

UNIVERSAL CUSTOMER AGREEMENT

Siemens Digital Industries Software



This Universal Customer Agreement (“UCA”) and the applicable Supplemental Terms (together, this “**Agreement**”) are entered into between the Siemens entity named on the Order (“**Siemens**” or “**SISW**”) and the customer that accepted this Agreement (“**Customer**”). This Agreement may be accepted by manual signature or electronic signature, or through an electronic system specified by Siemens. In the electronic system, Customer will be prompted to accept these terms by clicking a button. Clicking the button or using any Offering indicates that Customer has read, understood, and accepted this Agreement. If Customer does not accept this Agreement, Customer must not use any Offering and return any Offering to Siemens or its applicable authorized partner prior to installation or use.

1. ORDER OF PRECEDENCE AND DEFINITIONS

1.1 **Order of Precedence.** In the event of a conflict between this UCA and any Supplemental Terms, the Supplemental Terms prevail. In the event of a conflict between this Agreement and an Order, the Order prevails with respect to any Offering ordered thereunder.

1.2 Definitions

“**AI**” means artificial intelligence technologies including statistical learning algorithms, models, neural networks, machine learning, deep learning, and related methodologies or tools capable of generating Content based on user input.

“**AI Services**” means services made available by Siemens that Siemens identifies as incorporating, utilizing, leveraging, or being powered by AI.

“**AUP**” means Siemens’ Acceptable Use Policy available at <https://www.siemens.com/sw-terms/aup> and incorporated into this Agreement by this reference.

“**Cloud Services**” means online services and associated cloud-based APIs (application programming interfaces) made available by Siemens under this Agreement, including but not limited to software-as-a-service, platform-as-a-service, cloud hosting services, and online training services, offered alone or in combination with Software or AI Services. Cloud Services exclude Software, AI Services, Customer Content, and Third Party Content.

“**Content**” means data, text, audio, video, images, models, or software.

“**Customer Content**” means Content entered by Customer or any user into the Offering, and any output generated by Customer or any user through use of such Offering based on such Content, excluding any Documentation, Siemens IP, Third Party Content, or other Content owned or controlled by Siemens or its affiliates or their respective licensors and made available by Siemens or its affiliates through or within the Offering.

“**Documentation**” means the instructions for use, learning materials, technical and functional documentation, and API information made available by Siemens with the applicable Offering, in print, online, or embedded as part of a help function, which may be updated by Siemens from time to time.

“**Entitlements**” means, with respect to any Offering, the license and use types, limits, volume, or other measurement or conditions of permitted use for such Offering as set forth in the applicable Order or Supplemental Terms, including but not limited to any limits or restrictions on the number and categories of users authorized to use such Offering, permitted geographic areas, available storage space, computing power, or other attributes and metrics.

“**Hardware**” means hardware equipment, devices, accessories, and parts delivered by Siemens under this Agreement, including firmware incorporated therein.

“**No Charge Offerings**” means Offerings provided at no cost to Customer.

“**Offering**” means an individual offering, made available by Siemens and identified in an Order, which consists of Cloud Services, Software, AI Services, Hardware, or Professional Services, or a combination of any of the foregoing, and any associated maintenance and support services and Documentation.

“**Order**” means an order form (Order Form), statement of work (SOW), Licensed Software Designation Agreement (LSDA), or similar ordering document that (i) incorporates the terms of this Agreement and sets forth the Offering(s) ordered by Customer and any associated fees, (ii) has been agreed by Customer by manual or electronic signatures or through an electronic system specified by Siemens, and (iii) is accepted by Siemens.

“**Previews**” means an Offering, or any feature thereof, identified as “beta”, “preview”, “pre-release”, “early access”, or “non-general release”.

“**Professional Services**” means training, consulting, engineering, or other professional services provided by or on behalf of Siemens under this Agreement pursuant to an Order, excluding Cloud Services.

“**Siemens IP**” means all patents, copyrights, trade secrets, algorithms, models, and other intellectual property rights in, related to, or used in the provision or delivery of, any Offering or technical solution underlying any Offering, and any improvement, modification, or derivative work of any of the foregoing.

“**Software**” means software licensed by Siemens under this Agreement and made available for download or otherwise delivered to Customer for installation, including updates, modifications, design data, and all copies thereof, associated software-based APIs, scripts, toolkits, libraries, reference or sample code, models, and similar materials.

“**Subscription Term**” means the time period specified in the Order for which a term-based Offering is made available to Customer. Any renewal constitutes a new Subscription Term.

“Supplemental Terms” means additional terms and conditions that apply to a particular Offering as attached hereto or set forth or referenced in an Order.

“Third Party Content” means Content, applications, and services owned or controlled by a third party and made available to Customer by the third party through or in connection with Cloud Services.

2. ORDERS

- 2.1 **Ordering.** The parties may enter into one or more Orders under this Agreement. Each Order is binding on the parties and is governed by the terms of this UCA and all applicable Supplemental Terms.
- 2.2 **Delivery.** Unless otherwise set forth in the Order (i) delivery of Cloud Services occurs when Siemens makes Cloud Services available to Customer for access and use, (ii) delivery of Software occurs when Siemens makes Software available to Customer via electronic download from a website specified by Siemens or ships the tangible media containing the Software, and (iii) for an Offering that is comprised of a combination of Cloud Services and Software, delivery occurs when the Software and Cloud Services are made available by Siemens. Software on media will be delivered subject to EXW (Incoterms 2020) for deliveries that occur entirely within the United States, or China. All other Software will be delivered subject to DAP (Incoterms 2020).
- 2.3 **Payment.** Customer will pay the fees set forth in the applicable Order within 30 days after the invoice date unless otherwise agreed by the parties. Siemens will invoice Customer for Professional Services on a monthly basis as charges are incurred. Unless specified otherwise in the applicable Order, Siemens will invoice Customer for fees related to any other Offerings in advance. Without limiting any other remedies available to Siemens, Customer will pay applicable fees for any excess use of an Offering at the then-current price for such Offering within 30 days after the invoice date. Except as expressly set forth in this Agreement, all payment obligations are non-cancelable, and all fees are non-refundable. If Customer has procured an Offering through a Siemens-authorized solution partner, different terms regarding invoicing and payment may apply as specified between Customer and the solution partner. Siemens may share information with the solution partner related to Customer’s use and consumption of Offerings for account management and billing purposes.
- 2.4 **Tax.** All amounts Siemens invoices are exclusive of taxes, duties, tariffs, and any other charges (“Tax”). Customer will pay or refund Siemens for any applicable Tax imposed by any government authority for Customer’s use or receipt of the Offerings. If Customer is exempt from value-added or sales tax, or similar taxes, then it must provide a valid, timely, and executed exemption certificate, direct pay permit, or other such government-approved documentation. If Customer is required by law to deduct or withhold Tax, Customer will increase the amount it pays to Siemens so that Siemens still receives the amount originally invoiced. Customer will promptly provide all tax receipts confirming it has paid Tax or has withheld Tax.

