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25. **NUCLEAR.** Unless expressly authorized in writing by Siemens, the Software must not be used in or in connection with a nuclear facility or application. If Licensee uses any Software in connection with any nuclear facility or activity, it does so at its own risk and Licensee will indemnify, defend and hold Siemens harmless, and waives and will require its insurers to waive all right of recovery against Siemens, for any damage, loss, destruction, injury or death resulting from a "nuclear incident," as defined in the Atomic Energy Act of 1954, as amended, whether or not due to Siemens' negligence. Siemens' consent to Licensee's use of the Software in connection with any nuclear facility or application will be subject to additional terms and conditions that Siemens deems necessary to protect its interests.

26. **SURVIVAL.** The articles titled "Patent and Copyright Infringement," "Limitation of Liability," "Confidentiality," "Delivery, Title and Risk of Loss or Damage," "Export/Import Compliance," "Feedback," and "Nuclear" survive termination, expiration or cancellation of this Agreement.

27. **ORDER OF PRECEDENCE AND CONTRADICTION OF TERMS.** In the event of inconsistency between or among these provisions, the following order of precedence shall govern: 1) The Confirmation of Order; 2) Exhibits to this Agreement; 3) This Agreement.

28. **RELATIONSHIP OF THE PARTIES.** For all purposes, Licensor and Licensee will be deemed to be independent contractors and nothing contained herein will be deemed to constitute a joint venture, partnership, employer-employee relationship or other agency relationship. Neither party is, nor will either party hold itself out to be, vested with any power or right to contractually bind or act on behalf of the other party.

SIEMENS STANDARD SOFTWARE LICENSE TERMS AND CONDITIONS

EXHIBIT1: <u>PRODUCT SPECIFIC TERMS</u>

These Product Specific Terms are specific to the following products [PSAIM™ (PS Asset Integrity Manager®), PSPPM™ (Process Safety Pressure Protection Manager™), ULTRAPIPE®, PSCM™ (PS Change Manager®), OGM™ (Oil and Gas Manager™), and EIMP™ (Engineering Information Management Platform)] as identified in the Confirmation of Order and is the Software that is the subject of the Agreement and not to any other software or hardware offered by Siemens. The Product Specific Terms are additional to the terms in the Agreement and, to the extent that these terms are in conflict with the terms of the Agreement, these terms will take precedence and supersede the terms of the Agreement with respect to the Software. Except where defined herein, all capitalized terms shall have the meaning ascribed to them in the Agreement. All references to the Agreement shall include all of the components comprising the Agreement, including the Confirmation of Order, the Proposal, and these Product Specific Terms. The additional terms and conditions are as follows:

29. SOFTWARE LICENSE TYPES
The Limited Term License is subject to these Product Specific Terms and made available by Siemens to Licensee under one of the following software license types. The Software is not offered under any other license type.

29.1. **Subscription.**

    29.1.1. "PLC" means primary license charge and it signifies the initial fee to be paid at the beginning of a combined PLC/ALC subscription license term for the Software. PLC covers the license to the Software and the Maintenance Services for the Software during the initial year of the term of the license, to be followed by the annual payment of an ALC fee.

    29.1.2. "ALC" means an annual license charge which, in combination with the PLC, signifies the fee to be paid at the beginning of an annual period, on a yearly basis, following the first year of a combined PLC/ALC subscription license for the Software. ALC covers (i) the right to use the Software for the applicable annual period, and (ii) the Maintenance Services during that annual period, as a continuation of a PLC fee.

    29.1.3. The Licensee may renew the Subscription by ordering a new term and paying the then License Fee in yearly increments.

    29.1.4. If the Licensee fails to order ALC 60 days prior to the expiration of Subscription, the license to the Software terminates and in the case that Licensee requests for license to be reinstated it shall be done at the then current ALC fee.

    29.1.5. If the Licensee fails to pay the ALC fee during a Subscription, the license to the Software terminates.

29.2. **Rental.** Rental means a non-renewable license to the Software during the Limited Term License with a fee to be paid, covering (i) the right to use the Software for a limited period of 30 days up to a maximum of 12 months, and (ii) the Maintenance Services for the Software during that period of time. The license to the Software terminates at the end of the Rental period.

