

## DASSAULT SYSTEMES CUSTOMER EVALUATION LICENSE AND ONLINE SERVICES AGREEMENT

This Customer Evaluation License and Online Services Agreement is made by and between the customer (“**Customer**”) and the DASSAULT SYSTEMES group legal entity (“**3DS**” or “**DS**”), as both are identified in the Transaction Document. This Agreement is accepted by Customer by signing or otherwise accepting a Transaction Document referencing this Agreement or by other electronic means permitted by 3DS, such as click-to-accept and electronic signature. The parties agree as follows:

### 1. Definitions

**3DS Group Company** (or **DS Group Company**) means Dassault Systèmes, a French “société européenne” or any entity in which Dassault Systèmes, directly or indirectly, (i) owns more than fifty percent (50%) of the outstanding equity or ownership interest, or (ii) has the power to designate the managing authority.

**3DS Offering** (or **DS Offering**) means one or more Licensed Programs and/or Online Services and/or Packaged Offerings.

**3DS Website Terms** means the Product Portfolio, the Data Processing Exhibit and the relevant third party terms located at the website available at [www.3ds.com/terms](http://www.3ds.com/terms).

**Agreement** means these terms, the Transaction Document and the terms contained in the 3DS Website Terms referenced herein.

**Applicable Data Protection Legislation** means any applicable data privacy law and all other regulations that may apply to the Processing of Personal Data provided by Customer.

**Controlled Data** means any information (i) required for the development, production, assembly, operation, repair, test maintenance, or modification of an item, in any tangible or intangible form (including but not limited to written or oral communications, designs, computer-aided design files, plans, models, photographs, instructions, engineering design and specifications) falling in any category of the list of controlled items of any applicable export regulation; or (ii) subject to cybersecurity regulatory requirements on information technology systems used for its storage or transfer.

**Controller, Data Subject, Personal Data, Personal Data Breach, Process/Processing, Processor and Supervisory Authority** when used in the appropriate context, shall have the same meaning as in the Applicable Data Protection Legislation. If the preceding terms are not defined in the Applicable Data Protection Legislation, then such terms as used in this Agreement shall have the same meaning as their analogous terms under the Applicable Data Protection Legislation. In the event there are no such analogous terms then the definitions of those terms under Regulation (EU) 2016/679 (General Data Protection Regulation) shall apply.

**Customer Data** means the data provided by Customer or collected by 3DS, through Customer’s use of the Online Services, including any Personal Data.

**Data Processing Exhibit** means the terms published in the 3DS Website Terms applicable to the Processing of Personal Data by 3DS when 3DS is acting as Processor on behalf of Customer.

**Documentation** means the current user documentation in any form or media as delivered together with the 3DS Offering for use in connection with the 3DS Offering.

**Effective Date** means (i) for a Licensed Program, the later of the following: (x) the date on which such Licensed Program is shipped or made available electronically to Customer or, if applicable, (y) the date on which Customer is informed by 3DS that the associated license key can be requested or is available, or (ii) for Online Services, the date of delivery of the Online Services as described in Section 3.

**Export Control Regulations** means all applicable export control laws and regulations, and sanctions programs worldwide, including but not limited to the United States Export Administration Regulations (EAR) and the Office of Foreign Assets Control (OFAC) Specially Designated Nationals sanctions, and the European Union Council Regulation (EC) No 2021/821.

**Licensed Program** means (i) any data processing program and content, including databases and digital models for which a license is provided to Customer pursuant to a Transaction Document and (ii) associated Documentation.

**Machine** means a device on which a 3DS Offering is executed and which is either (1) (i) (a) belonging to Customer or under its sole control or supervision and (b) located on Customer’s premises or according to Teleworking conditions, or (ii) authorized by Customer according to its own information technology charter or equivalent whereby third party devices (such as Users own devices) are specifically authorized, or (2) operated by a third party service provider as specifically authorized in the Agreement solely for and on behalf of Customer.

**Named User** means a User identified with a unique username and password to use the 3DS Offering from a single machine at any given time.