3. USE OF OFFERINGS

- 3.1 **Use Rights.** For Cloud Services contained within an Offering, Siemens grants Customer a nonexclusive, nontransferable, limited right to access and use such Cloud Services for Customer’s internal business purposes during the applicable Subscription Term, solely in accordance with the Entitlements and this Agreement. For Software and Documentation contained within an Offering, Siemens grants Customer a nonexclusive, nontransferable, non-sublicensable, limited license to use Documentation and install and use Software for Customer’s internal business purposes during the applicable Subscription Term or such other time period specified in the Order, solely in accordance with the Entitlements and this Agreement.
- 3.2 **Users.** The number and categories of users authorized to access an Offering are defined in the Entitlements. Customer will ensure that any access or use of an Offering on Customer’s behalf, at Customer’s invitation, or by invitation of a Customer user, complies with Customer’s obligations under this Agreement. If Customer becomes aware of any violation of this Agreement by a user or any unauthorized access to any user account, Customer will immediately notify Siemens and terminate the relevant user or user account’s access to Offerings. Customer is responsible for any act or failure to act by any user or any person using or accessing the account of a user in connection with this Agreement. Customer acknowledges and agrees that users who submit declarations, notifications, or orders to Siemens are acting on Customer’s behalf. If a Customer affiliate accesses or uses an Offering, Siemens may enforce its rights directly against that affiliate.
- 3.3 **General Use Restrictions.** Except as authorized in this Agreement, Customer will not, and will not permit any person or entity to, (i) resell, transfer, sublicense, publish, loan, or lease any Offering, or use any Offering for the benefit of any third party without the prior written consent of Siemens, (ii) modify, alter, tamper with, repair, or create derivative works of any Offering, (iii) reverse engineer, disassemble, decompile, or otherwise attempt to discover the source code of any Offering, (iv) use any Offering in a manner that could subject such Offering to any open source software license that conflicts with this Agreement or that does not otherwise apply to such Offering, (v) use any Offering for the purpose of developing or enhancing any product that is competitive with such Offering, or (vi) remove any proprietary notices or legends contained in or affixed to any Offering. Customer will only use APIs identified as ‘published’ in the Documentation, and only as described therein to support the authorized use of Offerings. Customer may copy Software or Documentation only as required to support use of the Offering as expressly authorized in this Agreement, and will ensure that any such copy includes all proprietary notices contained in the Software or Documentation or affixed thereto as received from Siemens. The restrictions set out in this Section do not apply to the extent they conflict with mandatory applicable law.
- 3.4 **Acceptable Use Policy; Indemnity.** Customer will comply, and ensure that all users of any Cloud Services or AI Services comply with the AUP. Customer will indemnify Siemens, its affiliates, its subcontractors, and their representatives against any claims, damages, fines, and costs (including attorney’s fees and expenses) arising from (i) any violation of the AUP by Customer or any user of the Cloud Services or AI Services, or (ii) any violation of laws, regulations, or rights of others by Customer’s or any user’s use of any Cloud Services or AI Services.
- 3.5 **Security of Customer Systems.** Customer is responsible for the security of Customer systems, including Software on Customer’s systems, and will take commercially reasonable steps to exclude malware, viruses, spyware, and Trojans from Customer’s systems.

- 3.6 **Reservation of Rights.** All Software, AI Services, Cloud Services, and non-public Documentation are trade secrets of Siemens and its licensors. Siemens or its licensors retain title to and ownership of Software, AI Services, Cloud Services, Documentation, and Siemens IP. Siemens reserves all rights in Offerings and Siemens IP not expressly granted in this Agreement.
- 3.7 **No-Charge Offerings; Previews.** No-Charge Offerings and Previews are provided “AS IS” without warranty, indemnity, support, or other commitments. Customer agrees to evaluate and test Previews without compensation. Customer will limit access to Previews only to those employees and Customer locations authorized by Siemens. Siemens will have exclusive title to and ownership of all written evaluations and all inventions or developments that Siemens conceives or makes during or after Customer’s use of the Previews, including those based on Customer’s Feedback. Siemens may change, limit, suspend, or terminate any Previews at any time. Customer acknowledges that Previews are not ready for production usage, and that Customer’s use of any Previews is at its sole risk and discretion. Customer will only use No-Charge Offerings and Previews identified as being “demo”, “test”, “evaluation”, “beta”, “pre-release”, or similar for internal test and evaluation purposes, and not for production or other commercial purposes.
- 3.8 **Third-Party Technology.** Offerings may contain third-party software, technology, and other materials, including open-source software components, licensed by third parties (“**Third-Party Technology**”) under separate terms (“**Third-Party Terms**”). Third-Party Terms are specified in the Documentation, Supplemental Terms, or “read me”-, header-, notice-, or similar files. In the event of a conflict with the terms of this Agreement, the Third-Party Terms prevail with respect to Third-Party Technology. With respect to Software, Third-Party Terms for open-source software prevail to the extent they grant Customer use rights based on the connection of the open-source software with Software. If Third-Party Terms require Siemens to furnish Third-Party Technology in source code form, Siemens will provide it upon written request and payment of any reasonable expenses.

4. **ADDITIONAL TERMS FOR SOFTWARE**

The following additional terms apply to any Software contained within an Offering:

Software is provided in object code form only, unless otherwise specified in this Agreement. To the extent that any Software is provided by Siemens in source code form, Customer may only use that Software to modify or enhance the applicable Offering that such Software is a part of, and, as between the parties, all such modifications or enhancements will be owned by Siemens and subject to the license set forth in Section 3.1. Customer hereby consents to the installation of Software on systems used by Customer, as may be facilitated by Cloud Services.

5. **ADDITIONAL TERMS FOR CLOUD SERVICES**

The following additional terms apply to any Cloud Services contained within an Offering:

- 5.1 **Service Level Agreements.** During the Subscription Term, Siemens will comply with the applicable service level agreements for Cloud Services as set forth in any applicable Supplemental Terms.
- 5.2 **Changes to Cloud Services.** Cloud Services may be modified, discontinued, or substituted by Siemens from time to time. During a Subscription Term, Siemens will not materially degrade core features or functionalities of Cloud Services or discontinue Cloud Services without making available substitute Cloud Services, except as necessary to address (i) new legal requirements, (ii) technical changes that could not have been reasonably anticipated, or (iii) security risks that cannot be resolved in a commercially reasonable manner. Siemens will notify Customer of any such material degradation or discontinuation of Cloud Services as soon as reasonably practicable, and Customer may terminate the Order for the applicable Offering by providing Siemens with written notice within 30 days after Customer’s receipt of notice of degradation or discontinuation. In the event of such termination or discontinuation of Cloud Services, Siemens will refund any prepaid fees for the applicable Offering on a pro-rata basis for the remainder of the Subscription Term for that Offering.
- 5.3 **Out of Scope.** Any contractual relationship regarding Third Party Content is solely between Customer and the relevant third party vendor and may be governed by separate terms made available by Siemens with or as part of Third Party Content. Siemens will have no responsibility for Third Party Content or Customer’s use of such Third Party Content. Cloud Services specifically exclude (i) access to the internet or any other network, (ii) suitable connectivity or any other resources necessary for accessing or using Cloud Services, and (iii) the transmission of Content to and from the exit of the wide area network of the data centers used by Siemens to provide Cloud Services.
- 5.4 **Protection of Customer Content.** Cloud Services will be provided using processes and safeguards designed to protect the integrity and confidentiality of Customer Content, including encryption of data in transit and at rest. Customer remains responsible for taking appropriate steps regarding protection, deletion, and retrieval of Customer Content, including by maintaining backup copies. Some Cloud Services may provide features that allow Customer to share Customer Content with third parties or make Customer Content public through use of certain Cloud Services. If Customer elects to use such features, Customer Content may be accessed, used, and shared by third parties to whom Customer provides such access or shares such Customer Content, and Customer’s election to use such features is at its sole discretion and risk.
6. **DATA**
- 6.1 **Security and Data Privacy.** Each party will comply with applicable data privacy laws governing the protection of personal data in relation to their respective obligations under this Agreement. Where Siemens acts as Customer’s processor of personal data provided by Customer, the Data Privacy Terms available at <https://www.siemens.com/dpt> including the technical and organizational measures described therein, apply to the use of the relevant Offering and are incorporated into this Agreement by this reference.
- 6.2 **Systems Information.** Siemens and its affiliates and their subcontractors may collect and derive information, statistics, and metrics regarding usage, operation, support, and maintenance of Offerings or from Customer Content (collectively, “**Systems Information**”), and may use Systems Information to market products and services to Customer, support, maintain, monitor, operate, develop, and improve its products and services or enforce its rights, provided that any Systems Information derived from Customer Content may only be used to improve products and services when aggregated with other information so that the original Customer Content is not identifiable. Siemens may disclose Systems Information to a Siemens-authorized solution partner solely to the extent reasonably required for such partner to fulfill its support obligations to Customer.

- 6.3 **Customer Content Handling.** Siemens will not acquire any title to or ownership of Customer Content by virtue of this Agreement. Customer is responsible for the content, management, transfer, use, accuracy, and quality of Customer Content and the means by which Customer acquires such Customer Content. Siemens recommends that Customer confirm the geographic area in which Customer Content will be stored, which may be outside the country in which Customer is located. Customer will ensure that Customer Content can be processed and used as contemplated by this Agreement without violating any rights of others or any laws or regulations.

