

## Mendix Platform Supplemental Terms

These Mendix Platform Supplemental Terms (“Mendix Terms”) amend the End User License Agreement (“EULA”) between Customer and SISW solely with regard to the Products and services identified on the Order Form as MX (the “Mendix Platform Products”). These Mendix Terms, together with the EULA, any other applicable Supplemental Terms and any other documents and terms referred to therein form the agreement between the parties (“Agreement”).

1. **DEFINITIONS.** Capitalized terms used herein have the meaning as defined in the Agreement. The following additional definitions apply to these Mendix Terms:
- (a) “Affiliate” of a party means any company that controls, is controlled by, or is under common control with, that party. For purposes of this definition “control” is defined as the direct or indirect ownership of more than 50% of the voting securities of a company.
  - (b) “App” or “Application” means Customer’s Application Model as deployed on and interpreted by the Mendix Platform in order to make it a functioning application ready to process Customer Data.
  - (c) “App Container” means a pre-defined configuration of cloud resources provided by SISW upon which an App Environment can be deployed. Different types/sizes of App Containers are defined in the Documentation.
  - (d) “App Environment” means a cloud instance or system which has been configured to accept the deployment of a single App. App Environments can be used for test, acceptance or production and these types of environments are interchangeable.
  - (e) “Application Model” means the visual model of Customer’s Application, which visual model has been created by Customer or by a third party per Customer’s instructions and requirements, making use of the Mendix Platform.
  - (f) “Authorized Agent” means consultants, agents and contractors of a party who require access to Applications, Application Models and/or SISW Technology, in support of that party’s internal business.
  - (g) “Authorized Users” means an individual person authorized by Customer to access the Mendix Platform or any Apps with unique login credentials which can be used to identify one specific individual, as well as any external system that accesses or is accessed by the App.
  - (h) “Cloud Portal” means the online portal found at <https://cloud.mendix.com/> which is used by SISW in case SISW is required to grant Authorized Users remote access to the Mendix Platform.
  - (i) “Cloud Services” means the components of the Mendix Platform offered for use through the internet as a service.
  - (j) “Customer Data” means any electronic information, including but not limited to, any data, information or material, such as posts, comments, documents, project information, application data, user information and account information which is submitted, created, saved, added, uploaded or made available in the Application. For the avoidance of doubt, the Application Model is not part of Customer Data.
  - (k) “Data Processing Agreement” or “Data Protection Terms” means the terms set out at the following URL, which are incorporated by reference into this Agreement as if fully set forth herein: <https://www.plm.automation.siemens.com/global/en/legal/online-terms/cloud/data-processing-agreement.html>.
  - (l) “Entitlement” means the scope of rights granted to Customer to use the Mendix Platform.
  - (m) “Export Laws” means all applicable export and re-export control regulations, embargoes and sanctions including, but not limited to, those of the European Union, of the Federal Republic of Germany, of the United Kingdom or of the United States of America;
  - (n) “External User” means a Named User who is not an employee or Authorized Agent of Customer or Customer’s Affiliates.
  - (o) “File Storage” means a cloud capacity unit which can be allocated towards file storage or database storage and which is provided with the corresponding back-up storage.
  - (p) “Internal User” means any Named User who is not an External User.
  - (q) “Mendix Platform” means a package of services and software provided by SISW for access and use by Authorized Users, as described in the relevant Mendix Platform Documentation and including but not limited to, the Mendix website(s), Mendix Studio (Pro), Mendix Team Server, Mendix Platform Portal (Cloud Portal and Developer Portal), Mendix App Store, Mendix Support Portal, Mendix Partner Portal, Mendix Cloud, Mendix Runtime, Mendix Community, Mendix Forum, Mendix Sandbox and Mendix Platform-as-a-Service,
  - (r) “Named User” means an Authorized User who uses one or more Customer Apps running in a production App Environment.
  - (s) “Provider” means a third party that provides technology or services to SISW to facilitate SISW’s offering of the Cloud Services to Customer.

