

# Digital Access and Use Terms

(Version: 06.05.2024)

These Digital Access and Use Terms govern Customer's use of Digital Services accessed or obtained through a Platform of Siemens Healthineers in addition to (i) the Commercial Form and (ii) the General Terms. These Digital Access and Use Terms shall be read as complementary to the General Terms and prevail in case of conflict.

## 0. Definitions

In addition to the definitions in the General Terms the following definitions apply:

- 0.1. "Access Credentials" are a username and password (or any other applicable access or authentication mechanism) provided by Customer, or by Siemens Healthineers at Customer's request, which permit an Individual User to access and use a Digital Service.
- 0.2. "Customer Account" means an account of Customer which enables Customer to access and use certain Digital Services provided on the Platform.
- 0.3. "Customer Content" means any information, program, software, application, code in any form, script, library, or data that is entered, uploaded onto, or stored on the Platform (including any user forum related to the Platform) in connection with Customer's or any Individual User's use of the Digital Services under a Customer Account. Customer Content excludes the Digital Services and the Platform.
- 0.4. "Digital Services" means any Platform-based Services, Siemens Healthineers Machine Learning Models, and any other Deliverables ancillary to any of the foregoing, specified in the Commercial Form, which Siemens Healthineers makes available to Customer in any technical medium or format, including through the internet.
- 0.5. "Individual User" means any individual registered for Digital Services under a Customer Account (including Customer-appointed representatives, such as physicians, physicists, nurses, other employees of Customer, and patients, as applicable) that has been assigned Access Credentials and has accepted the applicable terms of use for the respective Digital Services.
- 0.6. "Platform" means any Siemens Healthineers-branded or Varian-branded platform solution that is (i) operated by or on behalf of Siemens Healthineers or its Affiliates, (ii) consists of backend systems that may or may not be connected to client components of the relevant Platform on the Customer's IT systems, and (iii) enables the delivery of Digital Services and Third-Party Solutions.
- 0.7. "Registration Data" means any information provided by Customer for registration purposes.
- 0.8. "Revised Terms" shall have the meaning defined in Section 2.1 of these Digital Access and Use Terms.
- 0.9. "Suspension" / "to Suspend" means the entire or partial suspension of: (i) the Customer Account, (ii) any access to or use of the Digital Services by Customer or any Individual User, and/or (iii) the granting of rights under the Agreement.
- 0.10. "Third-Party Provider" means a provider of a Third-Party Solution, other than Siemens Healthineers or its Affiliates.
- 0.11. "Third-Party Solution" means a solution, such as an application, service or software, provided by a Third-Party Provider on the Platform to a Customer. For clarification, third-party software and any updates/ upgrades of third-party software which Customer has procured from Siemens Healthineers based on a separate agreement do not qualify as Third-Party Solution, even if technically deployed via a Platform.
- 0.12. "Usage Data" means data of Individual Users personally interacting with the Digital Services, including User ID, name, IP address, personal settings, and any data relating to interactions of the Customer and its Individual Users with the Digital Services, such as frequency and length of use.

## 1. Obligations of Siemens Healthineers

- 1.1. Siemens Healthineers shall use commercially reasonable efforts to: (i) make the Digital Services available to Customer subject to operational requirements, including maintenance and security, provided that where availability levels are specified in the Specification, such specifications prevail; (ii) provide for the security of the Digital Services in accordance with the Specification; and (iii) enable download and technical licensing mechanisms, if applicable.
- 1.2. Siemens Healthineers shall not be responsible or liable for any unavailability of the Digital Services caused by circumstances beyond Siemens Healthineers' reasonable control, including internet or cloud service provider failures or delays.
- 1.3. Siemens Healthineers may perform regularly scheduled maintenance during maintenance windows defined by Siemens Healthineers, which may lead to downtimes. Other scheduled and non-scheduled downtimes may also occur. The Digital Services will not be available during these times. In the event of planned downtimes, Siemens Healthineers will provide prior notice as soon as reasonably feasible.