7. WARRANTIES AND DISCLAIMERS

- 7.1 **Software Warranty.** Siemens warrants that Software will perform substantially in accordance with the features and functionalities described in the Documentation for a period of 90 days following the date the Offering is initially made available to Customer. To the extent permissible under applicable law, as Siemens' entire liability and Customer's sole and exclusive remedy for a breach of this warranty, Siemens will, at its option (i) correct errors or provide work-arounds, (ii) replace defective Software, or (iii) require Customer to return the defective Software, terminate the Order for the non-conforming Offering, and refund fees paid for such Offering. The warranty for Software excludes (a) No-Charge Offerings and Previews, (b) Software provided upon re-mix, (c) Software that is designated as retired or not generally supported as of the date of the Order, (d) Software made available under the maintenance services terms set forth in any applicable Supplemental Terms, and (e) issues, problems, or defects arising from use of Software not in accordance with the terms of this Agreement.
- 7.2 **Cloud Services Warranty.** Siemens warrants that Cloud Services will perform substantially in accordance with the features and functionalities described in the Documentation. To the extent permissible under applicable law, as Siemens' entire liability and Customer's sole and exclusive remedy for a breach of this warranty, at Siemens' option (i) Siemens will use commercially reasonable efforts to restore the non-conforming Cloud Services so that they comply with this warranty, or (ii) if such restoration would not be commercially reasonable, Siemens may terminate the Order for the non-conforming Offering and refund any prepaid fees for such Offering on a pro-rata basis for the remainder of the Subscription Term for that Offering. The warranty for Cloud Services excludes (a) No-Charge Offerings and Previews, and (b) issues, problems, or defects arising from Customer Content, Third Party Content, or use of Cloud Services not in accordance with the terms of this Agreement.
- 7.3 **Disclaimers.** Siemens makes only the limited warranties expressly stated in this Agreement, and disclaims all other warranties including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. Siemens does not warrant or otherwise guarantee that (i) reported errors will be corrected or support requests will be resolved to meet Customer's needs, (ii) Offerings or any Third Party Content will be uninterrupted, error free, fail-safe, fault-tolerant, or free of harmful components, or (iii) any Content, including Customer Content and Third Party Content, will be secure or not otherwise lost or damaged. Representations about Offerings or features or functionality in any communication with Customer constitute technical information, not a warranty or guarantee.

Customer is responsible for assessing the suitability of each Offering for Customer's intended use, selecting the Offering necessary to achieve Customer's intended results, and for the use of Offerings. By using an Offering, Customer agrees that such Offering meets Customer's requirements to enable compliance with applicable laws. Customer will obtain, at its own expense, any rights, consents, and permits from vendors of software and services used by Customer in connection with any Offering which are required for such use. Customer agrees that Orders are not contingent on any future features or functionality of Offerings.

Siemens does not control Customer's processes or the creation, validation, sale, or use of Customer's (or any client of Customer's) products or services and will not be liable for any claim or demand made against Customer by any third party, except for Siemens' obligations to indemnify Customer against infringement claims as expressly set forth in this Agreement. Customer is solely responsible for evaluating output generated by Customer or any user through use of an Offering for accuracy, completeness, and other factors relevant to its use before using, distributing, or relying on such output.

8. LIMITATION OF LIABILITY

- 8.1 The entire, aggregate liability of Siemens related in any way to this Agreement is limited as follows: (i) for liability arising from an Offering provided for a Subscription Term, the fees paid to Siemens for that Offering during the 12-month period immediately preceding the first event giving rise to the claim, provided that the aggregate liability for any Offering will not exceed the amount paid for that Offering during the Subscription Term, or (ii) in all other cases, the fees paid to Siemens for that Offering. The foregoing limitation does not apply to Siemens' indemnity obligation in Section 9.
- 8.2 In no event will Siemens be liable for (i) 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 (ii) any No-Charge Offerings or Previews.
- 8.3 Siemens will not be liable for any claim in connection with this Agreement 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 Customer.
- 8.4 The foregoing limitations and exclusions apply (i) to the benefit of Siemens and its affiliates, and their respective officers, directors, licensors, subcontractors, employees, and representatives, and (ii) regardless of the form of action, whether based in contract, statute, tort (including negligence), or otherwise.
- 8.5 The foregoing limitations and exclusions will not apply to the extent that liability cannot be limited or excluded according to applicable law.

9. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNITY

- 9.1 **Infringement Claim Indemnity.** Siemens will indemnify and defend, at its expense, any action brought against Customer to the extent that it is based on a claim that the Offering infringes any copyright, any trade secret, or a patent or trademark issued or registered by the United States, Japan, or a member of the European Patent Organization, and will pay all damages finally awarded against Customer by a court of competent jurisdiction or agreed in a settlement, provided that Customer gives Siemens (i) prompt written notice of the claim, (ii) all requested information and reasonable assistance related to the claim and (iii) sole authority to defend or settle the claim. Siemens

will not admit liability or incur obligations on Customer's behalf without Customer's prior written consent, which will not be unreasonably withheld.

- 9.2. **Injunction.** If a permanent injunction is obtained against Customer's use of an Offering due to an infringement claim, Siemens may, at its sole option, obtain for Customer the right to continue using the Offering, or replace or modify the Offering to become non-infringing. If such remedies are not reasonably available: (i) Siemens will refund prepaid fees for the enjoined Offering on a pro-rata basis (a) for Hardware or Software licensed to Customer on a perpetual basis, for the remainder of an amortization period of 60 months from the initial delivery to Customer, or (b) for any other Offering, for the remainder of the Subscription Term for that Offering; (ii) any applicable licenses to such Offering will automatically terminate; and (iii) Customer will immediately cease to use the enjoined Offering and return all related Software in its possession. Siemens may, in its sole discretion, provide any of the foregoing remedies to mitigate infringement prior to the issuance of an injunction.
- 9.3. **Exclusions.** Notwithstanding anything to the contrary in this Agreement, Siemens will not have any liability or obligation to Customer to the extent that an infringement claim arises out of (i) use of a prior version of the Offering to the extent that a current version is non-infringing, (ii) failure to use a replacement, correction, patch, or new version of the Offering offered by Siemens that performs substantially the same functions, (iii) use of the Offering in combination with Content, equipment, or products not provided by Siemens, (iv) use of No-Charge Offerings or Previews, (v) deliverables resulting from Professional Services, (vi) any adjustment, modification, or configuration of the Offering not made by Siemens, (vii) instructions, assistance, or specifications provided by Customer, or (viii) any Customer Content.
- 9.4. **Sole and Exclusive Remedy.** Section 9 sets forth Siemens' entire liability and Customer's sole and exclusive remedy for infringement of third-party intellectual property rights.

10. RENEWAL, SUSPENSION, TERMINATION

- 10.1 **Subscription and Renewals.** If indicated on the Order or otherwise agreed by the parties in writing or in an electronic system made available by Siemens, the Subscription Term for the applicable paid Offering will automatically renew for successive Subscription Terms unless either party notifies the other at least 60 days prior to the end of the then-current Subscription Term that it has elected not to renew. Any renewed Subscription Term will be the same length as the preceding term or 12 months, whichever is greater. If the Agreement or Order applicable to the Offering incorporates online terms by reference, the then-current online terms will apply to the renewed Subscription Term. The fees for any renewed Subscription Term will be the same as those in effect at the end of the preceding Subscription Term, unless (i) Siemens notifies Customer about different future fees at least 90 days prior to the end of the then-current Subscription Term or (ii) fees for the renewed Subscription Term(s) are specified on the Order.
- 10.2 **Suspension.** Siemens may suspend or limit Customer's or any user's access to and use of Offerings, in whole or in part, immediately (i) if Siemens reasonably determines that the use of the Offering poses a security risk to the Offering, Siemens, or any third party, or subjects Siemens or any third party to liability, (ii) if Customer materially breaches this Agreement, or (iii) upon the occurrence of any of the circumstances that give Siemens the right to immediate termination under Section 10.3. Suspension or limitation will not limit any other rights available to Siemens under this Agreement, will not relieve Customer of its obligation to pay fees, and will be lifted when the reason for such suspension or limitation no longer exists.
- 10.3 **Termination.** Neither party will terminate an Order for convenience during the applicable Subscription Term. Either party may terminate an Order for a particular Subscription Term based Offering with immediate effect in the event of the other party's material breach of this Agreement which remains uncured for a period of 30 days from receipt of notice specifying the breach; provided that such termination will only be effective with respect to the Offering affected by the material breach. Siemens may immediately terminate any or all Orders or this Agreement upon notice to Customer in the event of Customer's unauthorized installation or use of Siemens software, Customer's filing for bankruptcy or having bankruptcy proceedings filed against it, Customer ceasing to do business, any breach by Customer of Sections 2.3, 3, 3.4, 11, 12, 13.2, or 13.6 or in order to comply with applicable law or the requests of government authorities.
- 10.4 **Effect of Expiration or Termination.** Upon expiration of the applicable Subscription Term or termination of any Order for one or more Offerings or this Agreement for any reason, Customer's rights to access, use, or receive the affected Offering(s) automatically terminate. Customer will immediately cease using the affected Offering(s), remove and destroy all Software and other Siemens Confidential Information relating to such Offering in its possession or control, and certify such removal and destruction in writing to Siemens. Customer may retrieve Customer Content available for download for a period of 30 days after expiration or termination, provided Customer is in compliance with this Agreement and pays any applicable fees. After such period, all Customer Content may be deleted. Termination of this Agreement or any Order for one or more Offerings will not relieve Customer of its obligation to pay the total fees set forth in any Order, which fees will become due and payable immediately upon termination. In the event of Customer's termination for Siemens' material breach in accordance with Section 10.3, Siemens will refund any prepaid fees on a pro-rata basis for the remainder of the Subscription Term for the affected Offering(s). Sections 2.3, 2.4, 3.3, 3.4, 3.5, 3.6, 3.8, 6.2, 7.3, 8, 10.4, 11, 12, 13.4, 13.6, and 13.9 survive termination of this Agreement.