30. ADDITIONAL DEFINITIONS
As used throughout the Agreement, the following terms shall have the following meanings:

30.1. "Client" means a self-contained computing unit that includes the Software user interface and is used to access Licensee's Server(s) in the Installation Option granted for a named Site.

30.2. "Concurrent Users" means the total number of Individual Users within the group of Authorized Users that can simultaneously use the Software at any one time for a named Site in a Network Installation.

30.3. "Designated Operating System(s)" means the computer operating system designated in a Proposal or any operating system to which an exchange is allowed under the Maintenance and Support Services provided as part of a Subscription to use the Software.

30.4. "Enhancement" means any modification or addition that, when made or added to the Software, materially changes its then existing utility, efficiency, functional capability, or application, but that does not constitute an Error Correction or Module. Siemens may designate Enhancements as "minor" or "major", depending on its assessment of value and of the function added to the Software.

30.5. "Error" means any verifiable and reproducible failure of a Supported Release of the Software to conform in any material respect to its published Software Documentation. The term does not include any failure, mistake, Problem, defect, or discrepancy that results from Licensee's improper use of the Software. Error must be reported by Licensee to Licensor in accordance with the Incident Severity Levels as described in Attachment 1 ("Service Levels").

30.6. "Error Correction" means either (i) a modification or addition to, or deletion from, the Software that, when made to the Software, corrects an Error or (ii) a procedure or routine that, when observed in the regular operation of the Software, avoids the practical adverse effect of an Error (e.g. a work around). An Error Correction, when

completed, may be provided in the form of a Patch Release, temporary fix (hot fix), or in the form of additional documentation consisting of sufficient instructions to implement the Error Correction.

30.7. "General Availability" or "(GA)" is the stage in the product lifecycle when a specific Software product version is made available by Siemens for distribution to all customers. GA applies to Major Release, Module, Minor Release, and Patch Release.

30.8. "Incident" means any event that deviates from the expected operation of the Software.

30.9. "Individual User" means, subject to restrictions in section 31.5, any individual Authorized User of Licensee, to whom access has been granted to use the Software and/or Documentation for a named Site and in connection with the internal business activities of Licensee.

30.10. "Installation Options" means one of the following two types of options for installation of the Software (i) "Network Installation" of Software where the Client and Server are located on separate computers or (ii) "Standalone Installation" of the Software where the Client and Server are located on a single computer such as a laptop.

30.11. "Major Release" means any major Enhancement or the addition of new features for utility, efficiency, functional capability, application, or user interface to the Software that includes the previously issued immediately preceding Minor Release. Major Releases are typically identified by incrementing the leading number prior to the decimal point of the Software GA version designation e.g. from 5.1 to.6.0.

30.12. "Minor Release" means any minor Enhancement to the existing functionality of the immediately preceding GA version of a Major Release of Software that includes any previously issued Patch Release updates for the same Major Release. Minor Releases are typically identified by incrementing the trailing number after the decimal point of the Software GA version designation e.g. 5.1 to 5.2.

30.13. "Module" means a collection of business logic or material changes which are not Enhancements and are offered by Siemens as a separately named and priced option or feature of a Major Release.

30.14. "Named User" means, subject to restrictions in section 31.5, each instance of an Individual User, Server or Client to whom access has been granted to use the Software and/or Documentation for a named Site, either directly or indirectly, regardless of whether the individual user or computer system is actively using the Software at any given time.

30.15. "Normal Business Hours" means 8:30 A.M. to 5:30 P.M. Central Standard Time in the USA.

30.16. "Patch Release" means any General Availability modification or addition to the Software that, when made or added to the Software implements an Error Correction, or a procedure or routine that, when observed in the regular operation of the Software avoids or reduces the practical adverse effect of an Error. Patch Releases are typically identified by incrementing the number after the decimal point of the trailing number of the Software GA version designation e.g. 5.1.1 or may also be referenced with "P" e.g. 5.1.1 P1 when the Software build number remains unchanged.

