

# SITRAIN Terms and Conditions

September 2023

## 1. Scope

- 1.1. These terms and conditions (“SITRAIN Terms and Conditions”) apply to booking, using, and attending in-person training, online training, virtual training environments (such as SITRAIN access), and SITRAIN Learning Journeys offered by the SITRAIN Digital Industry Academy (individually or collectively “Training” or “Training Events”). The SITRAIN Digital Industry Academy, the individual Training Events, and their Contents are operated and presented by Siemens Aktiengesellschaft, Werner-von-Siemens-Str. 1, 80333 Munich, Germany (“Siemens”), [contact@siemens.com](mailto:contact@siemens.com). Participants and Siemens are collectively referred to as “Parties.” These SITRAIN Terms and Conditions are supplemented by the [SITRAIN Acceptable Use Policy](#).
- 1.2. The SITRAIN Digital Industry Academy and the individual Training Events are intended for consumers within the meaning of section 13 of the German Civil Code (Bürgerliches Gesetzbuch, BGB) and entrepreneurs within the meaning of section 14 of the BGB whose registered place of residence or office is in Germany. You are a consumer if the purpose of booking a Training Event can be attributed neither to your commercial nor to your independent professional activities. In contrast, you are an entrepreneur, if you act in pursuit of your commercial or independent professional activities (section 14 of the BGB).
- 1.3. If you, as an employee of an entrepreneur, book a Training Event as part of your professional activities for the company, you hereby agree that you are booking your Training Event and accept these SITRAIN Terms and Conditions in the name of and for the account of the company with which you have a contract of employment. In this case, you declare and guarantee that you are authorized to represent this company in this regard. In such a case, the contract for the Training Event booked by you is entered into with your employer, and you benefit from the Training as third-party beneficiary.
- 1.4. The booking of a Training Event requires prior registration. For more information on how to register, see [here](#).
- 1.5. The contractual language is German.
- 1.6. These SITRAIN Terms and Conditions shall not apply to (i) goods and services, including software, not provided by Siemens, even if they interact with the Training selected; (ii) the transfer of data or software to and from the wide area network interface of the data centers used by Siemens for the provision of the Training; and (iii) any hardware intended for accessing the Training. You are responsible for ensuring and maintaining, at your own cost, the resources, including hardware, software, and connectivity, suitable and required for taking part in the Training.
- 1.7. Any software provided to you as part of the respective Training, including virtual training environments, may contain software, technology, and other materials from third-party providers, including open-source software, that have been licensed by third parties (“Third-party Provider Technology”) and are licensed under separate terms and conditions (“Third-party Provider Terms and Conditions”). The Third-party provider Terms and Conditions are listed in the documentation, the supplementary terms and conditions, the readme files, the header files, the notes files, or similar files. If there is any conflict with the SITRAIN Terms and Conditions, the Third-party Terms and Conditions shall take precedence in relation to the Third-party Technology. If the Third-party Terms and Conditions specify that Siemens has to provide Third-party Technology in the form of source code, Siemens shall provide this on written request against payment of adequate compensation for expenses.
- 1.8. These SITRAIN Terms and Conditions shall apply exclusively. Any agreements made individually in specific cases shall always take precedence. Different, conflicting, or supplementary General Terms and Conditions shall become an integral part of the contract only if and to the extent that Siemens has expressly approved their validity. This approval requirement shall apply in all cases, including when Siemens performs the Training without reservations in the knowledge of the General Terms and Conditions.

## 2. Booking/entry into contract

- 2.1. The presentation and description of the Training Events in the booking portal and the provision of the opportunity to book individual Training Events shall not constitute a binding offer on the part of Siemens. It is merely an invitation to treat by Siemens for you to make a binding booking and place a binding order.
- 2.2. You can use our booking portal to book a Training Event as follows:
  - (a) You can select a Training Event from our range and commence the booking process by clicking on the “shopping cart” icon.
  - (b) To continue the booking, you follow the booking process, entering your participant and invoice details. You can click on “Back” at any time to return to the previous step, and review or correct your data.
  - (c) By clicking on “Make chargeable booking,” you submit a binding offer for the latest Training Event in the shopping cart. Before sending the booking, you have another opportunity to review your booking, and to modify or cancel it. You can cancel the booking process at any time by closing your internet browser.
- 2.3. Siemens shall confirm receipt of the booking request by e-mail. This confirmation of receipt only documents that Siemens has received your booking request, but does not yet constitute acceptance of your offer.
- 2.4. Your booking shall become binding when Siemens accepts your offer by e-mail and confirms the booking by e-mail (booking confirmation). There is no entitlement to acceptance of your booking request.
- 2.5. Your booking or the Training Event booked is not transferable and cannot be shared, unless expressly agreed otherwise.