## 2. Changes of the Agreement

- 2.1. Siemens Healthineers may change the Agreement for Digital Services at any time and at its reasonable discretion by providing a revised version of the terms and conditions affected by such change(s) ("Revised Terms") in accordance with Section 2.2 below.
- 2.2. Siemens Healthineers will give Customer at least 6 weeks' notice of any Revised Terms that contain a material change to the relevant terms and conditions ("Material Change"), which notice will be provided via email or as a pop-up for the relevant Digital Service. If the Customer cannot be reasonably expected to agree to a Material Change, Customer may terminate this Agreement with respect to the Digital Service(s) affected by such Material Change. Notice for such termination must be issued within 4 weeks and termination will be effective 6 weeks following Customer's receipt of notice of the Revised Terms.  
Only if agreed for specific Digital Services in the Commercial Form or the Specification, Customer must expressly accept Revised Terms containing a Material Change. This shall apply in any case for Digital Services on the teamplay digital health platform. If Customer does not accept the Revised Terms within 6 weeks following Customer's receipt of notice of the Revised Terms, Customer's access to such Digital Services may be blocked.
- 2.3. Non-material changes to the relevant terms and conditions, such as correction of typographical and editorial errors, name changes, rearrangement of documents or paragraphs without material modification of legal content, and other non-material changes resulting from the ordinary course of business will be included into the Agreement at Siemens Healthineers' reasonable discretion and notified to Customer via email, as a pop-up for the relevant Digital Services or by any other means permitted under this Agreement.

## 3. Account and Access Credentials

- 3.1. An active Customer Account is required for affiliating with Individual Users. Individual Users may access Digital Services only via the applicable Customer Account using Access Credentials. Customer shall control the access of Individual Users to the Digital Services.

- 3.2. Siemens Healthineers may change, or request Customer to change, Access Credentials if Siemens Healthineers reasonably determines that such a change is necessary.
- 3.3. Customer shall:
  - 3.3.1. Register prior to using the Digital Services by entering all user information and accepting all documents (such as terms of use) reasonably requested as part of the registration process;
  - 3.3.2. Provide only accurate and complete Registration Data and keep such Registration Data up to date at all times;
  - 3.3.3. Not use pseudonyms or pen names;
  - 3.3.4. Provide adequate proof to verify the Registration Data if requested by Siemens Healthineers;
  - 3.3.5. Carefully store Access Credentials and security tokens and protect them from unauthorized access;
  - 3.3.6. Ensure that any Access Credentials are used only by the Individual User who was granted such Access Credentials;
  - 3.3.7. Not share Access Credentials with any third party or with Siemens Healthineers;
  - 3.3.8. Not gain access or assist third parties in obtaining access to the Digital Services by any means other than those permitted by Siemens Healthineers;
  - 3.3.9. Not circumvent or disclose the authentication or security of the Customer Account, the Platform or any host, network, or account related to the Platform; and
  - 3.3.10. Not access the Digital Services from any country other than the country in which Customer is located according to the Commercial Form.
- 3.4. Customer is responsible for the administration of its Customer Account, including any permissions assigned thereto and shall ensure that its Individual Users comply with the obligations under this Section 3.
- 4. Customer Obligations and Use Restrictions**
- 4.1. Customer shall:
  - 4.1.1. Ensure that Customer's use of the Platform, the Digital Services and any Customer Content will not (i) aim for or comprise any illegal, unethical, or fraudulent purposes, content or activity; (ii) be in breach of this Agreement or any applicable laws, regulations or third-party rights; or (iii) adversely affect the safety, operations, or confidentiality of the Platform or Digital Services.
  - 4.1.2. Obtain all rights and consents (including from data subjects) required for using and providing Customer Content to Siemens Healthineers and/or its subcontractors in connection with the Digital Services.
  - 4.1.3. Procure at its expense from vendors of software and services used by Customer any rights, consents, and permits required by Siemens Healthineers and its subcontractors to provide the Digital Services.
  - 4.1.4. Be responsible for the security of its IT systems and on-premise hardware and software.
  - 4.1.5. Be responsible for obtaining and maintaining at its expense any technical equipment, resources and other requirements needed to access and use the Digital Services, such as computer hardware, software, communication devices, internet access, and any required configuration of the foregoing, in accordance with the Specification.
  - 4.1.6. Not use any public-key certificates—provided by Siemens Healthineers for any purposes other than those such certificates had been provided for.
- 4.2. Customer is responsible for any acts and omissions that occur under Customer Account as if these were Customer's own acts and omissions, and for any Customer Content posted, submitted or otherwise disclosed on Customer Account. Customer shall ensure that all Individual Users comply with Customer's obligations under this Agreement. Should Customer become aware of any breach of its obligations under this Agreement, Customer shall immediately take appropriate

