

## SIEMENS STANDARD TERMS AND CONDITIONS

### Standard Terms Addendum for Software License/Warranty Addendum

The terms and conditions of this Software License/Warranty Addendum (“Addendum”) govern Licensee’s license to Software furnished by Siemens in conjunction with the sale of Products or Services under the terms and conditions of a Sales Agreement.

#### ARTICLE 1: ORDER OF PRECEDENCE AND CONTRADICTION OF TERMS

**1.1** Licensee shall comply with the terms of this Addendum and the Exhibits hereto in addition to the terms of the Sales Agreement, which terms and conditions shall also apply to Software licensed under this Addendum. In the event of inconsistency between or among these provisions, the following order of precedence shall govern: 1) Exhibits to this Addendum; 2) This Addendum; and, 3) The Sales Agreement. For the avoidance of doubt, if provisions of this Addendum expand the scope of any provision of the Sales Agreement, but without contradicting it, then the provision shall apply to the Software licensed under this Addendum as augmented by this Addendum.

**1.2** If Licensee received the Software prior to executing a written agreement, and installs, copies or otherwise uses the Software, Licensee shall, by doing so, indicate that Licensee has read and understood this Addendum and the Sales Agreement and accepted these terms and conditions. Licensee is not entitled to install or use the Software if Licensee does not agree with these terms. In such an event, Licensee should promptly contact Siemens for instructions on return or certified destruction of the Software.

#### ARTICLE 2: SOFTWARE LICENSE TERMS AND CONDITIONS

**2.1** **Definitions.** The following terms have the meanings set forth below.

- (a) “Authorized Agents” means Licensee’s consultants, agents and contractors who are working on Licensee’s premises and who require access to the Software and/or Documentation solely for their support of Licensee’s internal business.
- (b) “Authorized Users” means (i) Licensee’s employees and (ii) Authorized Agents, provided the Authorized Agents comply with the terms of this Addendum.
- (c) “Confirmation of Order” means a statement or document provided by Siemens acknowledging and accepting the Licensee’s order including the purchase of a license to Software or otherwise acknowledging the Software license grant to Licensee, including but not limited to a certificate of license.
- (d) “Documentation” means the explanatory printed or electronic functional specification materials provided by Siemens with respect to the Software, including, but not limited to, license specifications, instructions for the use of the Software and technical specifications.
- (e) “Products and Services” means the items, other than Software, as described on an order and purchased by Licensee from Siemens under a Sales Agreement.
- (f) “License Metrics” means the particular metric restrictions for a relevant Software License Type as indicated in the Confirmation of Order, the Product Specific Terms or other written document by Siemens and may include concurrent user, named user, per machine, per server, per device, or per time usage, or any other metric agreed to by Siemens and Licensee.
- (g) “License Type” means a Limited Term License, Perpetual License or Extended Term License.
- (h) “Limited Term License” means a license of the Software that is limited in term to a period of time mutually agreed by Siemens and Licensee. Limited Term Licenses include, but are not limited to Rental Licenses.
- (i) “Licensee” means the party that is acquiring rights to the Software pursuant to the terms of this Addendum and any applicable Sales Agreement.
- (j) “Maintenance Services” means the maintenance, enhancement and support services provided by, or on behalf of, Siemens with respect to the Software under terms and conditions either in a separate written agreement or an exhibit to this Addendum. Maintenance Services do not include services performed by Siemens during the Warranty period.
- (k) “Perpetual License” or “Extended Term License” means a license of Software that is not limited in term, but, subject to the terms of this Addendum and applicable Sales Agreement, extends indefinitely. Unless a license of Software is specified as a Subscription, a Rental License or another type of Limited Term License in this Addendum, the Product Specific Terms, or a separate contract between the parties and the Software is embedded in the Product (as identified in the applicable Sales Agreement) as delivered, then the license of Software is deemed to be a Perpetual License. Perpetual Licenses do not include Maintenance Services or professional services which must be purchased separately.
- (l) “Product Specific Terms” means those terms and conditions that are (i) different or additional to this Addendum that apply to the Software or to specific use of the Software with a Product and (ii) which terms

are available to Licensee either as an Exhibit to this Addendum or in a separate document outside of this Addendum. If there is a conflict between the terms of this Addendum and the Product Specific Terms, then the Product Specific Terms will prevail.