### 3. **Cancelation**

- 3.1. Siemens reserves the right to postpone or cancel certain scheduled Training Events, e.g., if the required minimum number of participants has not been reached or if the Training cannot be performed due to the trainer's illness or for other technical reasons for which Siemens is not responsible (e.g., defective training equipment etc.). Siemens shall provide information immediately in writing if an event is canceled or postponed. If the event is canceled, Siemens shall reimburse the price paid in advance without undue delay. Further claims due to the cancelation of a Training Event are excluded.
- 3.2. You may cancel your booking of a scheduled Training Event at any time before the agreed start of training. If the booking is not canceled at least ten (10) calendar days before the start of training, 80% of the price will be billed. If you fail to attend the Training Events that you have booked without canceling in advance, 100% of the price will be billed. It is possible to nominate a substitute. The right to cancel, which is granted voluntarily, shall not affect your statutory right to cancel your booking.

### 4. **Performance of Training**

- 4.1. Siemens' only obligation shall be to perform the Training. Siemens has no obligation to guarantee a certain outcome.
- 4.2. Siemens has the right to make necessary changes to or deviations from the contents, methodology, and organization before or during the Training, provided these do not substantially change the Content of the Training. There is no entitlement to having the Training conducted by a specific trainer. In particular, Siemens has the right to substitute trainers when necessary for other individuals with the same qualifications for the Training booked.
- 4.3. If Training Events are held at a Siemens location or another location, you shall ensure that you comply with the safety and accident prevention rules as well as the location-specific rules applicable on the premises. Data media brought to a Training Event must not be connected to or used with Siemens' own equipment without the prior consent of Siemens.
- 4.4. You shall bear all costs incurred in connection with a Training Event, such as travel, meals, or accommodation.

### 5. **Other responsibilities**

- 5.1. You are responsible for the security of your IT systems and your hard- and software that you use as part of the Training. Before downloading information or data and before accessing Siemens IT systems, including virtual training environments, you have the obligation to ensure that, for your own protection and to prevent viruses on Siemens IT systems, you have installed appropriate security measures and virus scanners.
- 5.2. If, as part of a Training Event, Siemens gives you access to a virtual training environment, you are obliged (i) to store your access data in a safe place and protect it from unauthorized access and unauthorized use; (ii) not to gain access to the virtual training environment in any way other than through your User Account or in another way approved by Siemens; (iii) not to circumvent or disclose the authentication or security of your User Account or of a host or network connected to the virtual training environment; and (iv) not to use a false identity or access data of another user or institution to access the virtual training environment. Siemens may modify the access data if, in its reasonable discretion, Siemens deems such modification necessary.
- 5.3. You are obliged to notify Siemens without undue delay if you have lost your access data or if you become aware of unauthorized access to the virtual training environment by a third party. You are obliged to modify your access data without undue delay to prevent further access to the virtual training environment. You shall in all cases remain responsible for any act of commission or omission by any person to whom you have granted access to the virtual training environment.
- 5.4. You are obliged to inform Siemens and to provide to Siemens appropriate materials that Siemens may reasonably request to verify your compliance with these SITRAIN Terms and Conditions. If you become aware of one of the following actual or potential events, you are obliged to inform Siemens without undue delay in an appropriate manner and to help defend against and eliminate them: (i) unauthorized use by you of the virtual training environment or of your User Account; (ii) loss or theft of your access data; (iii) circumstances or incidents that have a negative impact on the security of the virtual training environment; or (iv) measures taken by the authorities or court rulings that relate specifically to the use by you of the virtual training environment and may have a negative impact on the virtual training environment.

### 6. **Prices/payment terms**

- 6.1. Prices are quoted in the booking portal as both net prices and gross prices, incl. the value added tax applicable to participants resident in Germany.
- 6.2. The prices are due for payment within thirty (30) days of receipt of the invoice. Siemens reserves the right to make attendance at a Training Event dependent on payment in advance.
- 6.3. If you book Training as an entrepreneur, all amounts payable to Siemens shall be understood to apply plus taxes and other duties. You undertake to pay to Siemens, or reimburse Siemens for, all taxes, customs charges, and other duties that are levied by a government authority on the use or receipt by you of SITRAIN access. If you are required by law to deduct tax or to withhold income tax, the amount payable to Siemens shall increase to ensure that Siemens receives a net amount that equals the invoice amount. You shall produce all tax statements without undue delay.