**Online Services** means online access to, and use of, Licensed Program and/or other related services, as may be updated by 3DS from time to time and ordered by Customer pursuant to a Transaction Document. Online Services may also include certain Licensed Program for which on-premises installation may be required.

**Packaged Offering** means a 3DS Offering composed of multiple Licensed Programs and/or Online Services as defined in the Product Portfolio available at 3DS Website Terms, and ordered by Customer pursuant to a Transaction Document, provided that each Licensed Program or Online Service comprising a Packaged Offering shall be governed by all of the terms and conditions of this Agreement applicable to it respectively.

**Sub-Processor** means any Processor appointed by 3DS or by any other Sub-Processor of 3DS that receives, from 3DS or from any other Sub-Processor of 3DS, Personal Data for the Processing activities to be carried out on behalf of Customer in accordance with the terms of this Agreement and the terms of a written subcontract if applicable.

**Teleworking** means any program authorized by and for the benefit of Customer to enable its employees to work outside its own premises, using information and communication technology. Any use of 3DS Offerings while Teleworking is authorized if all of the following conditions are at all times met: (a) Customer's employees do so on Machine(s) connected to Customer's network (e.g. via Virtual Private Network), (b) Customer is able to provide access to such Machine(s) during a compliance verification according to the Agreement, and (c) Customer's employees use the 3DS Offerings for Customer's exclusive internal needs.

**Transaction Document** means the form provided by 3DS (which may be online) referencing this Agreement, signed or otherwise accepted by Customer and accepted by 3DS which identifies the 3DS Offering ordered by Customer and includes other information such as the quantities thereof, duration, geographical scope and the 3DS Group Company serving as the licensor or service provider and Customer information.

**User** means any (a) Customer's employee, or (b) employee of Customer's consultant(s) or subcontractor(s) (i) who accesses a 3DS Offering, (ii) who works for the exclusive internal needs of Customer and (iii) whose usual workplace is located within Customer's premises. Subject to the terms and conditions of this Agreement, including without limitation, export-related obligations, Customer's employee may also work according to Teleworking conditions.

Whenever required by the context hereof, the terms herein apply equally to the singular and plural forms of the terms and expressions defined.

## 2. License and Use Rights

**2.1. Grant.** 3DS grants Customer, from the Effective Date, a temporary, free of charge, non-exclusive and non-transferable right to access and use the 3DS Offering identified in the Transaction Document, for the duration identified in the Transaction Document and solely for the purpose of evaluating such 3DS Offering and specifically excluding any production or commercial purpose, or training purpose. Customer may (i) make and install the necessary number of copies of the applicable Licensed Program for which on-premises installation is required, and (ii) make one copy for back-up purposes of each Licensed Program for which on premise installation is required.

The Licensed Programs may (i) be used only in the country where the license has been ordered by Customer, (ii) be executed only on, or accessed by, Machines, and (iii) if applicable, be only for the maximum number of Users, Named Users or maximum use authorized through tokens, as described in the Transaction Document.

The Online Services may be used only for the maximum number of Named Users, as described in the Transaction Document. This Agreement shall not contain, nor shall be supplemented by any service level agreement.

**2.2. Scope.** Customer agrees to operate each 3DS Offering in accordance with (i) the terms and provisions of this Agreement and the Documentation for such 3DS Offering, and (ii) any specific third party terms published at 3DS Website Terms that apply to such 3DS Offering. Customer agrees to ensure that its authorized Users comply with such terms and provisions.

Other than as expressly set forth herein, Customer acknowledges and agrees that 3DS shall have no obligation to provide any other services, support or maintenance for the 3DS Offering under this Agreement. No rights, including, without limitation, any right to use, reproduce or display, other than those specifically provided in this Agreement are granted to Customer. Except to the extent permitted by applicable law, Customer shall not modify, adapt, reverse engineer, decompile, disassemble or otherwise translate all or part of any 3DS Offering, and shall not provide, disclose or transmit any results of tests or benchmarks related to any 3DS Offering to any third party.

## 3. Delivery

3DS Offerings will be delivered or made available to Customer electronically. Electronic delivery will be made by providing Customer with the necessary information to access the Online Services and/or download the Licensed Program. Customer is responsible for accessing 3DS's website and downloading the Licensed Program.