- (m) "Rental License" means a license whose term is limited to an agreed to period of time.
- (n) "Sales Agreement" means any agreement for the sale of Products or Services between Siemens and Licensee under which Software is licensed or otherwise distributed by Siemens.
- (o) "Software" means the software that is licensed or distributed by Siemens to Licensee under the terms and conditions of a Sales Agreement including this Addendum. "Software" includes the related Documentation.
- (p) "Territory" means the country in which Siemens has licensed rights to the Software as indicated in the Confirmation of Order, Product Specific Terms or applicable Sales Agreement. If no Territory is identified, the Territory shall be limited to the country in which the Software is delivered or otherwise made available to Licensee.

## **2.2 License Grant and Conditions.**

- (a) License Grant. Subject to the terms and conditions of this Addendum, the Sales Agreement, and any Product Specific Terms, Siemens grants to Licensee a nonexclusive, nontransferable, limited license to allow Authorized Users to access and use the executable form of the Software, to the extent to which the same has been enabled by Siemens through use of license key or other mechanism for use by Licensee, in the Territory. The license granted to Licensee shall be of the License Type and be subject to the License Metrics set forth in the Confirmation of Order, the Product Specific Terms or other written document by Siemens. No title to or ownership in the Software is transferred to Licensee. Title to the Software, and all applicable rights in patents, copyrights, trade secrets and other intellectual property rights inherent in the Software, will remain in Siemens or third parties from whom Siemens has obtained the right to license the Software. Siemens reserves all rights in the Software not explicitly granted herein.
- (b) Delivery of Software. Delivery of the Software shall be as identified in the Confirmation of Order or from the Software purchase order number contained in the Confirmation of Order, in conjunction with the associated order data of the Siemens catalog valid at the time of the Confirmation of Order. If the Software is provided by Siemens on a data medium or made available for electronic download by Siemens, the license granted to Licensee in 2.2(a) shall include the right to install such Software in accordance with the Confirmation of Order.
- (c) Use of Unauthorized Software. Licensee represents and warrants that it will only use Siemens software that has been validly licensed to it by Siemens or its authorized partner. Any Siemens software not duly licensed from Siemens or its authorized partner constitutes unauthorized software. If Licensee downloads, installs and/or uses unauthorized software, then Siemens has the right to terminate this Addendum in accordance with the terms of Article 4.3 below.
- (d) Software Security and Monitoring. Siemens reserves the right to embed a software security mechanism within the Software to monitor usage of the Software and to verify Licensee's compliance with this Addendum. Such security mechanism may communicate with computers controlled by Siemens to exchange communications and report and store data relating to the usage of the Software, its installation, the system on which it has been installed and the number of times it has been copied or accessed. Siemens reserves the right to use license administration software, a license authorization key to control access to the Software and/or a hardware lock device. Licensee may not take any steps to avoid or defeat the purpose of any such measures. Use by Licensee of any Software without any required security mechanism is prohibited. Where Software licensed hereunder or Product(s) sold under a Sales Agreement have a remote service capability, Siemens shall be entitled to access data available from the Licensee for the Software licensed or Product(s) maintained by remote service for the term of the Sales Agreement. Licensee grants Siemens the further right to use data collected from said products for Siemens product and service optimization purposes.
- (e) Third Party and Open Source Software. The Software may contain or require the use of third party technology that is provided with the Software, including open source software ("OSS"). Third party technology is licensed to Licensee either under the terms of this Agreement or under separate license terms that shall be specified in the relevant Documentation, "read me" files, notice files, or other such documents or files ("Technology Subject to a Third-Party License"). Licensee's rights to use Technology Subject to a Third-Party License are subject to such separate license terms and are not restricted in any way by this Addendum and to the extent that a term of this Addendum is in conflict with any applicable mandatory right