11. EXPORT CONTROL AND SANCTIONS COMPLIANCE

- 11.1 **General.** Customer shall comply with all applicable sanctions, embargoes, and (re-)export control laws and regulations, and, in any event, with those of the European Union, the United States of America and any locally applicable jurisdiction (collectively "**Export Regulations**").
- 11.2 **Checks for Goods and Services.** Prior to any transaction by Customer concerning goods (including Hardware, Documentation and technology) delivered by Siemens, or services (including Professional Services, maintenance and technical support) performed by Siemens to a third party, Customer shall check and certify by appropriate measures that (i) the Customer's use, transfer, or distribution of such goods and services, the brokering of contracts or the provision of other economic resources in connection with goods and services will not be in violation of any Export Regulations, also taking into account any prohibitions to circumvent these (e.g., by undue diversion); (ii) the goods and services are not intended or provided for prohibited or unauthorized non-civilian purposes (e.g. armaments, nuclear technology, weapons, or any other usage in the field of defense and military); and (iii) Customer has screened all

direct and indirect parties involved in the receipt, use, transfer, or distribution of the goods and services against all applicable restricted party lists of the Export Regulations concerning trading with entities, persons and organizations listed therein.

- 11.3 **Non-Acceptable Use of Software and Cloud Services.** Customer shall not, unless permitted by the Export Regulations or respective governmental licenses or approvals, (i) download, install, access or use the Software or Cloud Services from or in any location prohibited by or subject to comprehensive sanctions or subject to license requirements according to the Export Regulations; (ii) grant access to, transfer, (re-)export (including any “deemed (re-)exports”), or otherwise make available the Software or Cloud Services to any entity, person, or organization identified on a restricted party list of the Export Regulations, or owned or controlled by a listed party; (iii) use the Software or Cloud Services for any purpose prohibited by the Export Regulations (e.g. use in connection with armaments, nuclear technology or weapons); (iv) upload to the Cloud Services platform any Customer Content unless it is non-controlled (e.g. in the EU: AL = N; in the U.S.: ECCN = N or EAR99); or (v) facilitate any of the aforementioned activities by any user. Customer shall provide all users with all information necessary to ensure compliance with the Export Regulations.
- 11.4 **Semiconductor Development.** Customer will not, without advance written authorization from Siemens, use Offerings for the development or production of integrated circuits at any semiconductor fabrication facility located in China meeting the criteria specified in the U.S. Export Administration Regulations, 15 C.F.R. 744.23.
- 11.5 **No (Re-)Export to Russia or Belarus.** Customer shall not export or re-export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus any Offerings supplied by Siemens in connection with this Agreement. Customer shall undertake its best efforts to ensure that the purpose of this Section is not frustrated by third parties, including authorized solution partners. Customer shall establish and maintain an adequate monitoring mechanism to detect conduct by any third parties that would frustrate the purpose of this paragraph.
- 11.6 **Information.** Upon request by Siemens, Customer shall promptly provide Siemens with all information pertaining to users, the intended use, and the location of use, or the final destination (in the case of Hardware, Documentation and technology) of the Offerings. Customer will notify Siemens prior to Customer disclosing any information to Siemens that is defense-related or requires controlled or special handling pursuant to applicable government regulations and will use the disclosure tools and methods specified by Siemens.
- 11.7 **Indemnification.** Customer will indemnify and hold harmless Siemens, its affiliates, subcontractors, and their representatives against any claims, damages, fines, and costs (including attorney’s fees and expenses) relating in any way to Customer’s noncompliance with this Section 11, including Customer’s and its users’ and third party business partners’ violation or alleged violation of any Export Regulations and Customer will compensate Siemens for all losses and expenses resulting thereof.
- 11.8 **Reservation.** Siemens shall not be obligated to fulfill this Agreement if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions. Customer acknowledges that Siemens may be obliged under the Export Regulations to limit or suspend access by Customer and/or users to the Offerings.

12. CONFIDENTIALITY

- 12.1 **Confidential Information.** “Confidential Information” means all information disclosed by one party or any of its affiliates or subcontractors to the other party under this Agreement that is marked as confidential or the confidential nature of which is evident to a reasonable person. Siemens Confidential Information includes the terms of this Agreement and any Order, Offerings, Systems Information, Siemens IP, and any information Customer derives from benchmarking any Offering. The receiving party will (i) not disclose Confidential Information, except (a) on a need-to-know basis to its and its affiliates’ employees, consultants, contractors, and financial, tax, and legal advisors that are bound by confidentiality obligations and use restrictions at least as restrictive as those in this Agreement, or (b) as otherwise authorized by the disclosing party or this Agreement, (ii) use Confidential Information only as required to exercise or enforce rights or perform obligations under this Agreement, and (iii) use reasonable care to protect against unauthorized use and disclosure of the disclosing party’s Confidential Information. The receiving party will be liable for compliance with Section 12 by each of its recipients. Siemens and its affiliates may name Customer as a customer on their websites and in customer lists and other marketing materials.
- 12.2 **Exclusions.** The obligations in Section 12.1 will not apply to any Confidential Information that (i) is or becomes generally available to the public other than as a result of disclosure by the receiving party in violation of this Agreement, (ii) becomes available to the receiving party from a source other than the disclosing party, provided that the receiving party has no reason to believe that such source is itself bound by a legal, contractual, or fiduciary obligation of confidentiality, (iii) was in the receiving party’s possession without an obligation of confidentiality prior to receipt from the disclosing party, (iv) is independently developed by the receiving party without the use of, or reference to, the disclosing party’s Confidential Information, or (v) is required to be disclosed by a government authority or law, so long as the receiving party promptly provides the disclosing party with written notice of the required disclosure, to the extent such notice is permitted by law, and cooperates with the disclosing party to limit the scope of such disclosure.

13. GENERAL PROVISIONS

- 13.1 **Siemens Affiliates and Subcontractors.** Siemens’ ultimate parent company or companies directly or indirectly owned or controlled by Siemens’ ultimate parent company may exercise Siemens’s rights and fulfill Siemens’ obligations under this Agreement. Siemens may use resources in various countries to provide Offerings, including unaffiliated subcontractors. Siemens remains responsible for its obligations under this Agreement.
- 13.2 **Assignment.** This Agreement will extend to and be binding upon the successors, legal representatives, and permitted assignees of the parties. However, this Agreement and the rights granted under this Agreement may not be assigned, sublicensed, or otherwise transferred (by operation of law or otherwise) by Customer without the prior written consent of Siemens. Any attempted assignment in violation of this Section will be void.
- 13.3 **License Rights Applicable to the U.S. Government.** Offerings are commercial products and commercial services that were developed exclusively at private expense. If Offerings are acquired directly or indirectly for use by the U.S. Government, then the parties agree that such are considered commercial products, commercial services, and commercial computer software or computer software

documentation, as defined in 48 C.F.R. §2.101. Offerings may only be used under the terms of this Agreement as required by 48 C.F.R. §12.212 and 48 C.F.R. §227.7202. The U.S. Government will only have the rights set forth in this Agreement, which supersedes any conflicting terms or conditions in any government order document, except for provisions which are contrary to applicable mandatory federal laws. Siemens will not be required to obtain a security clearance or otherwise be involved in accessing U.S. Government classified information.