30.17. "Problem" means a condition identified from multiple Incidents exhibiting common symptoms, or from a single significant Incident indicative of a single Error, for which the cause is unknown

30.18. "Proposal" (whether singular or plural) means a document which will be provided by Siemens to Licensee with specific information about usage of the Software including but not limited to Limited Term License, Territory, Sites, License Metrics, License Fees and Payments, and Software License Type. The Proposal is incorporated and shall be part of this Agreement upon Licensee's purchase order and Siemens Confirmation of Order.

30.19. "Response Time" means the elapsed time between receipt of an Incident report by the Licensor and the initial reaction of the Licensor. If a specific reaction time is defined as being during business hours then the response time will be measured according to this time period. Example: a four hour response time during Normal Business Hours means that a call which is received at 3 pm on one business day (e.g. Friday) would be responded to by 9 am on the next business day (e.g. Monday).

30.20. "Server" means a computer program or a single computer unit which is used by Licensee in a Client/Server architecture that supplies data, files, or services to the Client.

30.21. "Site(s)" means the named physical plant location(s) and Territory, such as an oil & gas production facility, transportation pipeline network, compressor and pumping station, storage facility, power plant, refinery, chemical or petrochemical plant designated in a Proposal for which the Software License Type and License Metric is purchased under this Agreement. A refinery and a petrochemical plant on the same location are two Sites. Evaluation of the definition of Site for the purpose of determining fees is at the sole discretion of Siemens. Only when specifically stated in a Proposal, the definition of Site may include an office location of Licensee.

30.22. "Subscription" means a "PLC"/"ALC Subscription" renewable license to the Software during the Limited Term License.

30.23. "Supported Releases" means as specified in Section 33.7 of this Agreement.

30.24. "Unlimited User" means any instances of Named Users for which access has been granted in a Confirmation of Order subsequent to a Proposal for a named Site to use the Software.

30.25. "Usage Based User" means each instance of a Named User to which access has been granted for a named Site for intermittent usage of the Software for a preset time period starting at the Confirmation of Order of the Limited Term License.

31. LICENSE OF SOFTWARE

In addition to the License Grant set forth in Article 3 of the Agreement, the following shall apply:

31.1. **Authorized Users**: Only the number of Authorized Users that have been specifically authorized by or on behalf of Siemens in a Confirmation of Order for the Site and Territory may use the Software. Authorized Users shall include but not be limited to Named Users, Concurrent Users, Unlimited Users, Individual User and Usage Based User. If Licensee desires to upgrade by adding additional Authorized Users or additional usage, Licensee shall be required to pay for additional licenses according to Siemens's then current policies. For the avoidance of doubt:

31.1.1. Indirect access can, for example, occur via computer system interconnections acting as users of the Software and interfacing between the Software and other Licensee systems. For example, multiplexing or redistributing data from the Software via an intermediary system does not avoid the need to license all Individual Users or computer systems that access the data from the intermediary system as Named Users;

31.1.2. If a Named User is authorized to use the Software at multiple Sites or on multiple Servers each supplying the Software, then each Site or Server will be counted as a separate Named User;

31.1.3. Each simultaneous use of the same Named User at any Site or Sites also counts as separate individual Named Users for the purposes of the Agreement unless the usage is exclusively by the same individual connecting to the same Server, e.g. one Named User using two Clients to connect to the same Server counts as one Named User.

31.2. **Installation Options**: As specifically designated and authorized in the Confirmation of Order, Licensee may install, use, and execute the Software according to the Installation Options or on the number of Servers and Clients at the Sites identified in the Confirmation of Order solely in support of the internal business activities of Licensee. For the avoidance of doubt, "internal business activities of Licensee" shall not include processing data of any third party (whether on an outsourcing, service bureau, or other basis) except data supplied by Licensee's customers or suppliers which is necessary for Licensee's internal business purposes.

31.3. **Documentation**: Licensee may use the Documentation only in conjunction with the installation and use of the Software.

31.4. **Database Software**: The Software may include or Licensee may otherwise obtain database software ("Database Software") that is required for use in conjunction with the Software. Usage of the Database Software is exclusively restricted to its use with the Software. Licensee or any other party acting on behalf or at the request of Licensee is prohibited from, among other activities, any of the following:

31.4.1. timesharing, service bureau, subscription service, or rental use of the Database Software;

31.4.2. title to or usage of the Database Software being passed to any other person;

31.4.3. direct usage of the Database Software except as part of the solution using the Software;

31.4.4. installation, usage, or running the Database Software on any computer system upon which the Software is not installed. The Database Software may be used only in conjunction with the Software; and

31.4.5. distribution or other dissemination of the Database Software; and.

