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SITRAIN access Terms of Use

February 2020

You must comply with these Terms of Use ("Terms") when using the cloud-based platform operated by Siemens under the name SITRAIN access ("Platform"), including all services and content provided on the Platform.

1. **General**

1.1 **Acceptance of the Policy.** You seek access to the Platform on behalf of Yourself or Your business or organization. Your use of the Platform constitutes Your acceptance of these Terms, all policies referenced herein, and all applicable laws, regulations and executive orders.

1.2 **Compliance with these Terms.** You shall comply with, and, if You are an organization, shall cause Your Users to comply with, these Terms. If You or any of Your Users violate these Terms or authorize or help others to do so, we, or a third party on our request, may suspend or terminate Your or Your User's use of the Platform-related Services, remove Data that is in breach of these Terms, and/or pursue legal action against You and/or Your business or organization.

2. **Your Data**

2.1 Data You upload to the learning environment of the Platform is accessible to only by you.

2.2 Data you upload to the chat function may be globally accessible to other logged-in users of the Platform. You may use a 1:1 chat function which chats are only accessible to the addressed person.

2.3 Data like text, photos, logos, images, songs or videos is copyright-protected. Before uploading any Data, You must ensure that You have the right for uploading and sharing on the Platform. Photos, videos and voice recordings may only be published if You have previously obtained sufficient consent of all affected persons.

2.4 It is your sole responsibility to store and make copies of your projects in your own environment. The Platform is not designed to store user data.

3. **DATA PRIVACY**

The Platform is operated by Siemens Aktiengesellschaft, Werner-von-Siemens-Straße 1, 80333 Munich („Siemens AG"). The following Privacy Notice covers how Siemens AG collects, processes, discloses and transfers your personal data in the context of your use of the Platform and describes your related rights.

3.1 Categories of personal data processed, purpose of the processing and legal basis

When visiting and using the Platform, Siemens AG may process the following personal data about you:

- Your contact information, including name, e-mail address, telephone number;
- Your training history, including information on trainings completed by you; and
- Information that is automatically sent to us by your web browser or device, such as your IP-address, device type, browser type, referring site, sites accessed during your visit, the date and time of each visitor request.

We process your personal data for the following purposes:

- To provide the Platform's trainings, further services and functions and to administer your use of the Platform;
- To verify your identity;
- To answer and fulfill your specific requests; and
- As reasonably necessary to enforce the applicable terms of use, to establish or preserve a legal claim or defense, to prevent fraud or other illegal activities, including attacks on Siemens AG's information technology systems.

The legal basis for Siemens AG processing data about you is that such processing is necessary for the purposes of:

- Siemens AG exercising its rights and performing its obligations in connection with any contract we make with you (Article 6 (1) (b) General Data Protection Regulation);
- Compliance with Siemens AG's legal obligations (Article 6 (1) (c) General Data Protection Regulation); and/or

- Legitimate interests pursued by Siemens AG (Article 6 (1) (f) General Data Protection Regulation). Generally, the legitimate interest pursued by Siemens AG in relation to our use of your personal data is the efficient performance or management of your use of the Platform, its trainings and further services.

3.2 Links to other websites

This Privacy Notice applies only to the Platform and not to other websites or applications operated by third parties. We may provide links to other websites and applications which we believe may be of interest to you. Siemens AG is not responsible for the privacy practices of such other websites or applications.

3.3 Personal data accessible by your employer

Siemens AG may grant administrator rights to selected individuals in your employer's organisation. These administrators may onboard you to SITRAIN access and grant you related access rights and further access your contact information.

Siemens AG many also share your training history with selected individuals in your employer's organisation and allow them to assign training modules to you.

3.4 Your posts

The Platform offers you to post certain content in a chat function. Personal data published by you on the Platform (e.g. in chat rooms or groups) may be globally accessible to other logged-in users of the Platform.

