

Supplemental General Terms for Hardware, Software and Services (“Supplemental General Terms”)

(Version: 06.05.2024)

These Supplemental General Terms govern the provision of Hardware, Software (other than Software-as-a-Service) and Services in addition to (i) the Commercial Form and (ii) the General Terms. These Supplemental General 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. “Add-on Software” means optional software, which is preinstalled on the Deliverables, is access-protected, enables additional functionalities, and is made available to Customers by Siemens Healthineers pursuant to separate agreements, which may require payment of a fee.
- 0.2. “Defect” means, (i) for Hardware, any defect in material or workmanship or non-conformance with the Specification; (ii) for Software, any failure to perform substantially in accordance with the Specification or a statement of work; and (iii) for Services any failure to perform the Services in a professional, competent, and businesslike manner and, if applicable, substantially in accordance with a statement of work.
- 0.3. “First Productive Use” means the date on which Deliverables are first used (which means for Software live data is first processed through the Software) for own business purposes of Customer (e.g., hospital operations) outside any acceptance testing agreed with Siemens Healthineers.
- 0.4. “Hardware” means any tangible product (e.g., computer hardware, equipment hardware, service parts) specified in the Commercial Form.
- 0.5. “Major Defect” means a Defect that substantially interferes with the operation of the Deliverables.
- 0.6. “Service Software” means optional software which is preinstalled on the Deliverables, is access-protected, and supports operation and maintenance of the Deliverables. The functions of Service Software that are technically required for maintenance are made available to Customers pursuant to separate agreements, which may require payment of a fee.
- 0.7. “Software” means software in object code which is (i) specified in the Commercial Form and/or (ii) preinstalled or embedded on any Hardware (including firmware and operating systems), except for Service Software and Add-on Software which must always be specified in the Commercial Form. Software includes the User Documentation and any software hotfixes, updates, upgrades and/or new versions provided by Siemens Healthineers under the Agreement. If applicable, Software also includes any ancillary backend application integrated into the Software and operated by Siemens Healthineers.
- 0.8. “Third-Party Hardware” means hardware manufactured by a non-Affiliated third party.
- 0.9. “Varian Hardware” means Hardware that is manufactured by Varian and Third-Party Hardware ancillary thereto.

1. Delivery, Transfer of Risk and Title

- 1.1. Siemens Healthineers shall provide the Deliverables in accordance with the terms in the Commercial Form.
- 1.2. Siemens Healthineers may make partial deliveries, if it is reasonable to do so (e.g., in case of separate Deliverables). Partial deliveries shall be invoiced as made and shall be deemed to be independent deliveries with regard to the transfer of risk and, if applicable, installation and acceptance.
- 1.3. If Customer fails to accept delivery of a Deliverable on binding delivery dates and/or postpones delivery of the Deliverables, then, except where Customer’s failure or postponement is caused by Siemens Healthineers’ failure to comply with the

Agreement, delivery of the Deliverable shall be deemed to have been completed on such binding delivery dates and Siemens Healthineers shall, at the risk and expense of Customer, store and insure the Deliverable until delivery takes place and any payment for the Deliverables shall become due.

- 1.4. Risks of loss of or damage to Deliverables shall pass to Customer upon (deemed) delivery.
- 1.5. Title to Hardware shall pass to Customer upon Siemens Healthineers’ receipt of full payment for the Hardware, prior to which Customer may not resell, transfer, pledge, or grant a security interest in such Hardware. Customer and Siemens Healthineers shall Notarize such agreement.
- 1.6. Customer shall not be granted any right or license in any Service Software or Add-On Software, even if preinstalled on Hardware, unless specified otherwise in the Commercial Form.