### 7. **Rights of use**

- 7.1. Siemens and its licensors shall remain the owners of all rights to the intellectual property in all materials, irrespective of their form, including but not limited to texts, diagrams, multimedia content, software, and virtual training environments, that are made accessible or available to the participant in connection with Siemens Training ("Training Materials").
- 7.2. Siemens shall grant you the simple right to use Training Materials provided to you. Where, as part of the Training,

participants are provided with software or are given access to a virtual training environment, the right of use shall be limited to the use of the software for the purposes and duration of the Training.

- 7.3. You are not authorized to do any of the following in respect of the Training Materials, or to allow third parties to do so: (i) use them for purposes other than Training, (ii) use them for unlawful purposes, (iii) use them in a way that damages, deactivates, overloads, or negatively impacts on a Training Event, including its virtual training environment, or that could negatively impact on its use by other participants, (iv) sell, transfer, sublicense, publish, lend, lease, or use (parts or extracts) of them for third parties without prior written consent from Siemens, (v) modify, change, manipulate, or repair SITRAIN access or to create works derived from it, (vi) reverse engineer, disassemble, decompile, (vii) use them in a way that could make the Training Materials subject to an open-source software license, or (viii) use them to develop or enhance a product or service that competes with the Training concerned. You are not authorized to (i) remove proprietary information or notices included in or attached to the Training Materials or (ii) copy Training Events or record them, e.g., using screen scraping. The restrictions mentioned in this section shall not apply to the extent that they conflict with mandatory law.
- 7.4. You have the rights of use protected by copyright, without limitation, to any materials, including software elements, that you have created yourself, e.g., in a virtual training environment. You shall grant Siemens the right to use such materials to the extent that this is necessary to perform the Training and provide the services. You alone are responsible for any materials created as part of Training Events. Siemens does not accept any liability for these materials. You shall acknowledge that these types of materials may only be used for training purposes. Any use of these materials for productive, commercial purposes shall be at your own risk.

## 8. **Right to cancel**

- 8.1. As a consumer, you have a statutory right to cancel. More information can be found in the cancellation policy.
- 8.2. Your right to cancel shall not pertain to contracts for the provision of other services in connection with leisure activities, if the contract stipulates a specific date or period for their provision.
- 8.3. Your right to cancel shall also expire under a contract for the provision of services in cases where Siemens has provided the service in full and began to perform the service only after you had given your express consent and at the same time confirmed that you were aware that you would lose your right to cancel once Siemens has performed the contract in full.
- 8.4. Your right to cancel shall also expire under a contract for the delivery of digital Content not contained in a physical data medium if Siemens began to perform the contract after you
- had given your express consent to Siemens beginning to perform the contract before the end of the cancellation period, and
  - confirmed that you were aware that by consenting you would lose your right to cancel when contract performance begins.
- 10.1. In cases of ordinary negligence, Siemens shall only be liable if essential obligations under the contract have been breached and liability shall in such a case be limited to foreseeable loss or damage. This limitation shall not apply in the case of injury to life, body, and health, or if obligations were breached with intent or gross negligence. Siemens shall not be liable for any other loss or damage caused by ordinary negligence. The provisions of the German Product Liability Act (Produkthaftungsgesetz) shall remain unaffected. Siemens' liability in case of fraudulent concealment or the assumption of a guarantee shall remain unaffected, regardless of fault.
- 10.3. The limitations or exclusions of liability of section 9.1. shall also apply in favor of the legal representatives and vicarious agents of Siemens, if claims are asserted against them directly.
- 10.4. All instructions issued by trainers shall be obeyed. No liability shall be accepted for actions to the contrary.
- 10.5. For Training and goods or services in connection with Training provided without charging additional fees and labeled "evaluation," "test," "trial," "demo," or similar, Siemens shall only be liable for intent and gross negligence. If Siemens fraudulently conceals a defect in law or a fault, Siemens shall reimburse you for any loss arising from it. In all other respects, Siemens' liability for defects in law or in substance shall be excluded.
- ## 11. **Compliance with export control regulations**
- 11.1. You are obliged to comply with all applicable sanction, embargo, and (re-)export control regulations, and in all cases those of the European Union, the United States of America, as well as the legal system in which SITRAIN access, software, or a virtual training environment is provided to you (collectively "Export Law").
- 11.2. In particular, if not permitted under Export Law or due to corresponding licenses and approvals issued by the authorities, you must not (i) access or use SITRAIN access, the software, or the virtual training environment from a location from which access is prohibited or restricted due to comprehensive sanctions or requires authorization under Export Law (currently Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk and Luhansk regions in Ukraine); (ii) grant access to, transfer, or otherwise make available SITRAIN access, the software, or the virtual training environment to a natural or legal person that is included in a sanctions list under Export Law; (iii) use SITRAIN access, the software, or the virtual training environment for a purpose prohibited under Export Law (e.g., in connection with defense products, nuclear technology, or weapons); (iv) upload any Content to SITRAIN access, the software, or the virtual training environment, unless they are non-controlled (e.g., EU: AL = N; USA: ECCN = N or EAR99).
- 11.3. You are obliged to provide to Siemens without undue delay, as requested, all information about the user(s), the intended use, and the place of use of SITRAIN access, the software, or the virtual training environment.
- 11.4. You fully indemnify Siemens in respect of any claims asserted by authorities or other third parties against Siemens due to

