Siemens Xcelerator Marketplace Publishing Terms

These Siemens Xcelerator Marketplace publishing terms (“Terms") are entered into between the Siemens entity specified in the Order ("Siemens") and the legal entity that accepted these Terms ("Publisher"). The Terms may be accepted by manual or electronic signature, or through a specified electronic system provided by Siemens. By clicking acceptance in the electronic system or using any Marketplace Service, Publisher acknowledges having read, understood, and agreed to these Terms. These Terms govern all activities related to promoting Publisher Offerings on Siemens Xcelerator Marketplace, while any existing agreements between the Parties remain in effect.

The Marketplace includes a digital product catalogue which enables customers and customer prospects to find, explore, learn about Siemens offerings, solutions consisting of a combination of Siemens’ and Publisher’s Offerings and/or Publisher Offerings. Siemens aims to onboard Publisher Offerings which complement Siemens’s solutions, contribute to the topics and vertical markets defined for the Marketplace and add value to the customers.

Capitalized terms are defined at the end of the document.

Publishing Terms

1. Requirements

The listing of the Publisher Offering must comply with the requirements communicated to Publisher during the onboarding to the Marketplace, with the Marketplace Seller Guide and any other requirements specified in these Terms. Publisher is responsible for evaluating and testing the Publisher Offering for technology, functionality, performance, security, and user interface.

Siemens makes no guarantee that any Publisher Offering will sell or that Publisher will achieve specific financial results by promoting Publisher Offerings on the Marketplace.

For the avoidance of doubt, any transactions of Publisher Offerings (if any) will be subject of additional terms to be agreed upon in a separate document.

2. Responsibility for the Publisher Offering

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

a. Publisher owns all rights necessary to promote each Publisher Offering listed on the Marketplace;

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

c. No Publisher Offering infringes any third party’s intellectual property rights;

d. Each Publisher Offering and all Marketing Material are, at all times, accurate, complete, not misleading, and in compliance with applicable law and the terms of the Terms. 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 Publisher Offering is not legally prohibited in any of the countries where the Publisher Offering is intended to be distributed.

f. Publisher will indemnify Siemens and its affiliated companies against any third-party claims, damages, fines, and cost (including attorney's fees and expenses) relating in any way to a breach of these Terms by Publisher or any violation of laws or regulations, or rights of others by Publisher Offerings presented on the Marketplace.

3. Maintenance and Removal

Publisher shall update Marketing Material for Marketplace and provide it to Siemens prior to any update/changes to the Publisher Offering. Siemens reserves the right to remove or suspend the listing of a Publisher Offering if Siemens determines it does not meet the requirements set out in these Terms or the Marketplace Seller Guide. Siemens may also request Publisher to update the listing of a Publisher Offering within a time frame determined by Siemens to ensure compliance with such requirements.

Publisher may remove the listing of a Publisher Offering from the Marketplace at any time in accordance with the Marketplace Seller Guide.

4. Placement and Feedback

The type of placement, category, or order in which a Publisher Offering is listed on the Marketplace is determined solely by Siemens, though Publisher preferences may be considered.

Siemens may implement mechanisms to allow feedback on a Publisher Offering on the Marketplace. If Publisher 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. Rights

5.1. Rights in the Marketplace and Marketplace Services

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

5.2. Rights in the Publisher Offering

During the term of these Terms, Publisher grants Siemens and its business partners a worldwide, nonexclusive, transferable, sub-licensable, royalty-free right to, as authorized by Publisher:

a. List, promote and display the Publisher's Marketing Material on the Marketplace for promotional purposes; and

b. Present and showcase the Publisher Offering for promotional and demonstration purposes to potential interested Parties on the Marketplace.

6. General Use Restrictions

Publisher 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. Publisher 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.

7. Disclaimer, Support and Availability

Siemens provides the Marketplace "as is" without warranty, indemnity or other commitments. Limited general support for the Marketplace is available via the following e-mail address: marketplace-operations.x@siemens.com. Publisher can email issues to Siemens in English language. Siemens reserves the right to interrupt the availability of the Marketplace and/or Marketplace Services to conduct maintenance or perform updates or other changes, whether scheduled or unscheduled, in Siemens' sole discretion.

8. Term and Termination

These Terms become effective upon acceptance by Publisher for an indefinite term.