3.5 Transfer and disclosure of personal data

Siemens AG may transfer your personal data to:

- other Siemens companies in connection with your use of the Platform and for the purpose of providing training services to you; and
- third parties which provide IT services to Siemens AG and which process such data only for the purpose of such services (e.g., hosting or IT maintenance and support services).

In the event that the Siemens AG transfers your personal data outside the European Economic Area, Siemens AG ensures that your data is protected in a manner which is consistent with the General Data Protection Regulation. Therefore, and if required by applicable law, Siemens AG takes the following measures:

- We share your personal data with affiliated companies outside the European Economic Area only if they have implemented our Binding Corporate Rules („BCR") for the protection of personal data. Further information about the BCR can be found here.
- We transfer personal data to external recipients outside the European Economic Area only if the recipient has (i) entered into EU Standard Contractual Clauses with Siemens AG, (ii) implemented Binding Corporate Rules in its organization or (iii) – in case of US recipients – the recipient is certified under the Privacy Shield. You may request further information about the safeguards implemented in relation to specific transfers by contacting dataprotection(at)siemens.com.

3.6 Retention Periods

Unless indicated otherwise at the time of the collection of your personal data (e.g. within a form completed by you), we erase your personal data if the retention of that personal data is no longer necessary (i) for the purposes for which they were collected or otherwise processed, or (ii) to comply with legal obligations (such as retention obligations under tax or commercial laws).

3.7 Your rights

Under applicable data protection law you may have the right to:

- Obtain from Siemens AG confirmation as to whether or not personal data concerning you are being processed, and where that is the case, access to the personal data;
- Obtain from Siemens AG the rectification of inaccurate personal data concerning you;
- Obtain from Siemens AG the erasure of your personal data;

- Obtain from Siemens AG restriction of processing regarding your personal data;
- Data portability concerning personal data, which you actively provided; and
- Object, on grounds relating to your particular situation, to processing of personal data concerning you.

Further background information and explanations related to the rights described above are available on the European Commissions' website "Rights for citizens".

3.8 Data Privacy Contact

The Siemens Data Protection Organization provides support with any data privacy related questions, comments, concerns or complaints or in case you wish to exercise any of your data privacy related rights. The Siemens Data Privacy Organization may be contacted at: dataprotection@siemens.com.

The Siemens Data Privacy Organization will always use best efforts to address and settle any requests or complaints you bring to its attention. Besides contacting the Siemens Data Privacy Organization, you always have the right to approach the competent data protection authority with your request or complaint.

A list and contact details of local data protection authorities is available here.

3.9 Further information for US residents

Do Not Track

At this time the Platform does not recognize or respond to "Do Not Track" browser signals.

Children

This Platform is not directed to children under the age of thirteen. We will not knowingly collect personal data via the Platform from children under the age of thirteen without insisting that they seek prior parental consent if required by applicable law. We will only use or disclose personal data about a child to the extent permitted by law, to seek parental consent, pursuant to local law and regulations or to protect a child.

Security

To protect your personal data against accidental or unlawful destruction, loss, use, or alteration and against unauthorized disclosure or access, Siemens AG uses reasonable physical, technical and organizational security measures. Unfortunately, there is no complete assurance of security in transit or storage to any information that you transmit, no complete assurance that information will not be accessed, disclosed, altered, or destroyed by a breach of any of our physical, technical, or organizational measures.

Your Rights

Depending on the US state in which you reside, you may have special rights with respect to your personal data. For information regarding any of those rights, please click here.

4. Acceptable Platform Use

4.1 **No Illegal, Harmful or Offensive Use or Data.** You shall not use and/or encourage, promote, facilitate or instruct others to use, the Platform for any illegal, harmful or offensive use. Data must not be illegal, harmful or offensive. In particular, use of the Platform shall not

a) be in violation of any Laws or rights of others;

b) be harmful to others, Siemens' operations or reputation, including offering or disseminating fraudulent goods, services, schemes or promotions, make-money-fast schemes, Ponzi or pyramid schemes, phishing, pharming or other deceptive practices;

c) infringe or misappropriate the intellectual property or proprietary rights of Siemens or others;

d) be defamatory, obscene, abusive, invasive of privacy or otherwise objectionable.

