



## DEMONSTRATION LICENSE AGREEMENT

This demonstration license agreement (the "Agreement") is entered into between Siemens Product Lifecycle Management Software Inc., a corporation organized under the laws of Delaware with its principal office located in Plano, Texas in the United States ("SISW"), and the company which has signified its acceptance of the terms and conditions of this Agreement in order to obtain a license to demonstrate the Software (referred to herein as the "Partner"). SISW retains the right to utilize its affiliated companies in pursuing any of its rights and fulfilling any of its obligations under this Agreement. Therefore, the term "SISW" as used herein may also refer to affiliated companies that are directly or indirectly owned or controlled by the ultimate parent company of Siemens Product Lifecycle Management Software Inc. and who have been authorized by Siemens Product Lifecycle Management Software Inc. to distribute the Software and related services.

Prior to downloading the Software, the Partner will be prompted to signify its agreement with these terms and conditions electronically in an online format designated by SISW. By signifying its acceptance of these terms and conditions electronically, Partner agrees that this is a binding contract between SISW and the Partner.

1. **Definitions.** As used in this Agreement, the following definitions shall apply:

(i) **"Authorized Users"** means the employees of Partner and the Partner Affiliates.

(ii) **"Partner Affiliates"** means those companies that are controlled by, or under common control with, the Partner. For purposes of this definition "control" is defined as the direct or indirect ownership of more than 50% of the voting securities of an affiliate.

(iii) **"Software"** means the software specified in an order set forth in a Licensed Software Designation Agreement, or a similar ordering document that is acceptable in form to SISW, which may be in electronic format (each an "LSDA").

(iv) **"SISW Affiliate"** means any affiliated company of SISW.

(v) **"Territory"** means the countries in which the Partner and the Partner Affiliates are located, subject to any limitations imposed by the export control provision of this Agreement.

(vi) **"Trademarks"** shall mean all trademarks applicable to the Software and such other trademarks as SISW may adopt with respect to the Software. For this Agreement, the term Trademarks also includes the SISW PLM Partner Program brands, logos, and registered or common law trademarks used according to the terms and conditions set forth in the SISW PLM Partner Program Logo Use document.

2. **Participation and Scope of Agreement.** SISW and Partner agree that Partner may acquire Software under the terms of this Agreement. At the option of SISW, a SISW Affiliate may carry out any of the obligations of SISW pursuant to this Agreement. Partner and SISW will each remain solely liable for the performance and other obligations of their respective affiliates arising out of this Agreement. Partner and SISW covenant and agree to cause their respective affiliates to fulfill their obligations under this Agreement and will prevent their affiliates from taking any action contrary to this Agreement. SISW reserves the right to enforce this Agreement directly against the Partner Affiliates.

3. **Demonstration License Grant.** Upon the terms set forth in this Agreement and subject to the next paragraph of this Section, SISW grants to Partner and the Partner Affiliates a nonexclusive, nontransferable, limited license to install and use the executable form of the Software for the following purposes: (i) demonstrating SISW's software or services to prospective customers; (ii) internal evaluation purposes; and (iii) training of Partner and Partner Affiliates' employees. If during the term of this Agreement SISW provides Partner updates or new releases of the Software, they are deemed to be part of the Software and subject to the terms and conditions of this Agreement. Partner is solely responsible for installation of the Software on compatible equipment, with operating system software, provided by Partner. Partner is not authorized to, (i) copy the Software in whole or in part, except as reasonably required to install the Software and for backup purposes; (ii) disclose the Software to any person other than Partner or Partner Affiliates' employees with a need to know to perform the demonstration; or (iii) decompile, disassemble or reverse engineer the Software. Partner will retain and reproduce all copyright or proprietary notices in their exact form on all copies of the Software made by Partner. As between Partner and SISW, the original and all copies of the Software will remain the sole property of SISW and will be subject to the terms and conditions of this Agreement. SISW reserves all rights in the Software not explicitly granted herein.

Certain Software licensed under this Agreement may contain or require the use of third party technology that is provided with the Software, including open source software. Third party technology is licensed to Partner either under the terms of this Agreement or under separate license terms that shall be specified in the relevant documentation that accompanies the Software, "read me" files, notice files, or other such documents or files ("Technology Subject to a Third-Party License"). Partner's rights to use Technology Subject to a Third-Party License are subject to such separate license terms and are not restricted in any way by this Agreement and to the extent that a term of this Agreement is in conflict with any applicable mandatory right granted by a third-party license, it shall not apply. If any applicable third-party license requires SISW to furnish source code contained in the Technology Subject to a Third-Party License, SISW shall provide it upon written request, if applicable against payment of the shipping and handling charges. For avoidance of doubt, third party technology that is not Technology Subject to a Third-Party License shall be deemed part of the Software and is licensed to Partner under the terms of this Agreement.