Siemens and Publisher may terminate these Terms for convenience at any time with 60 days prior written notice. Either Party may terminate an Order for a particular Marketplace Service with immediate effect in the event of the other Party's material breach of these Terms that remains uncured for a period of 30 days from receipt of a notice specifying the breach.

Siemens may immediately terminate these Terms upon notice to Publisher for reasonable cause, including, without limitation, Publisher's non-compliance with the Marketplace Seller Guide, Publisher's filing for bankruptcy or being subject to bankruptcy proceedings, Publisher ceasing to do business, or in order to comply with applicable law or the requests of government authorities.

Upon termination of these Terms becoming effective, Siemens may remove Publisher's Marketing Material from the Marketplace.

9. Export Control and Sanctions Compliance

Publisher shall comply with 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 (collectively "Foreign Trade Regulations").

In particular, Publisher shall not, unless permitted by the Foreign Trade Regulations or respective governmental licenses or approvals,

a. access or use the Marketplace from any location prohibited by or subject to comprehensive sanctions or to license requirements according to the Export Regulations;

b. grant access to, transfer or otherwise make available Marketplace to any individual or entity designated on a sanctioned party list of the Export Regulations;

c. use the Marketplace for any purpose prohibited by the Foreign Trade Regulations (e.g. use in connection with armaments, nuclear technology or weapons);

d. upload or provide for upload to the Marketplace any content unless it is non-controlled (e.g. in the EU: AL = N; in the U.S.: ECCN = N or EAR99).

Siemens shall not be obligated to fulfil any commitment if such fulfilment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.

10. Amendments

As the Marketplace evolves over time, Siemens reserves the right to change these Terms or any Marketplace Service provided hereunder from time to time, amongst other Siemens may charge Publisher for the marketing of Publisher Products subject to prior written approval of the Publisher. Siemens will notify Publisher of any material changes at least 60 days prior to the change effective date specified in the notice. If the change has a material adverse impact on Publisher and Publisher does not agree to the change, Publisher may terminate these Terms 30 days prior to the change effective date.

11. Code of Conduct

Publisher 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.

12. Applicable Law and Dispute Resolution

These Terms will be governed by the substantive laws, excluding choice of law rules, of the Federal Republic of Germany. All disputes arising out of or in connection with these Terms shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. The seat of arbitration shall be Munich, Germany. The language to be used in the arbitration proceeding shall be English.

13. General and Liability

These Terms stipulate conclusively the rights and obligations of the Parties with respect to its subject matter. These Terms and any amendment hereto must be executed by all Parties in writing or via a tool for electronic signatures. Neither party may assign its rights or obligations without the prior written consent

of the other, except that Siemens may assign to an affiliated entity or an acquirer of all or substantially all of the business to which the Terms pertains. The rights and claims granted to Siemens under these Terms shall also apply to the benefit of Siemens' affiliated entities.

Siemens' liability for defects shall be determined in accordance with Section 7. Any further liability of Siemens is excluded unless required by law, e.g. in cases of willful misconduct, gross negligence, personal injury or death, failure to meet guaranteed characteristics, fraudulent concealment of a defect or in case of breach of fundamental contractual obligations.

Definitions

Marketing Material	Any documents, information, and other content provided by or on behalf of Publisher for or in connection with the marketing of the Publisher Offering. Marketing Material includes trademarks, designations and logos in the form provided by Publisher to Siemens (with any modifications to optimize their viewing). Marketing Material is part of the Publisher Offering.
Marketplace	An online marketplace operated by or on behalf of Siemens allowing Publisher to Promote Publisher Offerings, e.g. available at https://xcelerator.siemens.com.
Marketplace Seller Guide	A guide made available to Publisher, updated by Siemens from time to time.
Marketplace Services	Services provided by Siemens to enable Publisher to engage in the Promotion of Publisher Offerings.
Party	Publisher and/or Siemens, depending on the context.
Promote or Promotion	Listing the Publisher Offerings on the Marketplace and linking to the Publisher where buyers can obtain or purchase the Publisher Offerings directly from Publisher.
Publisher Offering	Any offering that Publisher Promotes to Buyers through the Marketplace, including but not limited to software (including edge applications), cloud services, IoT-enabled hardware, service offerings of Publisher, and any related technical support Publisher provides and content description information and any related Marketing Material.