2. Acceptance

- 2.1. Upon completion of any agreed Services that are subject to acceptance, for example Hardware installation Services or implementation Services for Software, Siemens Healthineers will demonstrate proper operation of the Deliverables by performing Siemens Healthineers’ acceptance procedure and/or, if applicable, Customer will perform acceptance testing within the agreed testing period.
- 2.2. Acceptance shall occur at the earlier of the following: (i) Customer’s signing of Siemens Healthineers’ acceptance form; or (ii) 14 days after completion of Siemens Healthineers’ acceptance procedure or the agreed testing period, as applicable, provided Siemens Healthineers has not received written notice from Customer of a Major Defect within such period; or (iii) First Productive Use; or (iv) after 3 months (respectively for Varian Hardware 6 months) from delivery if installation is delayed and such delay is not due to the fault of Siemens Healthineers.
- 2.3. If any Major Defects are identified during the acceptance procedure or acceptance testing as per Section 2.1 or are reported within 14 days according to Section 2.2 (ii), Siemens Healthineers will correct such Major Defects within a reasonable period. If applicable, the testing period shall resume upon notification by Siemens Healthineers that the Major Defect has been corrected and Customer shall have at least 10 days to test any corrections. Acceptance shall occur as set forth in Section 2.2. Defects that do not constitute a Major Defect shall not prevent acceptance but will be documented by the Parties and remedied by Siemens Healthineers within a reasonable period.

3. Delay

- 3.1. In the event of a default by Siemens Healthineers to meet a binding date, any compensation of Customer for damages incurred as a result of the delay shall not exceed a total amount of 5% of (i) the fees to be paid by Customer under this Agreement for Deliverables or parts thereof that cannot be used due to the delay, if the fee is a one-time payment, or (ii) the fees to be paid by Customer during the first 12 months after the binding date for Deliverables or parts thereof that cannot be used due to the delay, if the fee is recurring.
- 3.2. Customer’s right to terminate (rescind) the Agreement according to applicable law shall remain unaffected, provided that Customer may only terminate (rescind) the Agreement if

Siemens Healthineers is responsible for the delay and partial delivery is not reasonably acceptable to Customer. In such a case, once Customer has elected to terminate (rescind) and upon return or (or in case of Software) deletion of the Deliverables, as the case may be, Customer shall be entitled to a refund of the price actually paid for such Deliverables less reasonable depreciation.]

- 3.3. The remedy under this Section 3 shall be the sole and exclusive remedy of Customer in respect of a delay, except as otherwise required by applicable laws.

4. Warranty

- 4.1. Unless otherwise agreed and subject to Section 4.6 below, Siemens Healthineers warrants that the Deliverables are free from Defects (i) during the Subscription Period in the case of a subscription license, and (ii) in all other cases on the date of delivery or, if applicable, on the date of acceptance. The final assembled Hardware shall be regarded as new although it may include certain used, reworked or refurbished parts and components (e.g., circuit boards) that comply with applicable performance and reliability specifications and controls.
- 4.2. Customer shall inspect the Deliverables immediately upon delivery or, if applicable, during acceptance testing and shall notify Siemens Healthineers in writing of any Defects without undue delay. Except in case of a subscription license, Customer's claims in respect of Defects shall be excluded for any apparent Defects if Customer has failed to do so.
- 4.3. In the event of a breach of its warranty under Section 4.1, Siemens Healthineers shall remedy the Defects, provided that Customer has notified Siemens Healthineers of the Defects without undue delay.
- 4.4. If Siemens Healthineers carries out error analysis, repair or replacement and it is not established that there was a breach of warranty, Customer shall pay Siemens Healthineers for remedial the relevant work according to the then applicable rates of Siemens Healthineers.
- 4.5. Within a reasonable period following written notification from Customer and at Siemens Healthineers' reasonable discretion, Siemens Healthineers shall remedy Defects either by (i) repair; (ii) replacement; (iii) re-performance; (iv) delivery of hotfixes, updates, or upgrades; (v) provision of a workaround reasonably acceptable to Customer; (vi) instructions to Customer on how to fix the Defect; or (vii) any other means reasonably acceptable to Customer.
- 4.6. Siemens Healthineers shall have no obligations under this Section 4 in case of: (i) minor Defects which do not affect the use of the Deliverables; (ii) insignificant deviations of Deliverables from the Specification or statement of work, as applicable; (iii) Defects that cannot be reproduced; (iv) normal wear and tear of Hardware; (v) a failure resulting from Customer's use of the Deliverables in combination with other software, technology, devices or items not provided or approved in writing by Siemens Healthineers for use with the Deliverables; (vi) a failure resulting from modifications to the Deliverables, maintenance or repair not performed by Siemens Healthineers ; (vii) Customer's use of the Deliverables in a manner not consistent with the User Documentation; (viii) Defects resulting from customization based on Customer's specific demands; (ix) Customer's use of a Deliverable which is not the most current update, upgrade or new version and if the Defect would have been prevented by using such update, upgrade or new version; or (x) Defects attributable to Customer for other reasons.
- 4.7. Despite its security efforts, Siemens Healthineers does not warrant that the Deliverables are free of any vulnerability that may be exploited with the potential to adversely impact a Deliverable via unauthorized access, destruction, disclosure, modification of information, and/or denial of service. Siemens Healthineers' provision of Patches subject to Section 6 shall be Customers' exclusive remedy relating to any such vulnerabilities.