**4. Additional Terms and Conditions Applicable to Certain SISW Program Partners.**

- (i) **SISW Outbound Channel Partner Program.** The SISW outbound channel partner program includes SISW resellers, distributors and OEMs. If you are an SISW Partner under this program, then the demonstration licenses you obtain under this Agreement are also subject to the terms and conditions of the applicable Channel Partner agreement with respect to the demonstration licenses including, but not limited to, the SISW Software products that may be included in the demonstration license, any additional terms or restrictions on the use of the demonstration licenses, the term of the demonstration licenses, renewal of the demonstration licenses, the provision of maintenance services and/or enhancements for the demonstration licenses and the use of SISW Trademarks in connection with the demonstration licenses.
- (ii) **SISW Consulting and System Integrator Partner Program.** If you are a Partner under the SISW C&SI program, then the demonstration licenses you obtain under this Agreement are also subject to the terms and conditions of the applicable C&SI agreement with respect to the demonstration licenses including, but not limited to, the SISW Software products that may be included in the demonstration license, any additional terms or restrictions on the use of the demonstration licenses, the term of the demonstration licenses, renewal of the demonstration licenses, the provision of maintenance services and/or enhancements for the demonstration licenses and the use of SISW Trademarks in connection with the demonstration licenses.
- (iii) **Frontier Partner Program.** Notwithstanding the terms and conditions of this Agreement, if you are a Partner under the SISW Frontier Partner program, then the demonstration licenses obtained under this Agreement are subject to and governed by the terms and conditions of your applicable Frontier Partner Agreement which both you and SISW agree is incorporated by reference as if expressly set forth herein. Further, that in the event of any conflict or ambiguity by and between the terms and conditions of this Agreement and the applicable Frontier Partner Agreement, the terms and conditions of the applicable Frontier Partner Agreement shall govern.
- (iv) **Software & Technology Partner Program.** Notwithstanding the terms and conditions of this Agreement, if you are a Partner under the SISW Software & Technology Partner Program, then the demonstration licenses obtained under this Agreement are subject to and governed by the terms and conditions of your applicable Software & Technology Partner Agreement which both you and SISW agree is incorporated by reference as if expressly set forth herein. Further, that in the event of any conflict or ambiguity by and between the terms and conditions of this Agreement and the applicable Software & Technology Partner Agreement, the terms and conditions of the applicable Software & Technology Partner Agreement shall govern.

**5. Protection.** Partner will provide SISW the host identifier required by SISW and such other information reasonably requested by SISW for each workstation and/or server on which the license management portion of the Software will be installed to permit SISW to generate a license file that will restrict end-user access to only those Software modules licensed under this Agreement and to ensure Partner's compliance with the terms of this Agreement. Partner acknowledges SISW's representation that the Software constitutes and contains valuable trade secrets and confidential business information of SISW and/or its third party suppliers. Partner will hold such information in confidence and take the precautions necessary to safeguard the confidentiality of such information. If Partner or any of Partner's employees breach or threaten to breach the obligations of this Agreement, SISW will have the right, in addition to such other remedies which may be available to it, to seek injunctive relief enjoining such acts or attempts, it being acknowledged and agreed by Partner that monetary damages are inadequate to protect SISW. The obligations of confidence and nondisclosure set forth in this paragraph will survive any termination of this Agreement.

**6. Confidentiality.** "Confidential Information" shall mean any information, software or technical data provided by SISW to Partner which is identified as confidential information. For avoidance of doubt, Partner will not provide confidential information to SISW.

SISW represents and Partner acknowledges that the Software constitutes and contains valuable trade secrets and confidential business information of SISW. Partner will at all times recognize and act consistently with SISW's right to and ownership of all copyright, inventions or trade secrets embodied in the Software regardless of whether patents have been issued thereon, and will not in any way act, or fail to act in any manner, to intentionally or negligently harm the rights in such intellectual property or inconsistently with the intellectual property rights SISW has in such Software and any related documentation.

Partner hereby agrees (i) to hold Confidential Information of SISW in strict confidence and not to make it available to any third party except as is necessary for the proper performance of its obligations or in accordance with Partner's rights under this Agreement; (ii) to impose confidentiality restrictions upon the parties to whom any Confidential Information is disclosed; (iii) to take at least the same precautions to protect the Confidential Information of SISW as it takes for its own confidential and proprietary information of like importance, but in no event less than reasonable precautions; and (iv) to refrain from using the Confidential Information of SISW for any purpose other than the purposes for which that Confidential Information was disclosed.