granted by a third-party license, such term shall not apply. If applicable, Siemens will furnish OSS source code contained in the Technology Subject to a Third-Party License upon written request and subject to Licensee's payment of shipping and handling charges. Third party technology that is not Technology Subject to a Third-Party License shall be deemed part of the Software and is licensed to Licensee under the terms of this Addendum. The terms of any third-party license (if any) that apply to the licensed Software are either: a) specified in the Product Specific Terms, b) separately accompany the licensed Software and are automatically presented for acceptance prior to first use of such Software by an Authorized User in accordance with the Confirmation of Order (such as applicable License Type and License Metrics) obtained from Siemens, or c) are specified in the "read me" file or document for the licensed Software. The terms of such third-party licenses are herein incorporated by reference to this Addendum.

- (f) Other Third Party Software Not Provided. Except where the parties agree in writing to the contrary, Licensee is solely responsible for ensuring that: (i) the system on which the licensed Software is installed, run and/or used contains all third party software not contained in or bundled with the Software as delivered and that is necessary to run, install, interface with, and/or use such Software ("Other Third Party Software") and (ii) Licensee and/or Licensee's system fulfill the requirements of all required licenses for such Other Third Party Software.
- (g) U.S. Government Restricted Rights. The Software is a commercial product that has been developed exclusively at private expense. If the Software is acquired directly or indirectly on behalf of a unit or agency of the United States Government under the terms of (i) a United States Department of Defense ("DOD") contract, then the Software and Documentation are considered "Commercial Items", as that term is defined in 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are defined in 48 C.F.R. §252.227-7014(a)(5) and 48 C.F.R. §252.227-7014(a)(1), and used in 48 C.F.R. §12.212 and 48 C.F.R. 227.7202, as applicable, consistent with 48 C.F.R. §12.212, 48 C.F.R. §252.227-7015, 48 C.F.R. §227.7202 through 227.7202-4, 48 C.F.R. §52.227-14, and other relevant sections of the Code of Federal Regulations ("C.F.R."); or (ii) a Civilian agency contract, then use, reproduction, or disclosure is subject to the restrictions set forth in clause 27.405(b)(2)(i) of the Federal Acquisition Regulation ("FAR"), entitled Acquisition of Existing Computer Software, and any restrictions in the agency's FAR supplement and any successor regulations thereto, and the restrictions set forth in this Addendum. The United States Government will only have the rights set forth in this Addendum. Siemens Software licensed to United States Government end users with only those rights as granted to all other end users, according to the terms and conditions contained in this Addendum. Siemens shall not be required to obtain a security clearance or otherwise be involved in accessing classified information as described in FAR 52.204-2 and the National Industrial Security Program Operating Manual (DoD 5220.22-M).

**2.3 Backup of Software.** Licensee may make one copy of the Software for archival backup purposes only, unless otherwise restricted under the applicable Product Specific Terms. Licensee shall retain and reproduce all copyright or proprietary notices in the backup copy of the Software. Siemens retains all rights to the original and backup copy of the Software. The backup copy will also be subject to the terms and conditions of this Addendum.