31.4.6. reverse engineering Database Software to decipher Software data structure.

31.5. **Restrictions on Use:** In addition to, and without limiting the restrictions included in the Agreement, the license to use the Software is subject to the following additional restrictions and limitations:

31.5.1. Licensee may make additional copies of the Documentation, excluding educational materials, without Siemens's prior written consent, but all of those copies will be subject to all of the confidentiality and other restrictions set forth in the Agreement, and all of those copies must be used solely for Licensee's internal training and support purposes (and not for resale or redistribution). The original and any copies of the Documentation will at all times remain the sole property of Siemens;

31.5.2. Licensee must maintain records identifying the Site for which the Software is licensed, and identity of the Designated Operating System(s), or any replacement system, and any copies of the Software (including any backup or archival copy), which records will be subject to inspection by Siemens during regular business hours upon reasonable advance notice. In the event Siemens determines as a result of this inspection that Licensee has not properly maintained such records or is not in compliance with the provisions of the Agreement, Siemens shall be promptly reimbursed by Licensee for documented costs associated with such inspection. Such reimbursement shall not operate as a waiver by Siemens of any right or remedy;

31.5.3. If network installation is used as an Installation Option, Licensee may physically transfer the Software documented in a Confirmation of Order from one network Server to another network Server for the same Site up to two (2) times per calendar year at no additional charge, provided that the Software is only

installed on one network Server at any given time, and provided further that Licensee provides Siemens with reasonable written notice and continues to comply with the other terms and conditions of the Agreement; and,

31.5.4. Licensee may not publish or provide any results of benchmark tests run on the Software to a third party without Siemens's prior written consent.

31.5.5. If standalone installation is used as an Installation Option, Licensee may transfer the Software documented in a Confirmation of Order up to one time (1) per calendar year at no additional charge, provided that Licensee provides Siemens with reasonable written notice and continues to comply with the other terms and conditions of the Agreement.

31.5.6. Licensee may not use remote desktop connection, Citrix environments or similar environments, or virtual private network access to use the Software unless it is specified in the Proposal.

31.5.7. Licensee shall verify the accuracy of any Software license keys provided under a Confirmation of Order and notify Siemens immediately upon the discovery of any discrepancy: any use of a Software license key beyond the scope of the Confirmation of Order is prohibited.

31.5.8. Licensee will not allow any Authorized Agents to access, install, or use the Software or Documentation without the prior written consent of Siemens. At sole discretion of Siemens, any approved usage by Authorized Agents may be subject to additional fees.

31.6. **Licensee Responsibility:** Except where the parties agree in writing to the contrary, Licensee assumes sole responsibility for the following:

31.6.1. Conversion of any of Licensee's existing data files for use with the Software: Siemens may provide data conversion services to Licensee through a separate written agreement at an additional charge;

31.6.2. Backup of Licensee's data being used in connection with the Software;

31.6.3. Obtaining, maintaining, and applying all service packs and patches as they are made available for all Database Software, whether or not these are provided by Siemens;

31.6.4. Preventing unauthorized access to its Site network, computers, operating systems, and any other applicable networks through appropriate security measures;

31.6.5. Obtaining and maintaining any Other Third Party Software required for the interoperability between any such Other Third Party Software and Software; which obligation shall include the requirement that Licensee obtain and implement all updates, service packs, error corrections, or any other revisions to such supporting software;

31.6.6. Obtaining and installing all applicable Supported Releases;

31.6.7. Except to the extent provided by Siemens, Licensee is solely responsible for obtaining any and all updates including but not limited to patch releases, service packs, minor or major releases for Technology Subject to a Third-Party License and Other Third Party Software;

31.6.8. Procuring, installing, and maintaining all equipment, networks, telephone lines, communications interfaces, and other hardware and software necessary to operate the Software;

31.6.9. Designating Authorized Users, who must have either attended basic training for the Software or possess comparable skills, for the purpose of communicating with Siemens when requesting Maintenance Services;

31.6.10. Providing remote access, e.g., a dedicated phone line, for Siemens to provide required remote support, and, should Siemens remote support become necessary, granting Siemens permission to remotely access Licensee's system; and,

31.6.11. Notifying Siemens in writing of any and all changes to the environment where the Software runs, namely the environment includes, but is not limited to, the computer that the Software runs on, the network that connects the Software to external devices and to external users, any third party software not provided by Siemens that runs on the computer where the Software runs.