## 4. Intellectual Property

3DS and/or its suppliers retain ownership in all intellectual property rights in all 3DS Offerings and all modifications, or other derivative works thereof. Licensed Programs are licensed, not sold. Customer shall preserve and reproduce all copyright, patent and trademark notices which appear in any 3DS Offering or any copy thereof. Customer shall keep full, true and accurate records of all copies of the Licensed Programs, which records shall be available for audit by 3DS. Customer recognizes that the methodologies and techniques contained in or expressed within the 3DS Offerings are proprietary information or trade secrets of 3DS and/or its suppliers, whether or not marked as "confidential". Customer shall treat such as confidential information and not disclose them.

## 5. Warranty, Limitation of Liability, Risk of Use and Indemnity

THE 3DS OFFERINGS ARE MADE AVAILABLE ON AN "AS IS" BASIS, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

3DS AND ITS LICENSORS SHALL HAVE NO LIABILITY FOR DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION CLAIMS FOR LOST PROFITS, BUSINESS INTERRUPTION OR LOSS OF DATA, THAT IN ANY WAY RELATE TO THIS AGREEMENT, ANY 3DS OFFERING, DOCUMENTATION OR SERVICES, WHETHER OR NOT 3DS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

CUSTOMER'S USE OF 3DS OFFERINGS SHALL BE AT CUSTOMER'S SOLE RISK. CUSTOMER SHALL INDEMNIFY AND HOLD 3DS AND ITS LICENSORS HARMLESS FROM ANY AND ALL LIABILITY OR EXPENSE, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF THIS AGREEMENT OR CUSTOMER'S USE OF 3DS OFFERINGS UNDER THIS AGREEMENT.

## 6. Term and Termination

**6.1. Term.** This Agreement remains in effect for the term specified in the Transaction Document, unless terminated earlier by either party hereto, with or without grounds, upon written notice to the other party.

**6.2. Effect of Expiration or Termination.** Upon expiration or termination of this Agreement, or of any licenses granted or any Online Services provided hereunder, Customer shall immediately destroy or return all copies of the terminated or expired Licensed Programs and associated Documentation in their entirety and shall no longer have access to the Online Services.

## 7. Additional Terms for Online Services

**Customer Data.** All Customer Data will remain the sole property of Customer or the authorized Users that posted such Customer Data. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness of and obtaining copyright permissions for all Customer Data. Subject to the terms and conditions of this Agreement, Customer grants to 3DS a non-exclusive license to use, copy, store and transmit Customer Data and have Customer Data used, copied, stored and transmitted by 3DS Group Companies and 3DS's subcontractors, to the extent reasonably necessary to provide, maintain and improve the Online Services. Customer shall defend the 3DS Group Companies against all third party claims arising from or relating to (i) Customer's use of the Online Services in violation of applicable laws or regulations, and/or (ii) any violation, infringement or misappropriation of the rights of a third party resulting from the Customer Data, and shall pay all costs, damages and expenses (including reasonable legal fees) finally awarded against 3DS by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Customer arising out of such claim, provided (i) 3DS provides Customer with prompt written notice of the claim, and (ii) 3DS gives Customer sole control of the defense of the claim and any related settlement discussions and provides reasonable cooperation in the defense and settlement of the claim.

Customer undertakes to abstain from, and shall ensure that all Users abstain from, processing, storing or uploading on its data sharing environment any confidential information or confidential data.

3DS may destroy Customer Data without notice upon expiration or termination of this Agreement.

## 8. Export

**8.1. Export Regulations.** 3DS Offerings and related Documentation are subject to Export Control Regulations concerning (i) their export, import, re-export and in-country transfer, (ii) their intended end use by Customer, and (iii) the receipt, use, storage and/or export of Controlled Data. In the event of any conflict between Export Control Regulations, for purposes of the Agreement, the most restrictive law shall prevail.

**8.2. Licenses/Authorizations.** 3DS, any 3DS Group Company and their licensors shall not be liable if authorizations, licenses and approvals, required for export to Customer under Export Control Regulations, are not sought or obtained.