**2.4 Licensee Responsibilities and Prohibited Actions.**

- (a) Remarketing of Software. Licensee will not cause or permit the loan, publication, transfer of possession (whether by sale, exchange, gift, operation of law or otherwise) of the Software, in whole or in part, to or for any third party, and/or use of the Software as a service bureau.
- (b) Transfer of Software. Unless specifically allowed by the terms of the Sales Agreement or this Addendum, or as may be required by applicable law, Licensee may not distribute, rent, lease, sell, sublicense or otherwise transfer all or any portion of the Software, or any rights granted in this Addendum, to any other person without the prior written consent of Siemens.
- (c) Reverse Engineering or Modifying the Software.
  - (i) **Prohibitions.** Licensee will not reverse engineer, decompile, translate, disassemble, or otherwise attempt to discover the source code of the Software. The prohibition against modifying or reverse engineering the Software does not apply to the extent that Licensee is allowed to do so by applicable law.
  - (ii) Licensee shall not be entitled to remove any alphanumeric identifiers, trademarks or copyright notices from the Software, the data medium, or Documentation supplied under this Addendum.

- (d) Host Identifier. With respect to each order for Software under this Agreement, Licensee or Siemens' authorized channel partner will provide Siemens with the host identifier required by Siemens and such other information reasonably requested by Siemens for each workstation and/or server on which the license management portion of the Software will be installed to permit Siemens to generate a license file that will restrict end-user access to only those Software modules licensed under this Agreement and limit use of such Software modules at any given time to the maximum number of licensed Authorized Users.
- (e) Authorized Agents; Indemnity. Licensee will ensure that Authorized Agents comply with the terms of this Agreement and agrees to indemnify Siemens from and against any and all liabilities, losses, claims, costs and/or expenses incurred by Siemens and/or its affiliates as a result of any violation of the terms of this Addendum by any Authorized Agent.

## **2.5 Warranties and Disclaimers.**

- (a) Unless otherwise stated in the Sales Agreement, Confirmation of Order, or other Siemens writing, Siemens warrants that, as of the date the Software is delivered or otherwise made available to Licensee via electronic download and for a period of ninety (90) days thereafter (the "Warranty Period"), the Software will provide the features and functions generally described in the Documentation and that the media on which the Software is furnished, if any, will be free from defects in materials and workmanship. Notwithstanding the foregoing, the warranty period for the Product(s) set forth in the Sales Agreement shall control with respect to Software embedded in such Product(s). Siemens' entire liability, and Licensee's exclusive remedy, during the Warranty Period will be, at Siemens' sole option, to attempt to correct or work around errors, to replace defective media on which Software is installed, if any, or to refund the license fees for the Software involved. Any refund is subject to the return or destruction of the Software or defective media to Siemens.
- (b) This warranty does not apply to Software delivered by Siemens but produced by others. The warranty for Software produced by others shall be the warranty as stated by the relevant software producer.
- (c) This warranty will apply only provided that: (i) the Software is not modified, changed, or altered by anyone other than Siemens or its suppliers, unless authorized by Siemens in writing; (ii) there is no change by anyone other than Siemens to the Products for which the Software is ordered; (iii) Licensee is using the Software in a proper manner in compliance with all operating instructions included in the Documentation; (iv) the nonconformity is not caused by Licensee, Licensee's Siemens-authorized transferee, or any of their agents, servants, employees, or contractors, or any third party; (v) Licensee or Licensee's Siemens-authorized transferee promptly notifies Siemens in writing of the nonconformity after it is discovered; and (vi) all fees for the Software due to Siemens have been paid.
- (d) Licensee is responsible for the prevention of security issues with regard to its own systems and data, including Software hosted on Licensee's systems. Licensee's responsibility includes, but is not limited to, undesired invaders of the software such as malware, viruses, spyware or trojans and Siemens disclaims responsibility for any damages incurred as a result of Licensee's failure to secure its systems and data.
- (e) EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED IN THIS ARTICLE 2.5, SIEMENS MAKES AND LICENSEE RECEIVES NO EXPRESS WARRANTIES. ANY STATEMENTS OR REPRESENTATIONS ABOUT THE SOFTWARE AND ITS FUNCTIONALITY IN ANY COMMUNICATION WITH LICENSEE CONSTITUTE TECHNICAL INFORMATION AND NOT AN EXPRESS WARRANTY OR GUARANTEE. IN ADDITION, SIEMENS SPECIFICALLY DISCLAIMS ANY OTHER WARRANTY INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, SIEMENS DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

## **ARTICLE 3: SOFTWARE MAINTENANCE TERMS AND CONDITIONS**

- 3.1 Software Maintenance.** In addition to any warranty services that Siemens may provide as set forth in Article 2, Licensee may purchase (if offered by Siemens) Maintenance Services consistent with the terms and conditions set forth in an exhibit attached hereto or other written agreement between the parties.