- 13.4 **Feedback.** If Customer provides any ideas or feedback regarding any Offering, including suggestions for changes or enhancements, support requests (including any related information), and error corrections (collectively “**Feedback**”), Feedback may be used by Siemens without condition or restriction.
- 13.5 **Force Majeure.** Neither party will be liable for delay or failure to perform any obligations under this Agreement (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.
- 13.6 **Information Obligations; Audit.** Siemens reserves the right to embed a reporting mechanism in Software for the purpose of ensuring authorized use. The mechanism does not transmit technical or business Content that Customer processes with Software. Customer will provide information or other materials that Siemens reasonably requests to verify Customer’s compliance with this Agreement. Customer may perform a self-audit using the inventory tools provided by Siemens. Such self-audit must commence within 20 business days of audit notification and must be completed within 20 business days of commencement. If Customer fails to perform the self-service audit to Siemens’ reasonable satisfaction, Siemens or its authorized agents may access Customer’s premises to facilitate audit completion.
- 13.7 **Notices.** Siemens may notify Customer under this Agreement by (i) posting a notification on Cloud Services or on the administrative user account that Customer maintains with Siemens to manage subscriptions to Offerings (“**Subscription Console**”), (ii) sending an email or other text message to the address or contact number provided by Customer for business contact or then-associated with the Subscription Console, or (iii) sending an email to relevant users. It is Customer’s responsibility to regularly visit Cloud Services and the Subscription Console and to always provide Siemens with current email addresses of Customer representatives. If Customer does not comply with such obligation or if Customer’s receipt of a notice fails because of technical issues related to equipment or services which are under Customer’s or Customer subcontractors’ control, notices will be deemed to have been provided to Customer three days following the date of such notice. Notwithstanding the foregoing, notices regarding claims or disputes will always be sent to the party’s address as specified in the applicable Order. A party may change its address for receipt of notice by delivery of written notice to the other party.
- 13.8 **Language.** If Siemens provides a translation of the English language version of this Agreement, the English language version of this Agreement will control in the event of any conflict.
- 13.9 **Governing Law and Jurisdiction.** This Agreement will be subject to the applicable laws set forth in the table below, as set forth therein, 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. Any dispute arising out of or in connection with this Agreement will be resolved as set forth in the table below:

If the Siemens entity named on the Order is in:	the applicable law will be:	Any dispute arising out of or in connection with this Agreement will be:
a country in North or South America, with the exception of Brazil,	the laws of the State of Delaware, United States.	subject to the jurisdiction of the courts of the State of Delaware, USA. Each party hereby irrevocably submits itself to the personal jurisdiction of the relevant court of the State of Delaware for any such disputes.
Brazil,	the laws of Brazil.	subject to the jurisdiction and venue of the court in the city where the Siemens entity named on the Order is domiciled.
a country in Asia or Australia/Oceania, with the exception of Japan, Israel, and Turkey,	the laws of Singapore.	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 Singapore.
Japan,	the laws of Japan.	finally resolved by binding arbitration in accordance with the ICC Rules. The seat of arbitration will be Tokyo, Japan.
a country not covered by any of the above,	the laws of Switzerland.	finally resolved by binding arbitration in accordance with the ICC Rules. The seat of arbitration will be Zurich, Switzerland.

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 13.9 will 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 13.9, the parties agree that Siemens, at its sole discretion, may bring an action in the courts of the jurisdiction(s) where the Offering is being used or Customer has its place of business, (i) to enforce its intellectual property rights, or (ii) for the payment of amounts due for any Offering.

- 13.10 **No Waiver; Validity and Enforceability.** The failure to enforce any provision of this Agreement will not be construed as a waiver of such provision. If any provision of this Agreement 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 via an electronic system specified by Siemens will have the same force and effect as manual signatures.

13.11 **Entire Agreement.** This Agreement constitutes the full and complete agreement between the parties with respect to the subject matter thereof and supersedes any previous or contemporaneous agreements or communications, whether written or verbal, relating to such subject matter. The reference to a document that refers to another document will be deemed to also include such other document, unless otherwise stated therein. This Agreement may not be varied except as set out in Supplemental Terms or otherwise 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 will apply. The terms of any purchase order or similar Customer document are excluded and such terms will not apply to any Order, and will not supplement or modify this Agreement irrespective of any language to the contrary in such document.

INSIGHTS HUB SUPPLEMENTAL TERMS FOR ALPHANUMERIC CODE 'MSPH-P'

Siemens Digital Industries Software

These Insights Hub Private Cloud Supplemental Terms (“**Insights Hub Private Terms**”) amend the Universal Customer Agreement (“**UCA**”) between Customer (also named “you”) and Siemens solely with regard to the Offerings which have been assigned the alphanumeric code ‘MSPH-P’ or where these Insights Hub Private Terms are otherwise referenced on the Order. These Insights Hub Private Terms, together with the UCA and other applicable Supplemental Terms, form the agreement between the parties (“**Agreement**”). The offerings governed by these Insights Hub Private Terms primarily consist of Software and technical operations. Please note that the Cloud Service Level Agreement (SLA) available at www.siemens.com/sw-terms/sla does not apply to Insights Hub Private Cloud offerings in its entirety (see chapter 5). And applicable services or related provisions are addressed within this document.

1. DEFINITIONS

Capitalized terms used herein have the meaning as defined elsewhere in the Agreement. The following additional definitions apply to these Insights Hub Private Terms:

“**Account**” means one or more web-based account(s), individually or collectively, enabling access to and use of certain Offerings through a unique URL assigned by Siemens.

“**Affiliate**” means any entity that controls, is controlled by, or is under common control with Customer; in this context, “control” means ownership, directly or indirectly, of a majority of the outstanding equity of an entity

“**Asset**” means the logical representation of a thing which can be a machine or an automation system with a single or multiple automation unit(s) e.g. PLC or even a factory site. Assets are defined by using an Asset Type.

“**Asset Instance**” means a physical and/or logical device connected to your Account (e.g., a specific motor within a factory). Each Asset Instance belongs to an Asset Type.

“**Asset Type**” means a homogenous group of physical or logical Assets with common characteristics which are reflected in a template.

“**Authorized Agent**” means an individual who (i) requires access to the Offering in support of Customer’s or Customer Affiliate’s internal business as consultant, agent or contractor, or (ii) is otherwise expressly permitted in these Insights Hub Private Terms to access and use the Offering.

“**Authorized User**” or “**Named User**” means Customer’s and its Affiliate’s employee or Authorized Agent. Each Authorized User must use a unique user identification to access and use the Offering, unless use of a generic login is expressly permitted in these Insights Hub Private Terms or applicable Documentation. User identifications may not be shared with other individuals.

“**Customer Application(s)**” means Customer Content and software that interoperates with Customer Instance as made available by Customer to Users. Any Customer Application must provide value to Users which is distinct from the Foundation. Customer Applications exclude Software, Documentation and Siemens IP. Customer Applications include Self-hosted Application.

“**Customer Environment**” means Customer’s or Customer’s provider’s cloud infrastructure and operating environment on which the Foundation is being operated as further set out in the Documentation.

“**Customer Instance**” means that the license is restricted to a single standalone deployment of the Foundation, which is operated on Customer’s Environment, but excluding Third Party Content.

“**Developer Material**” means Software and other proprietary material or information made available to Customer by or on behalf of Siemens in the course of Siemens’ provision of Developer Services.

“**Developer Services**” means Offerings that enable Customer to develop and test Customer Applications.

“**DevOps Guide**” or “**Guides**” means the DevOps Guide available as part of the Documentation.

“**Foundation**” means Software which encompasses Siemens’ proprietary cloud-based service foundation which includes the industrial Internet-of-Things-solution ‘Insights Hub’.

“**High Risk System**” means a device or system that requires enhanced safety functionalities such as fail-safe or fault-tolerant features to maintain a safe state where it is reasonably foreseeable that failure of the device or system could lead directly to death, personal injury, or catastrophic property damage. High Risk Systems may be required in critical infrastructure, direct health support devices, aircraft, train, boat, or vehicle navigation or communication systems, air traffic control, weapons systems, nuclear facilities, power plants, medical systems and facilities, and transportation facilities.

“**Insights Hub Launchpad**” means the following: after login to the Account, the Insights Hub Launchpad appears. Similar to a desktop on any common operating system (OS), the Insights Hub Launchpad facilitates starting various assigned Cloud Services or Customer Applications.