## 2. **MENDIX PLATFORM SUBSCRIPTIONS, CONTAINERS AND ADD-ONS.**

- 2.1 **Subscriptions.** The Mendix Platform is offered only as a “Subscription”, which is a right to have the Mendix Platform used by Authorized Users, for a limited term and for a specific number of Apps which can only be used by a limited number of Named Users, all as specified in the Order. The number of Apps specified in the Order refers to the maximum number of Apps deployed on a production App Environment. The number of users as specified in the Order refers to the maximum number of Internal Users, whereas External Users will be counted as Internal Users at a ratio of 10:1, meaning that 10 External Users will equal one Internal User for checking compliance with the maximum number of Named Users. Except as may be restricted by Export Laws, access and use of the Mendix Platform is not restricted to any territory.
- 2.2 **Responsibility for Users.** Subject to the limitations of this Agreement and the Entitlements hereunder, Customer may permit Authorized Users to access and use the Mendix Platform. Customer shall be responsible for (i) ensuring that Authorized Users use the Mendix Platform only in support of Customer’s internal business, (ii) any unauthorized use of the Mendix Platform undertaken using credentials associated with Customer’s account, and (iii) any breach of this Agreement by an Authorized User.
- 2.3 **Subscription Types.** There are different types of Subscriptions available for the Mendix Platform (currently Enterprise and Pro) and each Subscription will include Maintenance Services of the level corresponding to the chosen type as defined and described in the Mendix Maintenance Terms. Different Subscription types may also have various other (use) restriction differences as described in the Documentation.
- 2.4 **Add-ons.** Each Mendix Platform Subscription can be complemented with optional “Add-on” packages which provide extra functionality for the Mendix Platform as described in the relevant Documentation for such Add-on.
- 2.4.1 *Third party components.* The Documentation for an Add-on may refer to a third party or open source software component as a pre-requisite for the Add-ons to function properly and, unless agreed otherwise in writing, Customer shall in such cases be responsible for procurement and installation of such software component(s) at its own cost and risk.
- 2.4.2 *Analysis information sharing.* The Documentation for an Add-on may indicate that the Add-on is (co-)owned by one or more third parties and, unless agreed otherwise in writing, Customer agrees that in such cases SISW may share technical metadata which are generated by the use of the Add-on, such as performance analysis and quality monitoring measurement results relating to Customer’s Application Model, with such third party (co-)owner(s), solely for the purposes of improving the functional algorithms, recalibrating rating systems, and providing anonymized benchmark results with respect to that Add-on to other customers. Customer’s Application Model will never be shared with such third party (co-)owner(s) without Customer’s prior written consent.
- 2.5 **App Containers and File Storage.** Mendix Platform Subscriptions will require cloud resources to run the Mendix Platform. For this purpose, SISW offers Customers “App Container” and “File Storage” packages. Each Subscription type has a base App Container included in the Subscription fee, as specified in the relevant Documentation, and additional App Containers, App Container upgrades and/or File Storage packages must be purchased separately.
- 2.6 **Extension Play.** In addition to the standard Subscription types SISW offers its Customers a special type of Enterprise Subscription called “Extension Play”, which includes special functionality to allow the Mendix Platform to be used for developing Applications and interfaces between SISW specific connectors provided in the “Extension Play”, described in the relevant Documentation, and other applications. Such an Extension Play Subscription will be limited to a pre-determined number of Apps and will include an App Container as defined in the relevant Documentation.
- 2.7 **Excess Use.** Should use of the Mendix Platform by Customer or its Authorized User exceed Customer’s Entitlement, as described in the associated Order and this Agreement, SISW shall have the right to impose additional fees upon Customer with respect to such excess use at SISW’s then-current rates for the Mendix Platform.
- 2.8 **Coinciding Terms.** Any purchase of additional user subscriptions, Add-ons, App Containers or File Storage packages shall be treated as a subscription for such use rights, additional functionality or resources with a term coinciding with the term of Customer’s then active Mendix Platform Subscription.
- 2.9 **Training and Courses.** Pre-defined training packages and courses related to the use of the Mendix Platform (such as, without being limited to, Mendix Academy courses) are made available to Customers for separate purchase and the content thereof is described in the relevant Documentation. Such trainings and courses are purchased on a “per user/attendee” basis.
3. **COMBINATION OF SOFTWARE AND CLOUD SERVICES.** The software components of the Mendix Platform consist of a bundle of (1) software which can be installed on the mobile device or workstation of the Authorized User and (2) software which must either be installed on a server (cluster) or must be deployed in a cloud environment. Additionally, Customer’s Applications must be deployed to and hosted on a server, server cluster or cloud environment in order to be used by the intended end-users. Therefore, the Mendix Platform is by default offered in a combination of