your or the user's/users' non-compliance with the above export control obligations, and undertake to compensate Siemens for all losses and expenses incurred in this connection.

11.5. Siemens shall perform the contract provided its performance does not conflict with national or international foreign trade law regulations or with embargos and/or other sanctions. You shall take note that Siemens may be obliged under Export Law to restrict or block your access to SITRAIN access, the software, or the virtual training environment.

12. **Consumer Dispute Resolution**

Siemens is not obligated to participate in a dispute resolution procedure before a consumer arbitration board and is not prepared to do so. Rather, Siemens will always endeavor to resolve any disputes with its customers on its own. Please contact Siemens customer service.

13. **Final provisions**

13.1. Siemens' rights and obligations under these SITRAIN Terms and Conditions may be exercised or met by Affiliated Companies of Siemens. Siemens may use resources in various countries, including unaffiliated subcontractors, to provide the training services. Siemens shall remain responsible for its obligations under these SITRAIN Terms and Conditions.

13.2. These SITRAIN Terms and Conditions shall also apply to legal successors and assignees of the Parties and are binding on them. Siemens has the right to assign the contract with you or the rights arising from it or individual orders to Affiliated Company of Siemens that will assume the obligations from Siemens. You do not have the right, without prior written consent from Siemens, to assign this contract under these terms and conditions in full or in part, or to transfer rights under this contract.

13.3. Neither Party is responsible for defaults or delays in fulfilling its obligations in accordance with these SITRAIN Terms and Conditions attributable to causes beyond its control, including force majeure, acts by government authorities, earthquakes, pandemics, epidemics, fire, floods, embargos, riots, sabotage, attacks on IT systems by third parties (e.g., hacker attacks), labor shortages, strikes, industrial disputes and lockouts, acts of commission or omission by civil or military authorities, war, or terrorism.

13.4. The contract is subject to the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods, if you are a consumer and (a) your ordinary place of residence is in Germany or (b) in a country that is not a member of the European Union. If you are ordinarily resident in a member state of the European Union, German law shall also apply, although mandatory provisions of the state in which you are ordinarily resident shall remain unaffected. If you are an entrepreneur, the contract is subject to Swiss law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

13.5. If, contrary to the information you provided in the order, you are not resident in the Federal Republic of Germany or move your place of residence abroad after entering into the contract or your place of residence is not known at the time a lawsuit is filed, the legal venue for all disputes arising from and in connection with the contractual relationship shall be Munich. If, at the time the contract is entered into, the customer is a businessperson, a legal entity under public law, or a special fund under public law, the legal venue for all disputes arising from and in connection with the contractual relationship shall be Munich.

13.6. Any provision of these SITRAIN Terms and Conditions that may be deemed unenforceable or void, in full or in part, shall not operate to invalidate any other portion or provision of the contract. The Parties undertake to replace the unenforceable or void provision with an enforceable provision that approximates the economic intent of the Parties as closely as possible. The same shall apply in the case of a gap.

13.7. If, where Siemens provides a translation of the German version of these SITRAIN Terms and Conditions, there are contradictions between the German and the translated version, only the German version shall prevail.