“**Insights Hub Private Operations**” means operating the Customer Instance by or on behalf of Siemens or as defined in the Documentation.

“**Operator Services**” means Offerings enabling Customer to deploy, operate, publish and/or provide Customer Applications.

“**Self-hosted Application**” means software that is hosted by Customer (or a third party authorized by Customer) in Customer’s own responsibility outside Customer’s Instance. This includes, but is not limited to, software that runs on mobile devices such as smartphones or tablet computers (sometimes also referred to as a “mobile native application” and described in more detail in the Documentation).

“Territory” means worldwide (subject to Customer’s obligations in the Agreement regarding compliance with export controls) unless a geographic area is specified on the Order.

2. GENERAL

- 2.1 **Authorized Access and Use.** Each Offering may be accessed and used (and Software may be installed) during the Subscription Term only by Authorized Users in the Territory and solely in accordance with the Entitlements and this Agreement. Customer may re-assign the entitlement to access and use the Offering from one Authorized User to another Authorized User within the same entitlement category once per calendar month.
- 2.2 **Deployment and Operation.** The deployment and operation of Customer Instance licensed under these Insights Hub Private Terms in Customer’s Environment is part of the Software Subscription for the entire Insights Hub Private Software Subscription Term. Any applicable Professional Services will be subject to separate legal terms set out in statement(s) of work. Insights Hub Private Operations are subject to the Supplemental Terms for Professional Services available at www.siemens.com/sw-terms/supplements. The following stipulations of the UCA shall apply accordingly to Insights Hub Private Offerings: Section 5.2 (Changes to Cloud Services), 5.3 (Use of Messaging Services), 5.4 (Out of Scope), 5.5 (Acceptable Use Policy; Indemnity.), 5.6 Ownership and Use of Customer Content, 5.7 (Protection of Customer Content).
- 2.3 **Changes to Supplemental Terms or Guides; Enhancement of Offerings.** Siemens may only update these Insights Hub Private Terms during a Subscription Term if such update does not (i) have a material adverse effect on Customer’s rights (e.g. with respect to Entitlements or service levels), or (ii) result in a material degradation of the security measures maintained by Siemens with regard to the Offering or Customer Content. The foregoing will not limit Siemens’ ability to make changes to these Insights Hub Private Terms (i) to comply with applicable law, (ii) to address a material security risk, (iii) to reflect changes made to the Offering in accordance with any change provision in the Agreement, or (iv) which are applicable to new features, supplements, enhancements, capabilities or additional Cloud Services or Software provided as part of Customer’s subscription to the Offering at no extra charge. When Customer uses any such new feature, supplement, enhancement, capability or Cloud Services or Software, the then-current Insights Hub Private Terms available at www.siemens.com/sw-terms/supplements will apply to such use. In all other cases, if an update to the Supplemental Terms during a Subscription Term applies to Customer, Siemens will use commercially reasonable efforts to notify Customer at least 90 days prior to such change or in accordance with the notice provisions stated elsewhere in the Agreement. Siemens may change the Guides from time to time; changes will become effective upon release of a new version. However, during a Subscription Term, Siemens may, upon Customer’s request, defer the change effective date to the end of the applicable Subscription Term, but not by more than 6 months. In the event of a conflict or inconsistency between the Guides and these Insights Hub Private Terms, these Insights Hub Private Terms will prevail.
- 2.4 **Customer’s Obligation.** Customer is responsible to provide Siemens with access to Customer’s Environment at any time upon Siemens’ request to enable Siemens to provide the Insights Hub Private Operations. Upon expiry or termination of the Subscription, Customer shall enable Siemens to de-install the Insights Hub Private Offerings immediately from Customer’s Environment and Customer shall stop using the Insights Hub Private Offerings upon the effectiveness of such termination or expiry.
- 2.5 **Changes to APIs.** During a Subscription Term, Siemens may alter any customer-facing API that Customer is using. If any such alteration is material and in a backwards-incompatible fashion, Siemens will provide Customer at least 12 months’ prior notice, except that this notice will not be required if it (i) would pose a security of intellectual property issue to Siemens or the Offering or (ii) would cause Siemens to violate legal requirements.
- 2.6 **Development and Provisioning of Customer Content.** Customer will not subject any Offering to, or upload Customer Content that is subject to, a license that, as a condition of use, access, and/or modification of such content, requires that Siemens or Siemens’ business partners’ software or services provided by Siemens (i) are disclosed or distributed in source code form, (ii) are licensed to recipients for the purpose of making derivative works, (iii) are licensed at no charge, (iv) are not used for commercial purposes, or (v) are otherwise encumbered in any manner. Customer will indemnify Siemens, its affiliates, its subcontractors, and their representatives, against any third-party claims, damages, fines and cost (including attorney’s fees and expenses) relating in any way to the configuration, combination, or use of an Offering with any Customer Content, Third-Party Content or other third-party equipment, software or services used by any User in connection with Offerings.
- 2.7 **Third-Party Content.** Customer specifically acknowledges that (i) Siemens is under no obligation to test, validate, or otherwise review Third-Party Content; (ii) Third-Party Content may collect and use Customer Content and data regarding a User’s usage of Third-Party Content; and that (iii) Customer is responsible for the development and technical operation of Customer Content including compatibility of any calls Users make to Offerings.
- 2.8 **High Risk Use.** Customer acknowledges and agrees that (i) Offerings are not designed to be used for the operation of or within a High-Risk System if the functioning of the High-Risk System is dependent on the proper functioning of the Offerings; and (ii) the outcome from any processing of data through the use of Offerings is beyond Siemens’ control. Customer will indemnify Siemens, its affiliates, its subcontractors, and their representatives, against any third-party claims, damages, fines, and cost (including attorney’s fees and expenses) relating in any way to any use of an Offering for the operation of or within a High-Risk System.
- 2.9 **Documentation.** The specifics of Offerings and Entitlements are described in the Documentation available at <https://plm.sw.siemens.com/en-US/insights-hub/> which is incorporated herein by reference. Documentation includes information such as applicable limits or other attributes and metrics, prerequisites, or scaling factors for the pricing such as number of Assets, and additional third-party terms which prevail for third-party software, technology, data, and other materials, including open-source software licensed from third parties.
- 2.10 **Notices.** Notwithstanding Section 13.6 of the UCA, notices to Siemens shall be sent to contract.mindsphere.sisw@siemens.com.

3. SPECIFIC TERMS

3.1 **Specific Terms for Developer Services.** The following terms will apply to Customer's use of Developer Services:

- 3.1.1 **Customer Obligations.** Unless otherwise agreed in writing or expressly permitted in the Agreement, when using Developer Services, Customer will: (i) use Developer Services solely for the development, testing, and demonstration of Customer Applications, but not for productive or other commercial use, (ii) ensure that Customer Applications comply with any applicable Guides or Documentation, (iii) not use any device, location, database, or application outside Customer Instance to enable transfer of any of Customer Content to a destination outside Customer Instance, and (iv) not allow any application, services, or other software deployed outside Customer Instance to interoperate with Foundation APIs, except to the extent required for the intended purpose of the applicable Offerings. Customer acknowledges and agrees that Developer Services are not designed to be used to access, use, or otherwise process any data that would qualify as Confidential Information.
- 3.1.2 **Submission.** Customer is responsible for (i) the evaluation and testing of each Customer Application as to its technology, functionality, performance, security, and user interface; (ii) the compliance of each Customer Application with the DevOps Guide and any other requirements set out in the Agreement; and (iii) the successful completion of any technical self-certification process made available by Siemens.
- 3.1.3 **Review.** Siemens reserves the right to review each Customer Application, whether directly or through a subcontractor, but is not obligated to conduct any such review. Neither any such review nor the lack thereof will constitute or be communicated by Customer to be an endorsement by Siemens of Customer Applications. Additional terms regarding review standards and processes may be set out in the DevOps Guide. Customer agrees to cooperate with Siemens in the review process and provide information and materials reasonably requested by Siemens, including information on the operation of Customer's business. Siemens may adopt and change its review standards or processes at any time as it deems appropriate. Any of Customer's non-public information that Siemens obtains access to in the course of the review will be considered Customer's Confidential Information.
- 3.1.4 **Rejection.** Siemens may reject the productive use of a Customer Application if Siemens determines that Customer Application (i) does not meet all or any part of the imposed requirements or (ii) might impact the proper functionality of Customer Instance and/or Siemens' Insights Hub Private Operations (e.g. due to cybersecurity threats, coding issues etc.). If Siemens rejects a Customer Application, such Customer Application will not be deployed on Customer Instance.
- 3.1.5 **Rights in Customer Applications.** Customer will own all intellectual property rights in, or to, Customer Applications and other results developed by or on behalf of Customer using the Developer Services, subject, however, to any rights of Siemens, rights of third parties, and rights in Developer Material.
- 3.1.6 **License Grant.** Siemens grants Customer a non-transferable, non-sublicensable, time-limited, and revocable license to use and permit third parties to use Developer Material solely for development and testing of Customer Applications.