Software in object code form and Cloud Services and for the purposes of these Mendix Terms such combination of Software and Cloud Services are considered to be a Product. Customer can waive certain Cloud Services from SISW in order to host Apps on a server or cloud environment of Customer's own choosing, but any waiver or change of set-up will not grant Customer any right to a discount or refund.

#### **4. CUSTOMER DATA AND APPLICATION MODELS.**

- 4.1** Under the Agreement, Customer retains all rights in the Customer Data and the Application Models it creates using the Mendix Platform and, other than as set forth under this Agreement, SISW receives no rights in Customer Data and/or Application Models. Customer is solely responsible for the accuracy, integrity and quality of Customer Data for use in the Mendix Platform and Application Model. SISW shall not modify or add to Customer Data.
- 4.2** For the term of the Subscription, Customer grants SISW a worldwide, non-exclusive, transferable, royalty-free license to use, host, transmit, display, process, reproduce and sublicense all Customer Data and Application Models as necessary for SISW to fulfill its obligations under this Agreement.
- 4.3** Customer will indemnify and defend, at its expense, any action brought against SISW to the extent that it is based upon a claim that the Customer Data and/or Application Models infringe a patent, copyright, trade secret or other intellectual property right and will pay all costs and damages finally awarded against SISW by a court of competent jurisdiction, provided that Customer is given prompt written notice of such claim and is given information, reasonable assistance, and sole authority to defend or settle the claim. Customer shall not enter into any settlement admitting liability or incurring obligations on behalf of SISW, without SISW's prior written consent.
- 4.4** Customer covenants that it will only upload data into the Mendix Platform if Customer has the rights to upload such data and to grant to SISW the rights set forth in this Section. Unless otherwise agreed in writing between SISW and Customer, Customer covenants that only copies of Customer Data will be uploaded into the Mendix Platform and that Customer will at all times maintain an independent backup copy of all Customer Data at its own expense.
- 4.5** Upon written request, SISW will provide reasonable evidence that all copies of Customer Data and Application Models have been removed from the Mendix Platform.