## Special Terms and Conditions for SITRAIN access

### 1. Scope

If you have booked SITRAIN access Training or SITRAIN access is part of the Training that you have booked, these Special Terms and Conditions shall supplement the SITRAIN Terms and Conditions. If there are any contradictions between these Special Terms and Conditions and the SITRAIN Terms and Conditions, these Special Terms and Conditions shall take precedence. These Special Terms and Conditions are supplemented by the SITRAIN Acceptable Use Policy.

### 2. Provision of SITRAIN access

- 2.1. Siemens shall provide SITRAIN access in accordance with the properties and functionalities specified in the product description. To the extent that this is commercially reasonable, Siemens shall endeavor to make SITRAIN access available to you, subject to operational restrictions, including maintenance and security. SITRAIN access is available whenever SITRAIN access is accessible by logging in at the wide area network interface of the data center that Siemens uses to provide SITRAIN access.
- 2.2. You may use SITRAIN access to send messages to other users of SITRAIN access. You are solely responsible for such messages and their Content. Messages may be blocked, deleted, or prevented from delivery by destination servers or for other reasons beyond Siemens' control, and there can be no assurance that notifications will reach their intended destination within any particular timeframe.
- 2.3. Since Siemens makes SITRAIN access available in a multi-user environment, it has to reserve the right to modify or discontinue SITRAIN access for justified reasons. This is the case in particular if (i) legal requirements or case law make it necessary to modify or discontinue SITRAIN access; (ii) Siemens is required by its subcontractors and/or suppliers to make modifications; (iii) Siemens' business relationship with a provider of software and/or services used by Siemens and essential for the provision of SITRAIN access is terminated; (iv) you have not consented; and/or (v) a modification or setting is required because there would otherwise be security risks. If you are a consumer, the modification shall not result in additional costs for you. Siemens shall inform you of any modification, including any negative impact on ways of accessing or using SITRAIN access or of the discontinuation of SITRAIN access and the date when this will enter into force, at least 90 days before such modification. Siemens will not maintain earlier versions of SITRAIN access.
- 2.4. You shall be notified of any amendment to these Special Terms and Conditions at least two months before it enters into force via SITRAIN access or through another electronic channel. The amendments shall only become effective when you have consented to them. Your consent is deemed to have been given if (i) you have not objected to the amendments before the proposed date of their becoming effective and (ii) these amendments are necessary to restore alignment of the contractual arrangements with a change in the legal situation, because as a result of a change in the law a provision of these Special Terms and Conditions no longer conforms to the legal situation or is rendered ineffective or may no longer be applied as a result of a final decision. Where Siemens amends these Special Terms and Conditions on the basis of assumed consent, you have the right to terminate your Subscription with immediate effect. In the notification of an amendment to these Special Terms and Conditions, Siemens shall inform you of the legal consequences.

### 3. Use of SITRAIN access

For the duration of a valid Subscription, Siemens shall grant you a non-exclusive, non-transferable, limited right to access SITRAIN access and use it for internal business purposes exclusively in accordance with these Special Terms and Conditions. If and to the extent that you are provided with accompanying documents and materials via SITRAIN access, Siemens shall grant you a non-exclusive limited right to download this documentation electronically, to make one printout, and to create a backup copy of it.

### 4. Term, termination, suspension

- 4.1. Your Subscription shall have a term of 12 months and shall end automatically after the term of the Subscription.
- 4.2. You may terminate your Subscription to the end of the term of the Subscription at any time during the term of the Subscription.
- 4.3. Each Party may terminate the Subscription with immediate effect for good reason, if the other Party materially breaches the SITRAIN Terms and Conditions, including these Special Terms and Conditions, and the breach of contract is not rectified during a period of 30 days after receipt of a notification specifying the breach. Siemens has the right to terminate the Subscription with immediate effect if you use SITRAIN access without authorization, you file for insolvency or insolvency proceedings are commenced against you, if you discontinue your business activity, if despite a reminder you fail to meet your payment obligations, you contravene sections 3, 9 of these Special Terms and Conditions or sections 11, 13.2 of the SITRAIN Terms and Conditions, or any Laws, or fail to comply with requirements imposed by the authorities.
- 4.4. On termination of the Subscription, your rights to access and use SITRAIN access shall end automatically. In such a case, you are obliged to discontinue the use of SITRAIN access immediately. If the Subscription is terminated by Siemens for good reason, any outstanding fees shall become due and payable immediately. If the Subscription is terminated by you for good reason, Siemens shall refund you for a reasonable portion of the charges paid in advance on a pro-rata basis for the remaining Subscription term. Sections 5.1, 5.2, 5.4, 6.1, 6.3, 7.1, 7.3, 13.4, and 13.5 of the SITRAIN Terms and Conditions and sections 4.4, 6.3, 7.5, 8, 9, 10, and 10.2 shall remain unaffected by any termination.
- 4.5. Siemens may fully or partially suspend or restrict access to, and the use of, SITRAIN access, if in its due discretion Siemens