## ARTICLE 4: GENERAL TERMS AND CONDITIONS

**4.1 Limitation of Liability.** Siemens' entire liability for all claims or damages arising out of or related to this Addendum, regardless of the form of action, whether in contract, tort or otherwise, will be limited to and will not exceed, in the aggregate the amount paid to Siemens for the Software licensed under this Addendum. This limitation is not applicable to claims covered by Article 4.2 of this Addendum.

### **4.2 Intellectual Property Infringement Indemnity.**

- (a) Siemens will, at its option and expense, defend or settle any suit or proceeding brought against Licensee based on an allegation that the Software or use thereof for its intended purpose constitutes an infringement of any Patent Cooperation Treaty country member's patent or misappropriation of a third party's trade secret or copyright in the country where the Software is delivered by Siemens. Licensee will promptly give Siemens written notice of the suit or proceeding and the authority, information, and assistance needed to defend the claims. Siemens shall have the full and exclusive authority to defend and settle such claim(s) and will pay the damages and costs awarded in any suit or proceeding so defended. Licensee shall not make any admission(s) which might be prejudicial to Siemens and shall not enter into a settlement without Siemens' consent. Siemens is not responsible for any settlement made without its prior written consent. If the Software, or any part thereof, as a result of any suit or proceeding so defended is held to constitute infringement or its use by Licensee is enjoined, Siemens will, at its option and expense, either: (i) procure for Licensee the right to continue using the Software; (ii) replace it with substantially equivalent non-infringing Software; or (iii) modify the Software so it is non-infringing.
- (b) Siemens will have no duty or obligation under this Article 4.2 if the Software is: (i) supplied according to Licensee's design or instructions and compliance therewith has caused Siemens to deviate from its normal course of performance; (ii) modified by Licensee or its contractors after delivery; (iii) combined by Licensee or its contractors with devices, methods, systems or processes not furnished hereunder and by reason of said design, instruction, modification, or combination a suit is brought against Licensee; or (iv) any refusal or failure by Customer to install and use the most current version or a non-infringing version of the Software offered or otherwise made available by Siemens to Customer as long as such non-infringing version performs substantially the same functions. In addition, if by reason of such design, instruction, modification or combination, a suit or proceeding is brought against Siemens, Licensee must protect Siemens in the same manner and to the same extent that Siemens has agreed to protect Licensee under this Article 4.2.
- (c) THIS ARTICLE 4.2 IS AN EXCLUSIVE STATEMENT OF SIEMENS' DUTIES AND LICENSEE'S REMEDIES RELATING TO PATENTS, TRADE SECRETS AND COPYRIGHTS, AND DIRECT OR CONTRIBUTORY INFRINGEMENT THEREOF.

**4.3 Termination.** Licensee may terminate this Addendum at any time by removing all copies of the Software from Licensee's systems, destroying them and certifying the destruction to Siemens in writing. Siemens will have the right to terminate this Addendum and/or any Limited Term License and/or Perpetual License granted hereunder immediately on notice to Licensee if Licensee: (a) violates the license restrictions of this Addendum, (b) breaches Article 2.2(c) above, or (c) files a petition in bankruptcy, has such a petition filed against it, which petition is not discharged within sixty (60) days after such filing, makes an assignment for the benefit of creditors, if a receiver, trustee, custodian or similar agent is appointed or takes possession of Licensee's assets, or if Licensee becomes insolvent or otherwise ceases doing business in the ordinary course. In addition, Siemens will have the right to terminate this Addendum and/or any Limited Term License and/or Perpetual License granted hereunder if Licensee breaches any other obligation or provision of this Agreement which breach remains uncured for a period of thirty (30) days after receipt of notice thereof from Siemens.