- measures to stop such breach, which may include a termination of the relevant Individual User's access to the Digital Services.
- 4.3. Customer shall not use the Digital Services to provide services or otherwise make the Digital Services available to third parties (except Individual Users), or commercially exploit the Digital Services in any other way, unless otherwise agreed. Except as otherwise permitted by Siemens Healthineers, Customer shall not grant access to the Digital Services to competitors of Siemens Healthineers.
- 4.4. If Customer becomes aware of any of the following actual or potential events, Customer shall promptly provide Siemens Healthineers with reasonable information and assistance regarding their mitigation and resolution: (i) unauthorized use of Customer Account; (ii) loss or theft of Customer Account information; (iii) circumstances or incidents that adversely affect the security of the Platform or Digital Services; or (iv) measures by governmental bodies or court decisions specifically relating to Customer's use of the Digital Services or the Platform which may affect the Platform or the Digital Services.
- 4.5. Customer shall indemnify Siemens Healthineers from and against and, at Siemens Healthineers' option, defend Siemens Healthineers from, any claim, proceeding, action, fine, loss, cost and damages, including reasonable attorney's fees, arising from or in connection with: (i) Customer Content; (ii) Customer's use of the Digital Services in a manner breaching applicable laws, regulations, third-party rights, and/or this Agreement; (iii) Customer's operation, combination, or use of the Digital Services in conjunction with Customer Content and/or any third-party software, materials, or services not provided by Siemens Healthineers for such operation, combination, or use with the Digital Services; (iv) adjustment or configuration of the Digital Services by Customer or Individual Users; (v) Siemens Healthineers' use of Customer's trademarks, designations, and logos as authorized by Customer; and (vi) Customer's unauthorized use of Siemens Healthineers' trademarks, designations, and logos. Siemens Healthineers will give Customer written notice of any such claim without undue delay, reasonably cooperate with Customer and, at Siemens Healthineers' option, permit Customer to control the defense of such claim.
- 4.6. Siemens Healthineers reserves the right but has no obligation to monitor for its internal purposes any usage of the Digital Services on Customer Account in accordance with applicable laws: (i) for security and availability reasons; (ii) to ensure compliance with the terms of this Agreement; and (iii) to provide Customer with reports on its usage of the Digital Services; and (iv) to offer Customer other products or services that are not yet part of the Digital Services. Unless required by applicable laws, Customer shall not block or interfere with any monitoring by Siemens Healthineers permitted under this Agreement but may use encryption technology or firewalls to help keep its Customer Content confidential.
- 4.7. If Customer uses the Platform to access a Third-Party Solution, the following shall apply: (i) Any contractual relationship regarding the use of a Third-Party Solution and any related services or product is solely between Customer and the relevant Third-Party Provider; (ii) Siemens Healthineers is under no obligation to test, validate, or otherwise review the Third-Party Solution; (iii) Siemens Healthineers does not assume any liability, obligation or responsibility with regard to the use of the Third-Party Solution, its support, or any other related services or products, whether or not they are designated by Siemens Healthineers as "certified" or otherwise; and (iv) the use of a Third-Party Solution may enable the relevant Third-Party Provider to collect and use Customer Content and data regarding an Individual User's usage of the Third-Party Solution and/or to transfer copies of Customer Content and usage data for the Third-Party Solution outside the Platform. Siemens Healthineers shall not be responsible for any consequences resulting from any access to Customer Content through a Third-Party Solution.