#### **5. CLOUD SERVICES TERMS AND CONDITIONS.**

- 5.1** **Suspension of Cloud Services.** If, in the reasonable opinion of SISW, it is necessary to suspend access to the Cloud Services to maintain the security or integrity of the Cloud Services, SISW may do so without liability to Customer other than as set forth under this Agreement and SISW hereby undertakes to employ all reasonable efforts to limit the duration and scope of any such suspension.
- 5.2** **Modification of the Cloud Services.** SISW shall have the right to modify the manner in which it provides the Cloud Services if SISW determines that such a modification is necessary or advisable, in SISW's sole discretion. Should SISW reasonably determine that such a modification will materially impact Customer's use of the Cloud Services, SISW will use commercially reasonable efforts to notify Customer prior to the implementation of the modification.
- 5.3** **User Credentials.** As a precondition to use of the Cloud Services, each Authorized User under the Entitlement must establish a password for his or her account. SISW or its Providers may establish reasonable password requirements, and Customer agrees to require any Authorized Users under the Entitlement to abide by such requirements. All Authorized User passwords must be treated as Confidential Information, and no Authorized User may share his or her password with any other user. Customer bears sole responsibility for any unauthorized use resulting from misconduct by any of its Authorized Users or any failure of its Authorized Users to properly secure passwords or other credentials. Customer will be liable to SISW for all costs, losses, or liabilities realized by SISW resulting from any failure by Customer or any of its users to abide by the terms of this Section or any rules established by SISW or its Providers pursuant to this Section. The provisions of this Section will survive the expiration or termination of this Agreement for any reason.
- 5.4** **Restrictions on Use of the Cloud Services.** Authorized Users may not (i) interfere with or disrupt the integrity or performance of the Cloud Services, (ii) circumvent the security of the Mendix Platform, (iii) use the Cloud Services in a manner that violates the law or any of SISW's rights, (iv) access the Cloud Services to monitor availability, performance, or functionality to develop any competing products and/or services, (v) sell, resell, license, sublicense, rent, or lease the Cloud Services for third party use, (vi) upload into the Mendix Platform any data that violates the law or infringes the rights of any third party, (vii) gain access to the Cloud Services by any means other than the means provided by SISW, or (viii) perform any penetration test of the Mendix Platform without obtaining express written consent in advance from SISW, which SISW may grant or refuse in its sole discretion, and Customer will be liable to SISW for all costs, losses, or liabilities realized by SISW that result from Authorized Users engaging in any of the foregoing prohibited activities.
- 5.5** **Data Privacy.** Customer accepts that the Data Protection Terms – with the exception of its Attachment 2 – are incorporated into this Agreement where the services provided under this Agreement involve the processing of personal

data by SISW as a processor on behalf of Customer, provided it is located within the European Economic Area, the United Kingdom or Switzerland. For the purposes of these Data Protection Terms, Customer hereby acknowledges and accepts Mendix Technology B.V., with its registered office at Wilhelminakade 197, 5th floor, 3072AP Rotterdam, The Netherlands, as an approved Sub-Processor, and that there will be no need to implement transfer safeguards as this Sub-Processor is located within the European Economic Area.

## **5.6 System Security.**

- 5.6.1** In lieu of Attachment 2 of the Data Protection Terms, SISW hereby commits itself to take adequate technical and organizational measures against loss or any form of unlawful processing (such as unauthorized disclosure, deterioration, or alteration of personal data) in connection with the performance of processing personal data under the Data Protection Terms. SISW does not guarantee that the security measures are effective under all circumstances, but it commits itself to embed security in company processes and standard operating procedures by adopting a representative subset of the ISO 27001 Information Security Framework, and to have the Mendix Platform and related services audited annually by a qualified, independent third-party auditor. Such audit covers controls for data security, availability, processing integrity, and confidentiality as applicable to in-scope trust principles for each service, and results in an ISAE 3402 type 2 assurance report or similar control frameworks.
- 5.6.2** Upon request, SISW will provide Customer with any available security standard certifications for its Providers.
- 5.6.3** In connection with the provision of Cloud Services to Customer hereunder, SISW will: (i) monitor the security, integrity, availability, and continuity of the Cloud Services; and (ii) provide logging reports upon request from/to Customer designated personnel. Customer shall be responsible for monitoring the performance of its Applications running on such environments. Application monitoring and alerting on the Entitlement is available for Customers through the Cloud Portal.
- 5.6.4** SISW shall promptly inform Customer of any instance where a breach of data security or a breach of the terms of this Agreement has led to the disclosure of Customer Data or Application Models to an unauthorized third party. Unless SISW has failed to implement and maintain commercially reasonable security measures with respect to the Cloud Services, and such failure is the sole cause of a security breach, SISW shall have no liability to Customer or any third party for a security breach that results in an unauthorized disclosure of any Customer Data or Application Models. The provisions of this Section will survive the expiration or termination of this Agreement for any reason.
- 5.7 Collection of Data.** SISW shall be entitled to use data it collects in accordance with applicable law that relates to Customer's use of the Cloud Services, provided that any such data shall be anonymized so that neither SISW nor any third party could identify Customer solely using such data. SISW shall not be obligated to share any such data with Customer, and SISW may use such data for any business purpose, including without limitation improving the Cloud Services. In addition, Customer grants to SISW a worldwide, perpetual, irrevocable, transferable, royalty-free license to use any suggestion, recommendation, feature request, or other feedback provided by Customer or its users related to the operation of the Cloud Services, and to incorporate any of the above into the Cloud Services.
- 5.8 Customer Actions Affecting SISW's Provision of the Service.** Customer agrees to indemnify, defend, and hold harmless SISW from and against any liabilities, losses, or claims that result from actions of Customer that cause a third party to terminate, suspend, or inhibit the ability of a Provider to perform its obligations as necessary for SISW to be able to continue to offer the Cloud Services. The provisions of this Section will survive the expiration or termination of this Agreement for any reason.
- 5.9 SISW Change of Provider.** Customer agrees to provide all reasonable cooperation needed by SISW should it become necessary or desirable, in SISW's sole discretion, for SISW to use a new or different Provider.
- 5.10 Third-Party Monitoring.** SISW may appoint a third party to collect and maintain information relating to Customer's use of the Service for SISW's internal business purposes, including without limitation monitoring Customer's use for compliance with the Entitlement and for any unauthorized use of the Service.
- 5.11 Flowdown of Terms from Providers.** Customer acknowledges that SISW may use one or more Providers to provide any portion of the Mendix Platform and that SISW's use of such Providers is integral to SISW's ability to provide the Service to Customer. Such Providers may impose additional terms upon Customer's use of the Service, and Customer agrees to abide by such terms. In addition, should a Provider introduce any new or modified terms related to Customer's use of the Service, Customer will use its best efforts to comply with any such new or modified terms.
- 5.12 Changes to Cloud Service Agreement.** The terms of this Agreement published at the date of the Order shall apply until the end of the term of the Subscription specified in that particular Order. Any change to this Agreement will only apply from the beginning of a renewed term, unless a change during a current term is required as a result of a change of Laws or permitted in a new Order. Should a change during a term for a specific Order have a material adverse effect on Customer's rights, obligations, or use of the Cloud Services, Customer may terminate the affected Cloud Service within 30 days following SISW's notice. In case of such termination, SISW will refund any prepaid amounts for the applicable Cloud Service on a pro-rata basis for the remaining term.