3.2 **Specific Terms for Operator Services.** The following terms will apply to Customer's use of Operator Services:

- 3.2.1 **Customer's Obligations.** Unless otherwise agreed in writing or expressly permitted in the Agreement, when using Operator Services Customer will: (i) use Operator Services solely to deploy, operate, or provide Customer Applications for its own use; (ii) not develop or modify Customer Applications; (iii) ensure that Customer Applications comply with the DevOps Guide and any other requirements set out in the Agreement ("**Requirements**"); (iv) not use any device, location, database, or application outside Customer Instance to enable transfer of any Customer Content to a destination outside Customer Instance; and (v) not allow any application, services, or other software deployed outside the Customer Instance to interoperate with Insights Hub APIs, except to the extent required for the intended purpose of the applicable Offerings.
- 3.2.2 **Maintenance and Removal.** Customer will ensure that Customer Applications are kept up to date with current bug fixes and patches. If Siemens determines that Customer Applications do not meet the Requirements, Siemens may provide notice requesting that Customer update Customer Applications, so they comply with the Requirements. If Customer fails to remedy the non-compliance within the time period stated in the notice, Siemens reserves the right to remove such non-complying Customer Applications.
- 3.2.3 **Support; User Documentation.** Customer is responsible for providing support concerning Customer Applications. Customer will provide user documentation that accurately reflects the functionalities of Customer Applications, including security safeguards and information explaining which functionality resides outside Customer Instance.
- 3.3 **Specific Terms for Data Sharing.** Certain Offerings enable Customer to grant another Account access to certain Customer Content (read or read and write) under a collaboration ("**Collaboration**"). Once the Collaboration is established, the sharing Account will be able to share selected Customer Content with the receiving Account ("**Sharing**"). Collaboration and individual Sharing require prior approval of the involved Accounts. Between Siemens and the involved Accounts, it is expressly understood that the Collaboration is only between the involved Accounts and Siemens is not a party thereto, and the outcome of any Collaboration and Sharing of Customer Content is beyond

Siemens' control. Customer is responsible for the implementation of measures required to reasonably protect Customer Content from misuse by any third party.

- 3.4 **Specific Terms for Self-Hosted Applications.** Certain Offerings enable Customer to register a Self-hosted Application to its Account in order to deploy, operate and provide it to Customer. Customer is solely responsible for procuring and maintaining appropriate licenses for all third party software or services that Customer uses in relation to its Self-hosted Application (including for the hosting and operation thereof).
- 3.5 **Specific Terms for MindConnect Device Management Services.** By using MindConnect Device Management Services, Customer acknowledges and agrees that (without limiting any of Customer's further obligations under the Agreement) (i) any transfer and deployment of configuration files, firmware images, or other data or software, as well as corresponding documentation or terms and conditions to connected devices is solely agreed between Customer and the relevant device owner/user, and (ii) Siemens does not assume any obligations or responsibility with regard to, and is under no obligation to test, validate, or otherwise review, such content.

4. **INSIGHTS HUB PRIVATE OPERATIONS**

4.1 **General**

4.1.1 **Updates.** We may make updates to this section 4 to improve the operations activities. The then-current section 4 will apply to the provisions of the operations activities to you.

4.1.2 **Remote Services.** All services shall be provided remotely in English language.

4.1.3 **Your Responsibilities.** This section outlines your responsibilities which are in addition to those responsibilities outlined in the Agreement which governs this Section 4.

a. General

- i. You will provide us with all the information regarding your business, equipment, work procedures and plans which are required by us to render the deliverables and will ensure that any information provided is accurate and complete.
- ii. You coordinate monthly meetings with us and other relevant stakeholders for deployment alignment and planning.
- iii. Your operating environment meets all the prerequisites as described in Section 4.4 so that we may carry out the activities described in this Section 4. The availability of a qualified infrastructure is a critical success factor for the timely execution of the activities with the expected level of quality.
- iv. You shall provide Insights Hub Private Cloud Software subscription as needed for your purposes.
- v. You shall be solely responsible to contract for telecommunications facilities (data communications circuit, wiring, etc.), and for the costs associated with such facilities.
- vi. You shall be responsible for implementing and maintaining your information security controls for internet service provisioning according to ISO 27001 or equivalent.
- vii. You shall adequately plan your infrastructure to accommodate number of Users to access your Insights Hub Private instance.

b. Insights Hub Cloud Dedicated (Virtual Private Cloud)

- i. You shall provide the Infrastructure as a Service ("IaaS") subscriptions as described in Section 4.4.
- ii. We receive all administrative permissions (here: administrator privileges) to the IaaS subscriptions provided by you.
- iii. You coordinate between us, the IaaS supplier and other relevant third parties to provide all required information to us in a consolidated form.

c. Insights Hub for Private Cloud (Local Private Cloud)

- i. You shall provide third party and open-source software and respective licenses and operate your operating environment as laid out in Section 4.4.
- ii. You coordinate between us and relevant third parties to provide all required information to us in a consolidated form.
- iii. You will be responsible for the infrastructure and network maintenance per the specification provided by Siemens.

4.1.4 **Out-of-Scope Responsibilities for Us.** The following non-exhaustive list shows examples of activities not in the Insights Hub Private Operations' scope:

- a. Any data upload services or tools to migrate or clean legacy or supplier/partner data into or out of your Insights Hub instance. You are responsible for data migration.
- b. All activities, which are not explicitly mentioned in this Section 4, e.g. training, data backup and recovery procedures, certificates, monitoring, Review of your information security controls.
- c. Third party applications on your Insights Hub instance.
- d. Reviewing your information security controls.

4.1.5 Your Project Manager or Single Point of Contact (Recommended). You will provide a project manager to act as your representative to us. This project manager will be responsible to:

- a. Provide required information relevant to accomplishing the work activities quickly and accurately.
- b. Provide your organizational linkages, including the appropriate people and teams.
- c. Ensure availability of key business subject matter experts on a best-effort basis during designated meetings, with the proper level of decision-making.
- d. Provide your input, assistance, participation, and cooperation with our activities and requests required by the in-scope activities tasks of this Section 4.
- e. Provide us with all your management decisions and responses, information, data, equipment, approvals if any in a timely manner.
- f. Provide your business processes to us.

4.2 Initial Deployment

4.2.1 Kick-Off. For the detailed planning of the deployment preparation, we shall prepare, perform, and document a remote kick-off meeting with you.

4.2.2 Readiness of Operating Environment. We shall verify if you are meeting all Insights Hub private install and system management prerequisites as described in Section 4.4 for your operating environment, such as e.g., proper sizing of the systems, system access, or installed software versions. We shall prescribe the required system updates to be implemented by you as necessary. We shall confirm when your operating environment meets all Insights Hub installation and system management prerequisites and declare its readiness for the initial deployment of the Insights Hub Private Software. Implementation of system updates necessary to fulfill the prerequisites for the readiness of the operating environment are not executed by us.

4.2.3 Readiness of Hardware. Readiness of the hardware will be validated by Siemens operations team for Insights Hub Local Private Cloud deployment. Hardware specification will be given by Siemens operations team based on the load profile to be supported in the customer environment. Customer or partners is supposed to arrange the hardware based on specification and before IH deployment siemens operations team is going to validate the initial configuration.

For Insights Hub Virtual Private Cloud deployments, this is not applicable, as the Siemens operations team will manage the entire infrastructure deployment.

4.2.4 Initial Deployment. We shall align with you on a timeline for performance of the initial deployment. Provided that the operating environment is ready, we shall deploy the Insights Hub Private Software on your operating environment per remote installation according to the agreed timeline.

4.2.5 Completion of Deployment and Access Credentials. Upon completion of the initial deployment of the Insights Hub Private Cloud Software on your operating environment, we shall announce the completion to you and provide you with the access credentials to your Account.