finds that the use of SITRAIN access poses a security risk to SITRAIN access, Siemens, or a third party, or makes Siemens or a third party subject to liability, if you materially breach the SITRAIN Terms and Conditions, including these Special Terms and Conditions, if circumstances occur that entitle Siemens pursuant to section 4.3 to terminate the Subscription for good reason, or if an Excusing Event occurs. The suspension or restriction of access to SITRAIN access may be imposed in addition to all other rights that Siemens may have under the SITRAIN Terms and Conditions, including these Special Terms and Conditions, does not release the customer from its obligation to pay the fees, and the suspension or restriction shall be lifted when the reason for the suspension no longer exists.

## 5. **Customer Content**

- 5.1. You alone are responsible for the creation, substance, purpose, use, and quality of your Customer Content, as well as for how you acquire and share Customer Content via SITRAIN access. This comprises: (i) the transfer or reproduction of Customer Content to data centers outside the country in which you are permanently resident, in accordance with the law; (ii) the initiation of measures to maintain the legally required or otherwise appropriate security of Customer Content, including its backup and archiving; (iii) all document retention and archiving requirements arising from Laws or corporate guidelines that you have to observe; and (iv) ensuring that Customer Content can be used by Siemens and other users of SITRAIN access in permissible ways without breaking Laws or infringing the rights of third parties. If you are held liable by third parties for infringing their rights or for breaking Laws with your Customer Content, you are obliged to investigate the allegations made against you and take appropriate action. Siemens shall not delete your Customer Content, unless Siemens is requested to do so by an authority, deletion is necessary for reasons of liability, or deletion is necessary for security-related reasons. Siemens shall not create and/or maintain backup copies of your Customer Content.
- 5.2. Unless provided for otherwise, Siemens shall not acquire any rights, titles, or claims to the Customer Content. Subject to existing confidentiality obligations, Siemens and its business partners have a global, non-exclusive, transferable, sublicensable right, free of charge, to use, host, store, transfer, play back, modify, and reproduce Customer Content in order to make the Customer Content available to other users via SITRAIN access.

## 6. **Rights arising from defects**

- 6.1. The relevant requirements that take precedence in their application to consumers notwithstanding, Siemens guarantees that SITRAIN access substantially corresponds to the description and properties set out in section 2.1. Otherwise Siemens – to the extent permitted by law – has the sole and exclusive obligation and you the sole and exclusive right (i) to take or demand commercially reasonable efforts to restore SITRAIN access so that SITRAIN access conforms to the guarantee, or (ii) if it is commercially unreasonable to request such restoration, to terminate the Subscription and refund all amounts paid for the Subscription in advance on a pro-rata basis for the remaining Subscription term.
- 6.2. Rights arising from defects shall not apply for defects arising from Customer Content, third-party Content, or use of SITRAIN access that does not conform to the SITRAIN Terms and Conditions or these Special Terms and Conditions.
- 6.3. Siemens provides only the guarantees expressly specified in these Special Terms and Conditions and excludes all other guarantees, including but not limited to the implied guarantee of marketability and of suitability for a specific purpose. Siemens does not provide any guarantee that (i) reported errors will be corrected or support requests will be resolved to meet your requirements (ii) SITRAIN access will be available uninterrupted, error-free, fail-safe, fault-tolerant or free of harmful components, or (iii) Content, including Customer Content and third-party Content, will be secure or will not otherwise be lost or damaged. Presentations of SITRAIN access in any communication with you constitute technical information but do not constitute any guarantee or warranty.

You are responsible for assessing the suitability of SITRAIN access for the use intended by it. By using SITRAIN access, you agree that SITRAIN access meets your requirements in accordance with applicable Laws. You will, at your own cost, obtain all necessary approvals and licenses from software and service providers that you use in connection with SITRAIN access.

You consent to the fact that the Subscription to SITRAIN access does not depend on future features or functions of SITRAIN access. Siemens has no control over your processes or the creation, validation, sale, or use of the customer's (or any customer's customer's) products or services and shall not be liable for any claims or demands made against you by third parties, except for Siemens' obligations to indemnify the customer against infringement claims as expressly stipulated in this contract.