**5. Review of Customer Content**

- 5.1. Upon receipt of notice about any misuse, Siemens Healthineers will review Customer Content manually by human individuals and remove Customer Content that does not comply with the requirements of Section 4.1.1. No automated systems will be used for the review.
- 5.2. Complaints against decisions by Siemens Healthineers to remove Customer Content may be filed by electronic means and free of charge under complaints\_DSA@siemens-Healthineers.com within 6 months following the decision of Siemens Healthineers. Siemens Healthineers will review and decide about any such complaint.

**6. Use of Data**

Customer permits Siemens Healthineers and its Affiliates to access, use, process, copy, aggregate, analyse, modify, combine with other data and create derivative works from anonymous or anonymised Usage Data on a non-exclusive basis without restriction in terms of time, location, transferability and sublicensing, for the business purposes of Siemens Healthineers and its Affiliates, such as (i) facilitating and advising on a continued and sustained use of Digital Services or other products, software and services, (ii) the substantiation of marketing claims for their products, software and services by means of aggregated data, (iii) research or development purposes (for example to determine usage trends, or to improve existing and/or develop new products, software and services) or (iv) fulfilment of legal or regulatory obligations, including product surveillance.

**7. Suspension**

- 7.1. Siemens Healthineers is entitled to immediately Suspend if, in Siemens Healthineers' reasonable assessment: (i) Customer Content posted, submitted or otherwise disclosed on the Customer Account does not comply with the requirements of Section 4.1.1; (ii) required by applicable laws, a court decision, or a request from a governmental body; (iii) Customer or Individual Users fail to provide adequate proof to verify their Registration Data or fail to provide or change Access Credentials, as requested by Siemens Healthineers; or (iv) in Siemens Healthineers' reasonable assessment, Customer otherwise is or may be in material breach of this Agreement. If caused by Customer Content, a Suspension may include the blockage or deletion thereof. Siemens Healthineers may issue a warning and shall inform Customer about any Suspension without undue delay.

When deciding on a Suspension based on a misuse by Customer, Siemens Healthineers will consider all relevant circumstances leading to such misuse, including breach of applicable laws, frequency and severity of the relevant misuse, and whether the misuse happened intentionally.

- 7.2. Customer's obligation to pay fees remains unaffected, except to the extent Siemens Healthineers is responsible for the cause of the Suspension.
- 7.3. Once Customer has remedied the cause of the Suspension, Siemens Healthineers will notify Customer of the actions to be taken to reinstate the Digital Services, if any. The Suspension will be lifted without undue delay when the reason for such Suspension no longer exists. All other rights and remedies of Siemens Healthineers remain unaffected.
- 7.4. Siemens Healthineers may terminate this Agreement, any affected Digital Service and/or the Customer Account for cause with immediate effect if any acts or omissions of Customer that entitle Siemens Healthineers to a Suspension remain uncured for a continuous period of 60 days.

**8. Account Term and Termination**

- 8.1. Customer Accounts are activated by Siemens Healthineers and remain active for an unlimited period.
- 8.2. Each Party may terminate a Customer Account upon notice to the other Party if there have been no Customer activities on a Customer Account for a period of 12 months. Unless otherwise agreed between the Parties, such termination will become effective after the expiry of a reasonable period required for winding down the Customer Account.

**9. Notices**

Without prejudice to Section 198 (Notices, Changes, Written Form) of the General Terms, Siemens Healthineers may provide notice to Customer on the Platform by: (i) posting a notice on the Customer Account or (ii) sending a message to the email address provided to Siemens Healthineers as part of the ordering process for a Commercial Form or then associated with Customer Account. It is Customer's responsibility to regularly visit its Customer Account and to keep its email address current. If Customer does not comply with such obligation or if its receipt of a notice fails because of technical issues related to equipment or services which are under Customer's or its subcontractors' control, notices shall be deemed to have been provided to Customer two (2) days following the date of such notice.