31.6.12. Obtaining and installing, as applicable, Patch Release or Minor Release that contains an Error Correction for a temporary fix or hotfix.

32. LICENSE FEES AND PAYMENTS

In consideration of the license of the Software and the Maintenance Services provided by Siemens during the Limited Term License for the Software License Type set forth in the Confirmation of Order, Licensee will pay the applicable Fees per the payment terms specified in the Proposal. In addition the following terms apply

32.1. Fees specified in the Proposal do not include shipping charges, travel and living expenses or fees and expenses or any other fees unless explicitly included in the Agreement. Siemens reserves the right to require prepayment or advance deposit for such additional charges or expenses.

32.2. Following the expiration of the then-current Limited Term License and upon Licensee's request to renew and/or extend such Limited Term License, Siemens may, at its sole discretion, change the License Fee to the then-current rate for the Software License Types.

32.3. License Fee does not include any taxes, duties or fees, whether domestic or foreign, including but not limited to value added taxes, which may now or hereafter be applicable to, measured by, or imposed upon with respect to the Software, its value, its presence in a taxing jurisdiction or its use, or any services performed in connection therewith. Such taxes are for the account of Company.

32.4. Siemens will notify Company of any tax jurisdiction audit, which may result in additional sales, use, or ad valorem tax as a result of this Agreement. Siemens agrees Licensee will solely determine whether to protest any such assessments, at its own cost and risk. Siemens will cooperate in a reasonable manner to facilitate such protests as directed by Licensee.

32.5. In the event of an Assignment pursuant to section 19, Siemens reserves the right to adjust the License Fee and Payments.

32.6. Adaptation of Fees. In order to react adequately to changes in market conditions or market developments, Siemens is permitted to change License Fees in case of (i) material changes in the market conditions, (ii) general increases in wages or other employment costs, and/or (iii) changes in procurement costs due to price adaption of suppliers, in each case to the extent such changes affect our provision of Software. Siemens will notify Licensee of any change. Siemens will, however, not change License Fees during the initial twelve (12) months following the effectiveness of this Agreement.

33. MAINTENANCE SERVICES

Standard Maintenance Services shall be provided by Siemens for the Limited Term License of a PLC/ALC Subscription license or Rental License maintained by Licensee as follows:

33.1. **Error Correction:** Siemens will use commercially reasonable efforts to provide Error Corrections for the Software pursuant to the Incident Severity Levels and Resolution Plan attached hereto as Attachment 1 ("Service Levels"). The Service Levels represent Siemens' goals only and the Parties agree that they shall not be interpreted as a guarantee for response and/or resolution, but serve only as a guideline for Siemen's working relationship with Licensee. Siemens will provide Licensee with any Error Correction that it receives for Technology Subject to a Third-Party License, which will be provided to Licensee at no additional cost provided that Siemens received any such Error Correction at no additional cost. Except as stated herein, Siemens is not responsible for Errors or Error Corrections relating to Technology Subject to a Third-Party License.

33.2. **Telephone Help Desk:** Siemens will maintain a telephone hot-line Monday through Friday from 8:30 A.M. to 5:30 P.M. Central Standard Time to receive Licensee calls regarding use and operation of the Software. All unrelated questions are out of scope and may be subject to an additional charge. A regional customer support center and/or telephone number or extended telephone coverage may be available subject to a new Proposal and an additional fee.

33.3. **Access to a Customer Support System:** Applicable Authorized Users may use a password-protected customer support system to submit or check the status of Incident reports and Enhancement requests. Licensee is responsible for any unauthorized access or use of the customer support system by its employees, contractors or other representatives.

