

18. Applicable Law and Dispute Resolution

18.1. Applicable law

This Agreement and any Addendum will be subject to the applicable laws set forth in the table below 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 or any Addendum. Any dispute arising out of or in connection with this Agreement or any Addendum will be resolved as set forth in the table below:

If the Siemens entity named on the Order Form is in:	**the applicable law will be:**	**Any dispute arising out of or in connection with this Agreement or any Addendum will be:**
the United States of America,	the laws of the State of Delaware, United States.	subject to the jurisdiction of the state or federal courts in Fulton County, Georgia, USA. Each Party hereby irrevocably submits itself to the personal jurisdiction of the relevant court in Fulton County, Georgia, for any such disputes and both Parties knowingly, voluntarily and irrevocably waive all rights to a jury trial in any U.S. action or proceeding related in any way to this Agreement or any Addendum.

Germany,	the laws of Switzerland.	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 Zurich, Switzerland.

18.2. Arbitration

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 shall 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 where the Marketplace Services are being used or Seller has its place of business, (i) to enforce its intellectual property rights; or (ii) for the payment of amounts due for a Marketplace Service.

19. Records, Information Obligations and Audits

Seller will maintain records specifically identifying the number and identity of Buyers, along with all purchase contracts, for the term of this Agreement and five years thereafter. Seller will provide information or other materials that Siemens reasonably requests to verify Seller's compliance with this Agreement or any Addendum and its contractual obligations as a provider of Seller Offerings. Upon reasonable advance notice, Siemens may conduct an audit of Seller's compliance with this Agreement or any Addendum. To minimize disruption, Siemens may conduct remote audits using tools operated by Seller to collect audit information. At Siemens' discretion, Seller will permit Siemens or its authorized agents to access facilities, workstations, and servers and take all commercially reasonable actions to assist Siemens in the audit. Siemens and its agents will comply with reasonable security procedures communicated to Siemens while on Seller's premises.

20. Notices

Siemens may notify Seller under this Agreement or any Addendum by posting a notice on the Seller Account or sending an email or other text message to the address or contact number provided by Seller for business contact or then-associated with the Seller Account. Such notices are deemed provided on the date posted or sent. It is Seller's responsibility to regularly visit the Seller Account and to always provide Siemens with current email addresses of Seller representatives. Notices to Siemens shall be sent to marketplace-operations.x@siemens.com. Notwithstanding the foregoing, notices of claims or notices regarding disputes shall always be sent to the Party's address as specified in the applicable Order Form. A Party may change its address for receipt of notice by delivery of written notice to the other Party.

21. Force Majeure

Neither Party will be liable for delay or failure to perform any obligations under this Agreement or any Addendum (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.

22. Publicity and Code of Conduct

Except as may be required by applicable law, neither Party shall issue a press release in connection with the subject matter hereof without the prior written consent of the other Party, which shall not be unreasonably withheld. Siemens and its affiliates may name the Seller as a customer on their websites, in customer lists and other marketing materials. Subject to Siemens' prior written confirmation, Seller may state that its Seller Offerings are available on the Marketplace.

Seller represents and warrants that it, its employees and any party acting on its behalf will adhere to the Code of Conduct available at https://www.siemens.com/code-of-conduct.

23. Affiliates and Subcontractors

Subject to compliance with applicable laws, Siemens' direct or indirect parents, subsidiaries, and affiliates may exercise Siemens' rights and fulfill Siemens' obligations under this Agreement and any Addendum.

Siemens may use resources in various countries to provide the Marketplace Services, including unaffiliated subcontractors. Siemens remains responsible for its obligations under this Agreement and any Addendum.

24. Entire Agreement and Order of Precedence

This Agreement and any Addendum constitute the full and complete agreement between the Parties with respect to the subject matter thereof and supersede any previous or contemporaneous agreements or communications, whether written or verbal, relating to such subject matter. The reference in this Agreement to a document that refers to another document shall be deemed to also include such other document, unless otherwise stated therein. Subject to section 8.3 and 12**Fehler! Verweisquelle konnte nicht gefunden werden.**, the Agreement may not be varied other than in writing executed by manual signatures or electronic signatures of authorized representatives of both Parties or via an online mechanism, if so provided explicitly for such purpose by Siemens. No other terms and conditions shall apply.

In the event of a conflict, the following order of precedence applies for the Marketplace Services concerned:

a. the Order Form (including any Service Description),

b. the Addendum (if any),

c. this Agreement,

d. the Marketplace Seller Guide.

The terms of any Transaction or similar Seller document are excluded and such terms will not apply to any Order Form, and will not supplement or modify this Agreement irrespective of any language to the contrary in such document.

25. Assignment and Independent Contractors

This Agreement and any Addendum will extend to and be binding upon the successors, legal representatives, and permitted assignees of the Parties. Siemens reserves the right to assign or transfer its rights and obligations under this Agreement or any Addendum. Seller may only assign, sublicense, or otherwise transfer (by operation of law or otherwise) this Agreement, any Addendum and the rights granted under it with the prior written consent of Siemens. Any attempted assignment by the Seller in violation of this section will be void.