**4.4 Effect of Termination.** Upon termination of this Addendum or the associated Sales Agreement, the licenses granted hereunder and all other provisions of this Addendum (except those specified in this Article) shall be terminated and Licensee shall immediately cease using the Software, the Documentation and other Siemens confidential information and shall permanently delete all electronic copies thereof from Licensee's systems. Except as specifically set forth in this Addendum, all license fees and Maintenance Services fees are non-refundable. Termination or expiration of this Agreement or any license granted hereunder shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve

Licensee's obligation to pay all fees that have accrued or are otherwise owed by Licensee up to the effective date of termination. All Licensee obligations under this Addendum shall survive and continue in full force and effect after any termination of this Addendum or Sales Agreement to which this Addendum is attached.

#### **4.5 Confidentiality and Data Protection.**

- (a) The parties agree that the Software and Documentation shall be considered Confidential Information and be subject to the confidentiality terms and conditions under the Sales Agreement. If Licensee conducts benchmarks or other tests concerning the Software, including any content or functionality of Siemens' third party licensors, or hardware, then the results shall constitute Siemens' Confidential Information and shall not be published or otherwise revealed to any third party, without the prior written consent of Siemens.
- (b) Licensee has the right to share Siemens' Confidential Information with Authorized Users and Authorized Agents provided those recipients are subject to the same confidentiality obligations set forth herein. If a party breaches any of its obligations with respect to confidentiality or unauthorized use or disclosure of the other party's Confidential Information hereunder, the disclosing party shall be entitled to obtain equitable and injunctive relief in addition to all other remedies that may be available to protect the disclosing party's interests.
- (c) Nothing in this Agreement requires a party to treat as confidential any information which was independently developed by receiving party or its representatives, as evidenced by written records, without the use of discloser's Confidential Information.
- (d) Data Protection. Licensee represents and warrants that it is in compliance with all applicable data protection laws and that it has obtained all necessary consents as required by applicable law in respect of personal data Licensee transfers or makes available to Siemens for processing in the course of this Addendum or any related maintenance and/or support services and will indemnify Siemens in respect of all costs, claims, liabilities and demands incurred by Siemens in respect of any breach of this warranty.
- (e) Survival of Confidentiality Obligations. This Article 4.5 will survive the expiration or termination of this Addendum or Sales Agreement for any reason.

**4.6 Audits.** Licensee will at all times maintain records specifically identifying the Software licensed under this Addendum, the location of each copy thereof, and the location and identity of the workstations and servers on which the Software is installed. Siemens may, during regular business hours and upon reasonable advance notice, conduct an audit to determine Licensee's compliance with the terms and conditions of this Addendum. Licensee will permit Siemens or its authorized agents to access Licensee's facilities, workstations and servers and otherwise cooperate fully with Siemens in any such investigation and will take all commercially reasonable actions to assist Siemens in accurately determining Licensee's compliance with the terms and conditions of this Addendum. Siemens and its authorized agents will comply with Licensee's reasonable security regulations while on Licensee's premises.

**4.7 Assignment.** Neither party may assign all or part of this Addendum, or any rights or obligations under this Addendum without the prior written consent of the other; but, either party may assign its rights and obligations, without recourse or consent to, any parent, wholly owned subsidiary, or affiliate or affiliates successor organization (whether as a result of reorganization, restructuring or sale of substantially all of a party's assets). However, Licensee shall not assign this Addendum to: a competitor of Siemens; an entity in litigation with Siemens; or an entity lacking the financial capability to satisfy Licensee's obligations. Any assignee expressly assumes the performance of any obligation assigned. Siemens may grant a security interest in this Addendum and/or assign proceeds of this Addendum without Licensee's consent.