4.2 **No Abusive Use.** You shall not use the Platform for any prohibited activities, including

a) to perform any activity that is unlawful, or that is harmful to or interferes with any use of the Platform, the network, systems and/or facilities of the provider hosting the services;

b) to knowingly store, process, publish, or transmit any threatening, infringing or offensive posts, or material that constitutes spam/E-mail/usenet abuse, or a violation of any party's privacy, intellectual property or other rights;

c) to use the Platform for any purposes other than Your internal use, in particular not for the purposes of a service bureau, outsourcing, lease, sub-licensing or time-sharing, or sharing the use of Your account with multiple users;

d) to perform any activity intended to circumvent the security measures of Siemens or a subcontractor of Siemens

e) interference with the proper functioning of any of Siemens' systems, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks or flooding techniques; or

f) engagement in any activity or modification or attempt to modify the Platform in such a way as to introduce a vulnerability or otherwise undermine the security or negatively impact the Platform.

4.3 **No Security Violations.** You shall

a) before accessing the Platform, during use and when transferring Data, take all reasonable precautions against security attacks on Your system, including appropriate measures to prevent viruses, trojan horses or other programs that may damage software;

b) not interfere with or disrupt the integrity or performance of the Platform or other equipment or networks connected to the Platform, and in particular not transmit any Data containing viruses, trojan horses, or other programs that may damage software;

c) not use the Platform in a way that could damage, disable, overburden, impair or compromise any of Siemens' systems or their security or interfere with other Users of the Platform;

d) not perform any penetration test of or on the Platform or the Platform without obtaining our express prior written consent;

e) not connect devices to the Platform that do not comply with state-of-the-art security policies (e.g., password protection, virus protection, update and patch level); and

f) take appropriate measures to prevent unauthorized users from gaining access to the Platform, including not disclosing or sharing access credentials with other persons or entities.

5. Monitoring, Enforcement and Reporting

5.1 **Monitoring.** We reserve the right, but do not assume the obligation, to investigate violations of these Terms or misuse of the Platform and/or related services in our sole discretion. We may remove, disable access to, or modify Data that violates these Terms and/or any other agreement we have with You related to the Platform at any time.

5.2 **Enforcement.** We may report any activity that we suspect to violate any Laws to law enforcement officials, regulators or other appropriate third parties. We may also cooperate with such third parties to help investigation and prosecution of illegal conduct by providing information related to alleged violations of these Terms.

5.3 **Reporting.** If You become aware of any violation of these Terms, You shall immediately notify us and provide us with requested assistance to stop, mitigate or remedy the violation. To report any violation of these Terms, please write to sitrain.digital.industry.academy.de@siemens.com.

6. Proprietary Rights

6.1 **Rights in Your Data.** Siemens will not acquire any rights, title or interest in or to Your Data, except as granted under the Terms. Siemens and its business partners have a worldwide, non-exclusive, transferable, sub-licensable, royalty-free right to use, host, store, transmit, display, modify and reproduce Your Data for the purpose of providing services on the Platform.

6.2 **No download.** You acknowledge that the content of the Platform is provided to You solely for Your personal use. It may not be downloaded, recorded, reproduced, reprinted, translated, copied, or published neither in whole or in parts.

6.3 **Rights in training materials and certificates.** You may download merely for Your personal use any training materials and documents as well as certificates that are provided to You explicitly for download as part of a booked learning unit. You are required to safe (e.g. download) any such materials, documents or certificates before termination of Your subscription term, since You will not be able to access them thereafter.