This section 6.3. shall not apply to consumers.

## 7. **Indemnity**

The relevant requirements that take precedence in their application to consumers notwithstanding, the following shall apply in case of breaches of the law and defects in law:

- 7.1. Siemens shall, at Siemens's expense, indemnify and defend you against all claims based on the fact that your use of SITRAIN access in accordance with these Special Terms and Conditions infringes a copyright, trade secret, or patent or trademark granted by the United States, Japan, or a member of the European Patent Organisation and shall reimburse you for all damages awarded to you by the respective competent court or agreed in a settlement, provided that (i) you inform Siemens of the claim in writing without undue delay, (ii) give Siemens all the information requested and provide adequate support in connection with the claim, and (iii) grant Siemens the exclusive authorization to defend or settle the claim. Siemens shall

not, without your prior written consent, which may not be unreasonably refused, accept any liability or enter into any obligations in your name.

- 7.2. If a permanent injunction against your use of SITRAIN access is obtained, Siemens in its own discretion may arrange the right for you to continue to use SITRAIN access or to modify SITRAIN access in such a way that SITRAIN access can be used without infringing any rights. If Siemens cannot reasonably be expected to implement such remedies, (i) the Subscription to SITRAIN access shall end automatically; and (ii) you shall end the use of SITRAIN access without undue delay. Before an injunction is granted, Siemens may in its own discretion take one of the abovementioned remedies to lessen the infringement of rights.
- 7.3. Irrespective of provisions to the contrary in these Special Terms and Conditions, Siemens shall not be liable to you or obliged to pay damages, to the extent that an infringement claim results from (i) the use of SITRAIN access in connection with Content, equipment, or products not provided by Siemens, (ii) a modification, change, or configuration of SITRAIN access not implemented by Siemens, or (iii) instructions issued by you or specifications or contributions made by you.
- 7.4. This section shall conclusively govern your claims in the event of an infringement of intellectual property rights.
- 7.5. You are obliged to indemnify Siemens, suppliers and contractors of Siemens, as well as their employees and legal representatives against all claims, damages, any liability, losses, costs, and expenses (including reasonable legal costs) that arise from or in connection with (i) Customer Content; (ii) infringements of Laws or rights of third parties, including, but not limited to, any violation, unlawful appropriation or infringement of copyrights, patents, trade secrets, trademarks, or other intellectual property rights as a result of the use of SITRAIN access by you or a third party to whom you grant or allow access to SITRAIN access; (iii) any breach of these Special Terms and Conditions; (iv) any breach of the Acceptable Use Policy by you or a third party to whom you grant or allow access to SITRAIN access; (v) the operation, combination, or use of SITRAIN access in connection with Customer Content; (vi) adherence to drafts, plans, or specifications that you make available to Siemens; and (vii) all claims by third parties to whom you grant or allow access to SITRAIN access. The indemnification claims under this section 7.5. (i), (ii), (iii), and (iv) may be asserted by subcontractors, suppliers, and contractors of Siemens as third-party beneficiaries.

## 8. **Liability**

Section 10 of the SITRAIN Terms and Conditions shall apply, with the proviso that strict (no-fault) liability for damages from defects that were already in existence at the time the contract was entered into is excluded.

## 9. **Confidentiality**

- 9.1. Each Party shall treat the Confidential Information disclosed to it by the other Party or its Affiliated Companies as confidential, shall use it only in connection with SITRAIN access or as otherwise permitted in accordance with these Special Terms and Conditions, and shall disclose this Confidential Information only to those users, employees, Affiliated Companies, customers, business partners, and consultants, as well as to those employees of these Affiliated Companies, business partners, and consultants who have to know this information for the implementation of these terms and conditions and who are bound by corresponding confidentiality obligations.
- 9.2. Siemens shall not disclose Confidential Information and/or Customer Content to third parties, unless this is done (i) on your instruction, (ii) as permitted in these Special Terms and Conditions, or (iii) as required by Laws or official orders. If third parties (including government agencies) approach Siemens with a request for disclosure of Confidential Information or Customer Content, Siemens shall ask these third parties to request this data directly from you, and may transfer your basic contact data, unless Siemens is prohibited from doing so on the basis of Laws or official orders. If Siemens is forced to disclose Confidential Information or Customer Content to third parties, Siemens shall inform you of this and send you a copy of the request, unless Siemens is prohibited from doing so on the basis of Laws or official orders. Siemens furthermore has the right to disclose Confidential Information or Customer Content to third parties to inform them of possible breaches of Laws or in the case of a security incident and/or a security gap in connection with your use of SITRAIN access.