33.4. **Software Upgrades**. Siemens, at its sole discretion, will provide one (1) copy of either, a Patch Release, or Minor Release for each licensed copy of the Supported Release of the Software that has been purchased as a Subscription. Major Release updates of the Software are not provided to the Licensee as part of the Maintenance Services. Siemens may from time to time, at its sole discretion, and subject to any applicable charge provide Licensee with any updates to Technology Subject to a Third-Party License that Siemens receives directly from the third party licensor. Except as stated herein, Licensor is not responsible for updates to Technology Subject to a Third-Party License.

33.5. **Implementation Services**: Licensee is responsible for installation and implementation of any new GA version and any required data migration, data conversions and configuration. Siemens will provide reasonable telephone assistance of no more than two (2) business days during Normal Business Hours per year as implementation services for Software installation. In the event, Siemens determines that additional implementation services are required, or if any configuration services are required, then any such additional services provided will be subject to a separate agreement.

33.6. **Compatibility Modifications:** Siemens will use commercially reasonable efforts to provide modifications to the Software in the form of a Patch Release or Minor Release when required to maintain compatibility between a Supported Release of the Software and the Designated Operating System software with which the Software has been licensed to operate.

33.7. **Supported Releases:** Once a new General Availability (GA) version of the Software is released, either a Minor Release or a Major Release, Siemens will provide Maintenance Services for the GA version it just released and the immediately preceding two GA releases of the Software, including all prior Major or Minor Releases, unless specified differently in the Proposal. If an Error Correction has been implemented in an update to the prior Major Release, Siemens reserves the right to require Licensee to upgrade to the requisite Minor Release that contains the Error Correction rather than providing a separate Patch Release or workaround.

33.8. **EXCLUSIONS**. The Maintenance Services do not include the following:
33.8.1. Unless otherwise specified in a Proposal, Modules
33.8.2. Minor Release for ULTRAPIPE®
33.8.3. Additional custom Enhancements to the Software or other additional services pertaining to the Software, such as but not limited to report-formatting modifications, customized data extraction or interface with supporting software; or
33.8.4. Unsupported Releases. If Licensee cannot adhere to the Supported Releases policy, Siemens may, at Licensee's request, and Siemens's sole discretion use commercially reasonable efforts to maintain GA releases other than Supported Releases, subject to an additional charge pursuant to a proposal; or
33.8.5. Unless otherwise specified in a Proposal, Major Releases; or
33.8.6. Problems resulting from: (i) misuse, improper use, unauthorized alteration, modification, or damage of the Software or use of the Software that deviates from any operating procedures established by Siemens in the applicable Documentation; (ii) unauthorized modification to, combination of, or relocation of Siemens's hardware, software, systems, or equipment after initial installation of the Software ; (iii) the failure to maintain systems at Siemens' specified minimum configuration or release level; (v) unusual physical, electrical or electromagnetic stress; neglect; misuse; failure of electric power, air conditioning or humidity control; failure of rotation media; operation of the Software with other media not meeting or not maintained in accordance with the manufacturer's specifications; or causes other than ordinary use; or, (vi) Licensee's failure to meet its obligations under this Agreement.

33.9. **COOPERATION OF LICENSEE**. With respect to the Severity Levels described in Attachment 1, Licensee agrees to notify Siemens promptly following the discovery of any error. Further, upon discovery of an error, Licensee agrees, if requested by Siemens, to submit to Siemens a listing of output and any other data that Siemens may reasonably require in order to reproduce the error and the operating conditions under which the error occurred or was discovered. Upon Siemens' request, Licensee shall provide Siemens with remote access (may be through a VPN) to Licensee's computer system for the sole purpose of enabling Siemens to remotely perform Maintenance Services.

33.10. **MAINTENANCE SERVICES LIMITED WARRANTY**. Siemens represents and warrants that all Maintenance Services to be performed by Siemens under this Agreement will be performed in a competent and workmanlike manner by individuals of appropriate training and experience. THE WARRANTY SPECIFIED IN THIS SECTION 3.10 IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. SIEMENS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE. Notwithstanding anything contained in this Agreement to the contrary, Siemens shall have no warranty obligations (and any otherwise valid warranty obligations shall become void and unenforceable) in the event that Licensee takes any action that directly writes to, or otherwise modifies, the data files used by the Software.