6.4 **Rights in the Platform, Services and Feedback.** All rights, title and interest in and to the Platform and related services, including any know-how and any part and improvement thereof, and all intellectual property rights in or to the foregoing shall remain wholly vested in Siemens, its business partners and/or licensors. You grant Siemens a worldwide, perpetual, irrevocable, unlimited, transferable, sub-licensable, fully paid, royalty-free license to use any suggestion, recommendation, feature request or other feedback provided by You or on Your behalf related to the services and/or the Platform.

7. Warranty, Liability and Indemnification

7.1 Siemens does not guarantee or warrant that the Platform or Data posted thereon is virus and malware free and is not responsible for damage caused by such viruses or malware. You acknowledge there are risks associated with information transmission over the internet. Siemens is not responsible for security breaches of the Platform or loss of Data arising from unauthorized use of the Platform. Siemens disclaims all (implied) warranties and does not assume liability for Data uploaded by You or third parties and it is Your responsibility to implement suitable and adequate security measures to protect Your Data from loss, destruction, or damage. Siemens particularly disclaims responsibility for losses or claims related to

a) unavailability of the Platform;

b) use of hardware or software in connection with the Platform; and/or

c) reliance on content on the Platform and/or performance of browsers with the Platform, even if advised of the possibility of such damages.

7.2 Data uploaded by Siemens is provided “as is” without warranties of any kind and in the then-current version made available by Siemens from time to time without support and availability commitments. Sample applications, exemplary data sets or simulations which are used or provided as part of the training materials have been created for training purposes and are not subject to the regular tests and quality testing of a payable product. It is Your own responsibility to use these sample applications, exemplary data sets or simulations outside of the training environment and You have to test their function and to adapt them to Your facility.

7.3 YOU SHALL INDEMNIFY AND HOLD HARMLESS SIEMENS FOR VIOLATIONS OF LAW, INTELLECTUAL PROPERTY INFRINGEMENTS OR MISAPPROPRIATION, NEGLIGENCE, VIOLATION OF THESE TERMS OR PRIVACY RIGHTS OF INDIVIDUALS, INTENTIONAL ACTS OR WANTON AND WILLFUL MISCONDUCT.

8. Export Control and Sanctions Compliance

8.1 **Compliance with Laws.** You agree to comply with applicable sanctions (including embargoes), (re-)export control laws and regulations including (if applicable) those of the Federal Republic of Germany, European Union and United States of America (collectively “Export and Sanctions Laws”) prior to transmitting, sending or exporting Data.

8.2 **Your Obligations.** You confirm

– that any uploaded or downloaded Data is not

a) uploaded, exported, re-exported (including any "deemed export"), or transferred, directly or indirectly, contrary to the Export Laws;

b) used for any purpose prohibited by the Export and Sanctions Laws;

c) delivered to persons, organizations or entities, who are not authorized to receive these (sanctions lists);

d) not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided;

– that Your upload-content is classified AL = N and ECCN=N or EAR99 only;

– that You are not located in a terrorism supporting country and that Your actions are not guided or directed by a citizen or resident of such a country: Iran, Syria, North Korea, Sudan, Cuba;

– that You are not using IP proxying or any other measures to disguise Your seat, current residence, or geographic position. In case You or any of Your Users are in breach of this obligation, Siemens has the right to lock the respective account without refund of any prepaid amounts.

8.3 **Information Requirements.** If required to enable authorities or Siemens to conduct checks to ensure compliance with Export and Sanctions Laws, You shall upon request by Siemens promptly provide Siemens with all information pertaining to the particular technology, commodity or software.

8.4 **Indemnification.** You shall indemnify and hold harmless Siemens from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by You or any of Your Users, and You shall compensate Siemens for all losses and expenses resulting thereof, unless such noncompliance was not caused by Your or any of Your User's fault. This provision does not imply a change in burden of proof.

8.5 **Right to Restrict Access and/or Withhold Performance.** We shall not be obligated to perform under the Terms if prevented by impediments arising out of Export and Sanctions Laws or customs requirements. Platform access is granted at Siemens' sole discretion. Siemens may be obliged under Export and Sanctions Laws to limit or suspend access to the Platform.