Exceptions to Confidentiality. The foregoing provisions will not prevent Partner from using or disclosing information which is (i) already known by it without an obligation of confidentiality; (ii) publicly known or becomes publicly known through no unauthorized act by or on behalf of it; (iii) rightfully received from a third party without restrictions; (iv) independently developed by it without use of SISW's information; (v) approved in writing by SISW for disclosure; or (vi) required to be disclosed pursuant to a requirement of a governmental agency or law so long as Partner provides SISW with written notice of such requirement before any such disclosure so as to afford SISW an opportunity to intervene and prevent the disclosure. For the avoidance of doubt, either party may disclose this Agreement (subject to the execution of a prior written confidentiality agreement) to auditors, advisors, attorneys or potential acquirers where such disclosure is necessary for the performance of normal operations under this Agreement.

The obligations of confidence and nondisclosure set forth herein will survive any termination of this Agreement.

**7. Term and Termination.** This Agreement is effective on the date it has been agreed to by Partner (the "Effective Date") and will terminate for each item of Software twelve (12) months thereafter, unless SISW, in its sole discretion, elects to extend Partner's access to the demonstration Software or if the Software is subject to the terms and conditions of an agreement per any of the underlying SISW Partner Program agreements identified in Section 4 of this Agreement, this Agreement will terminate upon the termination of the applicable underlying SISW Partner Program agreement identified in Section 4 of this Agreement. Further, this Agreement will terminate effective immediately if Partner fails to comply with any of the terms

and conditions contained herein or in an underlying SISW Program Partner Agreement identified in Section 4 of this Agreement. All license rights granted for each item of Software will cease upon any termination of this Agreement for that item of Software. Receipt by Partner of updates or new releases does not, by implication, extend the term of this Agreement for that item of Software. Within 10 days after termination, Partner will, at Partner's expense, (i) return the Software to SISW or destroy the original and all copies of the Software in all forms, and any associated license keys and (ii) certify to SISW in writing that such obligations have been fulfilled.

**8. Disclaimer of Warranties and Liability.** The Software is provided to Partner on an "AS-IS" basis. Partner acknowledges and agrees that the input of data and accuracy and adequacy thereof, including the output generated as a result of such input, is under Partner's exclusive control. Any use made by Partner of the data output, or any reliance thereon, is Partner's sole responsibility. **SISW AND ITS THIRD PARTY SUPPLIERS MAKE NO WARRANTIES OF ANY KIND, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR AGAINST INFRINGEMENT, WITH RESPECT TO THE SOFTWARE PROVIDED UNDER AND PURSUANT TO THIS AGREEMENT.** In no event will SISW and/or its third party suppliers be liable to Partner for any claims or damages whatsoever arising out of or related to this Agreement, regardless of the form of action, whether in contract, tort or otherwise.

**9. Export.** SISW's obligation to fulfill its commitments under this Agreement is subject to the proviso that it is not prevented by any impediments arising from national or international foreign trade or customs requirements, including embargoes or other sanctions. Partner agrees to comply fully with all applicable national and international export and re-export control regulations including, but not limited to, those of the Federal Republic of Germany, of the European Union, of the United States of America and regulations of any other country or jurisdiction which may apply (the "Export Laws"). In particular, but not in limitation of the foregoing, Partner must assure that the Software and any derivatives thereof are not: (i) downloaded, exported, re-exported (including any "deemed export"), or transferred, directly or indirectly, contrary to any applicable economic sanction or Export Law, or (ii) used for any purpose prohibited by the Export Laws or (iii) delivered to persons/entities otherwise ineligible to acquire, license or use the Software. SISW reserves the right to conduct the necessary Export Law checks and, upon request, the Partner shall promptly provide SISW with the necessary information to fulfill its legal obligations. Partner shall indemnify and hold harmless SISW 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 Partner, and Partner shall compensate SISW for all losses and expenses resulting therefrom. This Section will survive the expiration or termination of this Agreement for any reason.

**10. General.** Partner acknowledges that Partner has read this Agreement, understands it and agrees to be bound by its terms and conditions. Partner further agrees that this Agreement is the complete and exclusive statement of the agreement between us which supersedes any proposal or prior agreement, oral or written, and all other communications between us relating to the subject matter of this Agreement. This Agreement may be amended only in writing signed by Partner and SISW and may not be assigned or transferred by Partner, in whole or in part, either voluntarily or by operation of law, without the prior written consent of SISW. Partner will not transfer the Software without the prior written consent of SISW. Partner will not export the Software without the prior written consent of SISW and obtaining any required prior authorization from the United States Department of Commerce or other applicable authority. Diversion contrary to United States law is prohibited. **This Agreement will be governed by and construed in accordance with the substantive laws of the State of Delaware, without giving effect to any choice-of-law rules that may require the application of the laws of another jurisdiction. The UN Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded, shall not apply to transactions under this Agreement.**