- 4.8 Feedback.** To the extent that Licensee gives feedback on the Software to Siemens or its subcontractors, Licensee hereby assigns to Siemens all rights to such feedback (including any suggestions, enhancement requests, recommendations or other feedback) provided by the Licensee and its Authorized Users of the Software and shall treat such feedback as Confidential Information of Siemens in accordance with the obligations set forth herein. Licensee further agrees to ensure that it obtains such rights to Feedback from the Authorized Users and to provide Siemens all reasonable assistance necessary to perfect any intellectual property rights resulting from any feedback
- 4.9 Relationship of the Parties.** For all purposes, Licensor and Licensee will be deemed to be independent contractors and nothing contained herein will be deemed to constitute a joint venture, partnership, employer-employee relationship or other agency relationship. 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.

## **Exhibit A to Software License/Warranty Addendum**

### **Siemens Smart Infrastructure (“Siemens SI”) Product Specific Terms**

The standard terms and conditions that govern the license of software furnished by Siemens, including Siemens SI software, to Licensee are set forth in a standalone license agreement or a license addendum to a sales agreement for products and services agreed to by the parties (referred to herein as the “Agreement”).

#### **I. Siemens SI Software Specific Terms**

The following product specific terms and conditions are specific to Siemens SI software that is deliverable under the Agreement (“Siemens SI Software Specific Terms”): Licensee agrees to take delivery of such Siemens SI software subject to (i) any applicable Siemens SI end-user license agreement (EULA) and third party license (including any OSS license) accompanying such Siemens SI software, or (ii) if no EULA or third party license accompanies such Siemens SI software, the EULA posted at [www.usa.siemens.com/btcpseula](http://www.usa.siemens.com/btcpseula) (Siemens SI’s EULA web site) for such Siemens SI software. Notwithstanding the foregoing, in the event of any inconsistency between the terms of the Agreement and the EULA for such Siemens SI software, the terms of the Agreement shall govern over the EULA except for the use and metric restrictions set forth in the EULA for such Siemens SI software shall take precedence and supersede the terms of the Agreement. The Licensee may state an objection to any terms of an applicable EULA prior to issuance of a purchase order or execution of an applicable SOW for such Siemens SI software; however, for such objection to stand it shall be subject to Siemens’ written acceptance of the same.

#### **II. Siemens SI BACnet Field Panel Web Server Solution Specific Terms**

The product specific terms and conditions set for in this section are specific to Siemens SI’s BACnet Field Panel Web Server Solution Software and not to any other software offered by Siemens. These terms are additional to the terms in the Agreement and the Siemens SI Software Specific Terms. To the extent that these terms are in conflict with the terms of the Agreement or the Siemens SI Software Specific Terms, these terms will take precedence and supersede the terms of the Agreement and the Siemens SI Software Specific Terms with respect to Siemens SI’s Field Panel Web Server Solution Software.

Software as defined in the Agreement and with respect to this Section shall mean Siemens SI’s Field Panel Web Server Solution Software, which includes Siemens SI’s BACnet Field Panel Web Client Application (also referenced in related Documentation as “Field Panel Web UI”), Field Panel Web Server Software (also referenced in related Documentation as “BACnet Field Panel Web Server” and “Field Panel Web Server), Data Exchange Protocol and Data Exchange Software in any release of the foregoing.

The Software is provided as embedded software in a Siemens SI field panel controller (“Field Panel”) having a part number prefix PXC00-\*, PXC100-\*, PXC36-\*, TC1000-\* or TC36-\* ( where “\*” denotes remaining part number variations)

The Software may only be accessed by Licensee via the BACnet Field Panel Web Client Application that may be uploaded to a single computer.