9. Jurisdiction and Dispute Settlement

9.1 The use of the Platform is governed by German law. The ordinary courts located in Munich shall be exclusively competent for the resolution of any dispute arising out of or in connection with the use of the Platform to the largest extent permissible by law.

9.2 **U.S. Arbitration.** In the United States, You as an individual and on behalf of Your business or organization, agree that any civil dispute, claim or controversy arising out of or relating to these Terms, Your access to or use of the Platform, or the use of Your Platform Access Credentials shall be settled as between Siemens and You by binding arbitration and not in a court of law under the federal, state and local laws of the United States. The arbitration will be administered by the American Arbitration Association ("AAA") in accordance with the AAA's Commercial Arbitration Rules (the "AAA Rules") then in effect, except as modified by these Terms. A judgment on the award rendered by the arbitrator may be entered in a U.S. court of competent jurisdiction. You, on Your behalf and on behalf of Your business or organization and Siemens are each waiving the right to a trial by jury or to participate as a plaintiff or class member in any purported class action or representative proceeding. You and Siemens are, instead, electing to have claims and disputes between them resolved by arbitration. YOU AND SIEMENS WAIVE ALL RIGHTS TO A JURY TRIAL IN EVERY INSTANCE. You and Siemens agree that the arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve all disputes relating to the interpretation, applicability, enforceability or formation of this arbitration agreement, including any claim that all or any part of this arbitration clause is void or voidable. The arbitrator shall also be responsible for determining all threshold arbitrability issues. The dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator will have the authority to grant motions, award monetary damage, grant any non-monetary remedy or relief under law, the AAA Rules, and the Policy. The AAA arbitrator has the same authority to award relief on an individual basis that a judge in a U.S. court of law would have. The award of the arbitrator is final and binding upon You, Your business or organization and Siemens. The U.S. Federal Arbitration Act ("FAA") and federal arbitration law apply hereto these Terms and, if the FAA or AAA Rules are found to not apply to any issue arising under these Terms or its enforcement, then that issue shall be resolved under the laws of the state of New York and in a federal or state court in the city of New York, NY.

10. Miscellaneous

10.1 **No Waiver.** Should User or Siemens fail to exercise or enforce any provision of these Terms or should they waive any rights in respect thereto, such waiver or failure shall not be construed as constituting a continuing waiver or waiver of any other right.

10.2 **Entire Agreement.** These Terms, as may be amended from time to time in the sole discretion of Siemens, and all documents referred herein, constitute the entire agreement between User and Siemens, and supersede all prior or contemporaneous writings, discussions, agreements and understandings with respect to the subject matter of these Terms.

10.3 **Severability.** If any provision of these Terms shall be held to be unenforceable by any court of competent jurisdiction, the other provisions will remain in full force and effect. Any provision held to be invalid or unenforceable only in part or degree shall remain in full force and effect to the extent not held invalid or unenforceable.

11. Definitions

12.1 "**Affiliate**" means a corporation or other legal entity directly or indirectly owned or controlled by, or owning or controlling, or under common control with one of the parties, where "control" shall mean to have, directly or indirectly, the power to direct or cause the direction of the management and policies of a corporation or other entity.

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12.2 "**Data**" means any information, program, software, application, code in any form, script, library or data that is entered or uploaded onto, stored on, or transferred to the Platform.

12.3 "**Laws**" means any law, rule, regulation, norm and directive applicable in connection with the use of the Platform. Laws include, without limitation, industry or company specific regulations, co-determination rights of the works council, data privacy, telecommunication, energy law, IT security law, export control and regulation pertaining to the protection of classified information.

12.4 "**Siemens**" means Siemens Aktiengesellschaft, having its registered seat in Munich and Berlin, Germany, and any of its Affiliates.

12.5 "**Users**", **"You"** or **"Your"** means any natural person that uses the Platform in its own name or as an employee or representative of a company or organization that is not Siemens or its affiliate.