34. **HAZARDOUS ENVIRONMENTS.** No part of the Software is designed, manufactured or intended for use or resale as a part of on-line control equipment or in hazardous environments in hydrocarbon extraction, refining, transfer, and chemical plants, requiring fail-safe performance, such as online control of aircraft, air traffic, aircraft navigation or aircraft communications, or in the design, construction, operation or maintenance of any nuclear facility, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). SIEMENS AND ITS SUPPLIERS SPECIFICALLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. Licensee warrants that Licensee will not use the Software for High Risk Activities.

35. **NOTICES** All notices, communications and deliveries under this Agreement must be made in writing signed by the Party making the same, must specify the section under this Agreement pursuant to which it is given or being made (if applicable), and will be given or made to the respective representatives specified in the Confirmation of Order or Proposal.

36. **LICENSE USAGE.** Upon Siemens's written request, Licensee shall furnish Siemens with a certification signed by an officer of Licensee verifying that the Software is being used pursuant to the terms of this Agreement. In the event that an audit by Siemens pursuant to Article 15 of the Agreement reveals that Licensee's usage exceeds the usage authorized under the Agreement in a material manner, Licensee hereby agrees to purchase an upgraded Software License Type at the then current rate within thirty (30) days of notification to Licensee by Siemens to cover the excess usage or unauthorized usage from the date of Confirmation of Order.

ATTACHMENT 1: INCIDENT SEVERITY LEVELS AND RESOLUTION PLAN

THIS ATTACHMENT MAY BE REVISED BY SIEMENS AT ANY TIME. CONTINUED USE OF THE SOFTWARE CONSTITUTES ACCEPTANCE OF THE REVISED ATTACHMENT.

The following section defines the Incident Severity Levels ("Service Levels") and associated Response Times. Siemens will have the sole right to control and directly supervise the method, manner and execution of the Services Levels.

Incident Level	Problem Definition	Response Time	Resolution plan (w/o source code changes)
Severity 1 Critical Problem, Critical Error with no workaround	A critical Problem makes the continued usage of all critical functions that functioned previously in the production environment of the supported release of the Software impossible and prevents the customer from normal usage across all Site installations of the Software. No workaround exists.	One (1) business day of receipt of a customer Incident report during Normal Business Hours.	Resolution Plan presented to customer within two (2) additional business days. If the cause of the Problem is an Error in the Software, Siemens will issue an Error Correction in the form of a temporary fix.
Severity 2 Major Problem, Major Error with no workaround	A major Problem severely affects the results of significant engineering calculation functionality that functioned previously in the production environment of the supported release of the Software, and prevents continued usage of such major engineering calculation functionality, and for which no work around exists. The Problem is of a time-sensitive nature and causes an immediate work stoppage for a Site installation of Software.	One (1) business day of receipt of a customer Incident report during Normal Business Hours.	Resolution Plan presented to customer within Ten (10) additional business days. If the cause of the Problem is an Error in the Software, Siemens will issue an Error Correction in the form of a Patch Release.
Severity 3 Minor Problem, Minor Error or Major Error with workaround	A (i) minor Problem that marginally affects or restricts functionality that functioned previously in the production environment of the supported release of the Software, but does not have a major effect on customer usage and no workaround exists; or (ii) major Problem of the Software, for which an acceptable workaround exists.	Two (2) business days of receipt of a customer Incident report during Normal Business Hours.	Resolution Plan presented to customer within Fifteen (15) additional business days. If the cause of the Problem is an Error in the Software, Siemens will at sole discretion issue an Error Correction in connection with a future GA release of the Software.
Severity 4 Negligible Problem, Negligible Error	A (i) minor Problem with the Software, which has low to no effect on the customer's frequency of usage; or (ii) minor Problem with the Software, for which a workaround acceptable to the customer exists; or (iii) documentation error; This is the default severity level if an Incident severity level is not otherwise specified.	Four (4) business days of receipt of a customer Incident report during Normal Business Hours.	At sole discretion of Siemens.
Severity 5 Enhancement	Request for a new feature or enhancement to existing functionality in the Software.	Five (5) business days of receipt of a customer Incident report during Normal Business Hours.	At sole discretion of Siemens.