- 4.8. The foregoing Sections state the entire liability of Siemens Healthineers with respect to Defects and any other claims, rights and remedies of Customer for Defects shall be excluded.

- 4.9. The warranty period shall be the term of the Subscription Period in case of a subscription license. The warranty period for service parts shall be 90 days unless otherwise agreed in the Commercial Form. In all other cases the warranty period shall be 12 months from (i) the date of delivery; or (ii) the date of acceptance if the Deliverables are subject to acceptance, but in any event no more than 15 months (respectively for Varian Hardware 18 months) from the date of delivery; or (iii) the date on which Services are completed, as applicable. The provision of hotfixes, updates, upgrades, workarounds, repair or replacement shall not interrupt, extend or renew the term of such warranty period and such hotfixes, updates, upgrades, workarounds, repair or replacement shall only benefit from the remainder of the original warranty period.

- 4.10. Siemens Healthineers may pass through any assignable warranties of suppliers of Third-Party Hardware or Third-Party Software, which warranties shall replace the warranty obligations set forth in this Section 4 for the relevant Third-Party Hardware or Third-Party Software. Siemens Healthineers shall use commercially reasonable efforts to assist Customer during a supplier's warranty period by triaging issues and coordinating with such suppliers on issues that indicate failures of the relevant Third-Party Hardware or Third-Party Software. Alternatively, Customer may contact the suppliers directly to obtain support in accordance with suppliers' warranty terms.

5. Service Parts

- 5.1. Siemens Healthineers may also provide or use refurbished or modified service parts, provided that this is legally permitted, and the service parts comply with applicable performance and reliability specifications and controls.
- 5.2. If a delivery note of a replacement part states that such service part can in theory be refurbished and is subject to the return program, Customer may return such service part and receive a credit note subject to the following preconditions:
- (i) The replacement part has been purchased from Siemens Healthineers and is not subject to any replacement obligation of Siemens Healthineers, e.g., warranty obligations,
 - (ii) Customer transfers clear and free title to the uninstalled service part to Siemens Healthineers,
 - (iii) Customer returns the relevant part so that it will arrive at the designated location within 7 days after delivery of the replacement part, and
 - (iv) the relevant service part indeed can be refurbished.
- 5.3. The delivery note of the replacement part will also state where to ship the uninstalled service part to and which amount will be credited. Siemens Healthineers will inform Customer if a credit note can be granted in every individual instance after having checked whether the preconditions are met.