4.3 Insights Hub Private Operations

4.3.1 Content of Insights Hub Private Operations. We shall operate the Insights Hub Private Cloud Software as described in this section, hosted on an operating environment provided by you and dependent on the fulfillment of further obligations by you, and thus make the Insights Hub instance available to you. Management of your operating environment is not included in the Insights Hub Private Operations.

4.3.2 Insights Hub Cloud Dedicated (Virtual Private Cloud). With regards to Insights Hub, the operations consist of the following actions:

a. Environment Access

Action	Customer	Siemens
Lifecycle management of user access to IaaS accounts	Yes	
Lifecycle management of technical access to IaaS accounts	Yes	Yes

To perform operational duties, access to the IaaS accounts shall be managed by you and continuously ensured for us.

Technical access to the IaaS API is granted by you by ensuring a trust relationship with a Siemens managed vault instance.

Network access to your Insights Hub instance is coordinated between you and us.

All the accesses above must be available for our operational support.

b. Deployments

Action	Customer	Siemens
Coordination of deployment windows	Yes	Yes
Deployment of Insights Hub Private Cloud Software component updates/patches and configuration of required IaaS services		Yes

You shall define a responsible contact person to coordinate deployments of Insights Hub Private Cloud Software components. Time slots for deployments should be set in regularly scheduled meetings.

c. Monitoring

Action	Customer	Siemens
Monitoring setup to review health of Insights Hub Private Cloud Software components installed in your infrastructure (e.g. IaaS accounts) by us	Yes	Yes
Live monitoring of alerts	Yes	

We continuously monitor the health of installed Insights Hub Private Cloud Software components. To this purpose health metrics will be exported into our central monitoring service.

d. Configuration

Action	Customer	Siemens
Environment for your Insights Hub instance configuration coordination	Yes	Yes
Changes to configuration of environment for your Insights Hub instance		Yes

Both parties shall coordinate a suitable environment configuration. This should be reviewed by both parties on a regular basis and adjusted to demands (e.g., for scaling).

Any changes to the environment configuration of your Insights Hub instance shall be implemented by us.

e. Incident Management

Action	Customer	Siemens
Automatic detection of predefined Insights Hub Private Cloud Software system alerts	Yes	
Manual reporting of incidents via Support Center	Yes	
Response to automatically/manually reported outages		Yes
Incident documentation		Yes
Emergency deployment decisions		Yes
Root cause analysis on outages	Yes	Yes
Receival and forwarding of incidents reported by your IaaS supplier	Yes	

We will leverage continuous health monitoring to automatically detect Insights Hub Private Cloud Software system alerts indicating non availabilities. Incidents reported in this manner or manually by you via the Support Center will be responded to by us and we will directly access your Insights Hub instance to stabilize the system.

To be able to respond in time, we shall be able to unilaterally decide to deploy changes for the purpose of incident remedy.

For the purpose of minimizing outage occurrences, each instance shall result in us performing and documenting the root cause. You shall support this effort.

Incidents reported by your IaaS supplier shall be forwarded to us by you for further processing.

4.3.3 Insights Hub for Private Cloud (Local Private Cloud). With regards to Insights Hub, the operations consist of the following actions:

a. Environment Access

Action	Customer	Siemens
Admin access to infrastructure accounts	Yes	Yes
Admin access to your environment	Yes	Yes

Network access to your environment is coordinated between you and us.

All the accesses above must be available for our operational support.

b. Deployments

Action	Customer	Siemens
Coordination of deployment windows	Yes	Yes
Cluster and Backend services	Yes	
Deployment of Insights Hub Private Cloud Software component updates/patches and configuration of required operating environment		Yes

You shall define a responsible contact person to coordinate deployments of Insights Hub Private Cloud Software components. Time slots for deployments should be set in regularly scheduled meetings.

c. Monitoring

Action	Customer	Siemens
Monitoring setup to review health of Insights Hub Private Cloud Software components installed in your operating environment	Yes	Yes
Monitoring setup to review health of Cluster and Backend Services	Yes	
Live monitoring of alerts	Yes	

We continuously monitor the health of installed Insights Hub Private Cloud Software components. To this purpose health metrics will be exported into our central monitoring service.

d. Configuration

Action	Customer	Siemens
Environment for your Insights Hub instance configuration coordination	Yes	Yes
Changes to configuration of environment for your Insights Hub instance		Yes

Both parties shall coordinate a suitable environment configuration. This should be reviewed by both parties on a regular basis and adjusted to demands (e.g., for scaling).

Any changes to the environment configuration of your Insights Hub instance shall be implemented by us.

e. Incident Management

Action	Customer	Siemens
Automatic detection of predefined Insights Hub Private Cloud Software system alerts	Yes	
Manual reporting of incidents via Support Center	Yes	
Response to automatically/manually reported outages		Yes
Incident documentation		Yes
Emergency deployment decisions		Yes
Root cause analysis on outages	Yes	Yes

We will leverage continuous health monitoring to automatically detect Insights Hub Private Cloud Software system alerts indicating non availabilities. Incidents reported in this manner or manually by you via the Support Center will be responded to by us and we will directly access your Insights Hub instance to stabilize the system.

To be able to respond in time, we shall be able to unilaterally decide to deploy changes for the purpose of incident remedy.

For the purpose of minimizing outage occurrences, each instance shall result in us performing and documenting the root cause. You shall support this effort.

4.4 Operating Environment Prerequisites

4.4.1 Insights Hub Cloud Dedicated (Virtual Private Cloud). The following prerequisites apply to you when using IaaS from AWS or Microsoft Azure as your operating environment.

Requirements	Details
Subscriptions	1 IaaS subscription

Backing Services	Part of your IaaS subscription.
DNS	Will require below 3 delegated DNS and CA certificates associated with this: • *.xiot.<customerbasedomain> • *.piam.xiot.<customerbasedomain> • *.uiam.xiot.<customerbasedomain>
SSL	Based on SAN. You will provide SSL certificates to us for the installation.
ADFS	Your IDP information should be provided to us for the integration so that we will be able to access your environment.
SMTP Server	You should provide the SMTP server details to integrate with Insights Hub notification services for email notifications.

4.4.2 Insights Hub for Private Cloud (Local Private Cloud). The following prerequisites apply to you when using an operating environment other than IaaS.

a. General Prerequisites on your operating environment

Requirements	Details
ADFS	Your IDP information should be provided to us for the integration so that we will be able to access your environment.
Backing Services	All backing services should be deployed by you with Insights Hub specified configurations and namespace and ready for the Insights Hub Private Cloud Software installation. Please see the Backing Services section below for details.
Deployment Environment	Availability of operating environment according to Insights Hub specific configuration, with following specifications: • Admin access will be provided to us. • Ingress setup is complete with wildcard and ingress logs are enabled.
DNS	*.xiot.<customerdomain>, *.piam.xiot.<customerdomain>, *.uiam.xiot.<customerdomain>, *.apps.<cluster-name>.<customerdomain>, api.<cluster name>.<customerdomain> These domains need to be added to your DNS server.
Monitoring prerequisites	• Monitoring metrics data source to be exposed to Siemens network. • Alerting channel (PagerDuty, Slack, Teams, Webhook, Mail, etc.) needs to be provided by you for the incident alert.
SMTP Server	You should provide the SMTP server details to integrate with Insights Hub Notification services for email notifications.
SSL (for external communication)	• *.xiot.<customerdomain>, *.piam.xiot.<customerdomain>, *.uiam.xiot.<customerdomain> the certificate is needed for your Insights Hub Private instance. • *.apps.<cluster name>.<customerdomain>, api.<cluster name>.<customerdomain>: the certificate is needed for your operating environment.

Static virtual IP	Two static IP associated with below DNS entries need to be configured to your DNS server. • IP1 - *.apps.<cluster name>.<customerdomain> • IP2 - api.<cluster name>.<customerdomain>
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b. Deployment Environment

- i. OpenShift/Rancher: The compatible versions for the deployment environment are listed at <https://documentation.mindsphere.io/resources/private-cloud/Backing-Services.pdf>.
- ii. Hardware Requirements: to be aligned project specifically between you and us.

- c. Backing Services: The compatible versions for the operating environment are listed at <https://documentation.mindsphere.io/resources/private-cloud/Backing-Services.pdf>.

5. **SUPPORT**

For detailed information regarding Technical Support, please refer to Chapter 2 of the Cloud Service Level Agreement (SLA), available at www.siemens.com/sw-terms/sla. Siemens offers technical support and service levels in tier "Standard" only.