## 10. **Data**

- 10.1. Each Party shall comply with the applicable data protection provisions governing the protection of personal data with respect to its respective obligations under these Special Terms and Conditions.
- 10.2. Siemens and its Affiliated Companies have the right to gather and infer information, statistics, and measurement data on the use, operation, support, and maintenance of SITRAIN access (collectively "System Information") as well as to use System Information to support, maintain, monitor, operate, develop, and improve its products and services or to enforce its rights. Siemens may disclose System Information to a Siemens authorized partner only to the extent appropriate for such partner to fulfill its support obligations to you. To identify unauthorized use of SITRAIN access, Siemens reserves the right to integrate a corresponding automated mechanism to report unauthorized usages.

## 11. **Definitions**

- 11.1. "Subscription" is an order for SITRAIN access for a specified Subscription period using a manual or electronic order process that (i) incorporates these Special Terms and Conditions and defines all other details in connection with SITRAIN access, including the fees, and (ii) is accepted by Siemens.
- 11.2. "Excusing Event" is any of the following acts:
  - acts of commission and omission by you or a third party for whom you are responsible, including the failure, on request, to provide accurate, complete, and timely information;

- a force majeure event;
  - routine maintenance and planned downtimes of SITRAIN access, other downtimes agreed and planned by the Parties, emergency or unscheduled maintenance work on SITRAIN access;
  - defects in the goods or services of third parties or loss of licenses or restrictions imposed by third-party licensors in relation to third-party goods and services;
  - non-availability of the required technology or other resources on commercially reasonable terms and conditions;
  - problems, including configuration problems, with an operating system, database, application, network, hardware, infrastructure or other code or material not provided by Siemens;
  - acts of commission or omission of third parties not caused by Siemens (e.g., hacking, denial-of-service attacks, and the introduction of malware, including viruses);
  - compliance with applicable Laws and official orders that negatively impacts on Siemens or prevents it from making SITRAIN access available.
- 11.3. "Laws" refers to any law, provision, regulation, standard, or guideline, including but not limited to industry or company-specific requirements, co-determination rights of the works council, data protection, telecommunications, energy law, IT security law, export control, sanctions, and requirements for the protection of Confidential Information.
- 11.4. "Content" refers to data, texts, audio, video, images, models, or software that is accessible via a User Account.
- 11.5. "Customer Content" refers to all Content that you enter, upload, store, use, or create using SITRAIN access.
- 11.6. "User Account" is the non-transferable web-based account that allows access to and use of SITRAIN access via a unique URL (i.e., web address) and that is assigned to you by Siemens.
- 11.7. "Party" refers to either you or Siemens, depending on context.
- 11.8. "Affiliated Company" is a company or another legal person that is under the direct or indirect control of one of the Parties, or that owns or controls one of the Parties or is under joint control, where "Control" means to have the direct or indirect power to direct or determine the business and the management of a company or another legal person.
- 11.9. "Confidential Information" is all information that a Party or an Affiliated Company of that Party discloses to the other Party under or in connection with these Special Terms and Conditions and that, at the time of disclosure, is identified as "confidential", "restricted", or whose confidential nature can be deduced from the type of information or the context of the disclosure. In addition, Confidential Information is deemed to include all information, data, and materials that you obtain in connection with these Special Terms and Conditions or with access to and the use of SITRAIN access, including the features and availability of SITRAIN access, information on business strategies and practices of Siemens, business partners of Siemens, or other users of SITRAIN access, Content, methods, trade secrets, know-how, pricing, technology, software, application programming interfaces, signatures of application programming interfaces, product plans, as well as information on employees, customers, suppliers, and consultants of Siemens. Confidential Information does not include information that (i) is generally accessible to the public without violating confidentiality obligations; (ii) is available to the recipient from a source other than the disclosing Party, provided that the recipient has no reason to assume that this source is itself bound by a confidentiality obligation or that this source has obtained the information through unlawful or unauthorized conduct; (iii) was in the recipient's lawful possession before disclosure by the other Party without being subject to a corresponding confidentiality obligation; (iv) was developed by the recipient independently without using or referring to Confidential Information; or (v) was released by the disclosing Party for non-confidential use.