- 5.13 Export Control.** Customer represents that Customer will deny and prevent access to Cloud Services from any location prohibited by or subject to sanctions or license requirements according to Export Laws; (ii) to continuously check any of any Authorized Users against applicable sanctioned party lists; (iii) not to grant access to the Cloud Services or the Mendix Platform to any individual or entity designated on any of these lists; and (iv) to ensure that Customer Content is not controlled or technical data, e.g. in the E.U. or Germany (AL = N) or in the U.S. (ECCN = N or EAR99). SISW may conduct the necessary Export Laws checks and, upon request, Customer will promptly provide SISW with any necessary information.
- 5.14 Force Majeure.** Neither party shall be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, attacks on IT systems by third parties (e.g., hacker attacks), acts or omissions of internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of laws or regulations or other acts of government that impact the delivery of Cloud Services).
- 6. NON-SIEMENS PROVIDERS.** Third-party software or services may be developed by Customer or made available to Customer for download and/or purchase (e.g. through a marketplace, webstore or otherwise). Such third party software and services may include, without being limited to: (i) web-based, mobile, offline or other software application functionality that is (a) provided by Customer or a third party and interoperates with a service, including, for example, an application that is developed by or for Customer, or (b) is listed on a marketplace (such as app services, layouts, modules, themes, widgets, GitHub or connectors); and (ii) implementation and other consulting services. Whether or not such software or services are designated by SISW as ‘certified’ or otherwise and unless expressly provided otherwise in an Order Form, SISW (i) is under no obligation to test, validate, or otherwise review the third party software or services; (ii) does not assume any obligation or responsibility with regard to the use of the third party products or services, its support, or any other related services or products, and (iii) does not warrant or support such third party software or services. Any acquisition by Customer of third party software or services, and any exchange of data between Customer and any non-Siemens provider, software or service is solely between Customer and the applicable non-Siemens provider.