6. Deliverable Version and Patches

- 6.1. For Software, this Section 6 shall apply for the provision of updates containing a fix of a vulnerability that may be exploited with the potential to adversely impact a Deliverable via unauthorized access, destruction, disclosure, modification of information, and/or denial of service ("Patch").
- 6.2. Siemens Healthineers will make Patches available during the agreed term or, if no term has been agreed, until the earlier of end of support (as per Section 7) or 10 years following delivery of the relevant Deliverable, provided that (i) the provision of Patches has been agreed in writing (for example in a software support agreement or a Specification), (ii) Siemens Healthineers becomes aware of a vulnerability which in its reasonable opinion is expected to be exploited and result in an impairment of the Deliverable's secure operation, taking into account the individual product attributes and operating environment as well as workarounds and/or compensating controls provided or recommended by Siemens Healthineers, (iii) the Customer's

version of the Deliverable is the most recent (pre-) version at the given time, and (iv) in case of Third-Party Software, the Third-Party Software provider has issued an appropriate Patch to Siemens Healthineers (without Siemens Healthineers being responsible to ensure the availability of Patches for Third-Party Software).

- 6.3. Subject to the above, Siemens Healthineers will make Patches available within a reasonable period taking into account any required testing and validation by Siemens Healthineers and, in case of Third-Party Software, after such Patches have been made available by Siemens Healthineers' licensors. Depending on the severity of the vulnerability Siemens Healthineers may elect to provide a Patch as part of upcoming routine updates.
- 6.4. If a Patch needs to be installed on-site by Siemens Healthineers, Siemens Healthineers may charge Customer for the expenses resulting from the installation. No additional installation fee applies if the Patch is installed as part of a remote online service offering of Siemens Healthineers or downloaded by Customer via an online customer portal of Siemens Healthineers, as applicable. For access to Patches made available for download via an online customer portal, Customer shall register and maintain the registration with such customer online portal for the term of Customer's use of the Deliverable and install Patches in accordance with the respective installation instructions given by Siemens Healthineers.
- 6.5. As cyberthreats continuously develop, Siemens Healthineers strongly recommends that Customer apply all Patches without undue delay and use the latest version of any Deliverable and security offering in accordance with Siemens Healthineers' instructions. This may include purchase by Customer of relevant additional or new products or offerings, such as upgrades of hardware and software if required, for example if the version of the Deliverable used by Customer has reached end of support (as per Section 7).

7. End of Support

Unless agreed otherwise Siemens Healthineers does not guarantee the availability of all service parts, services, updates, upgrades, help desk, or any other support relating to the Deliverables at all times. Siemens Healthineers may make general or specific announcements that it will no longer offer specific services, service parts, maintain/support a specific software version, or provide a particular service agreement option or feature. In such case Siemens Healthineers will notify Customer in writing with respect to repair, maintenance, software maintenance, service part delivery or commissioning no less than 12 months (respectively 18 months for Varian Hardware) in advance, or with respect to any other service no less than 3 months in advance. Unless a specific term has been agreed Siemens Healthineers may, at its option, (i) terminate any Agreement affected in part or totally, or (ii) remove any affected Deliverable from coverage under the relevant Agreement, in both cases with a corresponding adjustment of the agreed price.

8. Radiation-Emitting Deliverables

If Customer orders radioactive or radiation-emitting Deliverables or Services for Deliverables, Customer hereby requests and authorizes Siemens Healthineers to utilize radioactive or radiation-emitting Hardware. Customer will apply for and obtain approval for the installation of such Hardware from the appropriate local and/or state radiological regulatory agency, and on request Customer will provide Siemens Healthineers with a copy of the approval form.

9. Resale of Deliverables

If Customer resells or otherwise transfers a Deliverable within 10 years following delivery, Customer shall be able to identify the new owner to whom the Customer directly supplied the Deliverable at least for that period and shall impose upon the new owner a corresponding obligation for the remaining period in case of further resale or transfer.

10. Return of Deliverables

Customer shall ensure that Personal Data is fully and finally deleted from any Deliverables according to applicable data protection laws if returned to Siemens Healthineers.