For all purposes, the Parties will be deemed to be independent contractors, and nothing contained in this Agreement or any Addendum will be deemed to constitute a joint venture, partnership, employer-employee relationship, or other agency relationship. Unless otherwise stated herein, neither Party is, nor will either Party hold itself out to be, vested with any power or right to contractually bind or act on behalf of the other Party.

26. No Waiver; Validity

The failure to enforce any provision of this Agreement or any Addendum will not be construed as a waiver of such provision. If any provision of this Agreement or any Addendum 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 or acceptance of this Agreement, any Addendum or Order Form via an electronic system specified by Siemens will have the same force and effect as manual signatures.

Definitions

Addendum	A document supplementing this Agreement for specific Marketplace Services, including the Premium Marketplace Services Addendum.
AUP	Siemens' Acceptable Use Policy available at https://www.siemens.com/sw-terms/aup and incorporated into this Agreement by reference. The term "Cloud Services" used in the AUP includes Marketplace Services for purposes of this Agreement.

Buyer	Designated entities interested in or obtaining a right to access and use a Seller Offering through the Marketplace.
Controlled Product	A product which is controlled under Foreign Trade Regulations, i.e. subject to part I of Annex "AL" of the German Foreign Trade and Payment Ordinance (AWV) or Annex I of the EU Dual Use Regulation (EU) 2021/821 or the U.S. Commerce Control List or subject to EU or U.S. defense regulation.
Electronically Supplied Service	A service, as defined in Directive 2006/112/EC (EU VAT Directive), including services which are delivered over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology.
Foreign Trade Regulations	All applicable sanctions, embargoes, and (re-)export control regulations and in any event those of the European Union, the United States of America and any locally applicable jurisdiction.
Marketing Material	Any documents, information, and other content provided by or on behalf of Seller for or in connection with the marketing and/or provision of the Seller Offering. Marketing Material includes trademarks, designations and logos in the form provided by Seller to Siemens (with any modifications to optimize their viewing). Marketing Material is part of the Seller Offering.
Marketplace	An online marketplace operated by or on behalf of Siemens allowing Seller to Promote and/or Transact Seller Offerings, e.g. available at https://xcelerator.siemens.com.
Marketplace Seller Guide	A guide made available to Seller, updated by Siemens from time to time.
Marketplace Services	Standard Marketplace Services and Premium Marketplace Services.
Order Form	An order form or similar ordering document that (i) incorporates the terms of this Agreement and any Addendum referenced in it and sets forth the Marketplace Services ordered by Seller and any associated fees and (ii) has been agreed by Seller by electronic signatures or agreed through an electronic system specified by Siemens and (iii) is accepted by Siemens.
Party	Seller and/or Siemens, depending on the context.
Premium Marketplace Services	Any paid service offered by Siemens to Seller under the Premium Marketplace Services Addendum, as described in a Service Description.
Promote or Promotion	Listing the Seller Offerings on the Marketplace and linking to the Seller where Buyers can obtain or purchase the Seller Offerings directly from Seller.
Sanctioned Country	A country or territory that is itself the subject or target of any comprehensive trade or economic sanctions according to Foreign Trade Regulations.
Sanctioned Person	Any person (i) listed in the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Department of Treasury's Office of Foreign Assets Control or in any Export-Control-Related list of designated persons maintained by the U.S. Department of Commerce, the U.S. Department of State, the United Nations Security Council, or the European Union; (ii) operating, organized, or resident in a Sanctioned Country; (iii) the government of, or acting for or on behalf of the government of, Venezuela or a Sanctioned Country; or (iv) owned or controlled by one or more such persons.
Seller Offering	Any offering that Seller Promotes or Transacts to Buyers through the Marketplace, including but not limited to software (including edge applications), cloud services, IoT-enabled hardware, service offerings, private offerings, public offerings of Seller, and any related technical support Seller provides and content description information and any related Marketing Material. As of the date of this Agreement, certain Seller Offerings as outlined in the Marketplace Seller Guide are only eligible for Promotion.
Service Description	A description of the scope, deliverables, timeline, fees and service-specific terms of a Premium Marketplace Service, binding when incorporated into an Order Form.
Standard Marketplace Services	Services provided by Siemens to enable Seller to engage in the Promotion or Transaction of Seller Offerings, set forth in an Order Form and described in the Marketplace Seller Guide.
Subscription Term	The time period specified in the Order Form for which a Marketplace Service is made available to Seller. Any renewal constitutes a new Subscription Term.
Transact or **Transaction**	Any sale, or license of, or granting of access to the Seller Offering through the Marketplace, including renewals.
Transaction Proceeds	The gross sales proceeds received from any Transaction.

Defined terms used in the singular include the plural and vice versa.