**8.3. Customer Responsibilities.** Customer shall comply with all applicable Export Control Regulations, and shall not export or re-export, directly or

indirectly, any 3DS Offering or related Documentation if such export or re-export requires an export license or other governmental approval pursuant to Export Control Regulations without first obtaining such license or approval. Customer shall not use any 3DS Offering and Documentation in violation of Export Control Regulations, including but not limited to proliferation of any nuclear, chemical or biological weapons or missile delivery systems. Customer shall not divert any 3DS Offering or Documentation to any country, company or individual if prohibited by Export Control Regulations. For that purpose, 3DS shall be entitled at any time to require Customer to: (i) sign a binding end-use form confirming Customer's compliance with Export Control Regulations (in particular as regards the compliant use and absence of diversion of 3DS Offerings), and (ii) provide evidence to authenticate the use of 3DS Offerings in compliance with Export Control Regulations.

**8.4. Online Services.** Customer recognizes that Customer's data may be transferred to, or stored in any country. In the event of export, Customer shall be deemed the exporter of Controlled Data and shall be responsible for compliance with all Export Control Regulations applicable to its data. Customer shall ensure that all users under the Agreement abstain from processing, storing or uploading any Controlled Data on its data sharing environment. The restriction in the foregoing sentence shall not apply to information where the authorization is required solely for export to countries subject to trade sanctions.

**8.5. Applicability.** The export, re-export, and in-country transfer of information provided under the Agreement is subject to compliance with Export Control Regulations. Unless provided for in a separate agreement, the parties shall not disclose or exchange any Controlled Data. The restriction in the foregoing sentence shall not apply to information where the authorization is required solely for export to countries subject to trade sanctions.

**8.6. Compliance.** The obligations of 3DS and any 3DS Group Company under the Agreement shall be subject to and conditioned upon compliance with all applicable Export Control Regulations. 3DS and/or any 3DS Group Company may terminate or suspend at any time the Agreement, all licenses and access to Online Services, provision of 3DS Offerings hereunder, or generally cease or suspend the performance of its obligations under the Agreement, if Customer violates the Export Control Regulations provisions of the Agreement or if performance of the Agreement would cause 3DS and/or any 3DS Group Company to infringe any Export Control Regulations or to be potentially exposed to any sanctions or penalties that could be imposed by any governmental authority as a result of continued performance. Such suspension or termination shall be effective upon written notice as of the date stipulated in that notice.

## 9. Customer Data; Data Privacy

### 9.1 Principle.

Each Party acknowledges that, for the Processing of professional contact details required for the management of this Agreement, Customer and 3DS each act as independent Controllers according to their own publicly available privacy policy.

Customer acknowledges and agrees that, as a principle and except when the evaluation of Online Services (which specifically excludes any production or commercial purpose, or training purpose) irrefutably requires the Processing by 3DS of Personal Data provided by Customer, Customer shall not transfer to 3DS any Personal Data for its evaluation of Online Services. It is Customer's responsibility to use fake data and/or anonymize any Personal Data prior to any transmission of data to be Processed by 3DS.

### 9.2 Exception.

When the evaluation of the Online Services, as described in the Transaction Document, irrefutably requires the Processing by 3DS of Personal Data provided by Customer on behalf of Customer, Customer appoints 3DS as Processor and the Parties agree that 3DS will Process Personal Data provided by Customer in accordance with the Data Processing Exhibit published in the 3DS Website Terms.

Customer acknowledges and agrees that it is and shall at all times remain the sole Controller of the Personal Data that will be processed as part of its access to and use of a 3DS Offering and therefore, shall be responsible for complying with all Applicable Data Protection Legislation including, but not limited to, (i) transfer (including cross-borders transfer) and storage of Personal Data, (ii) information and/or consent of Data Subjects and (iii) rights of Data Subjects including access, modification and deletion where applicable.

3DS, acting as Processor, will collect, store and Process the Personal Data in accordance with the Agreement.

If and as required by Applicable Data Protection Legislation, 3DS will:

- (i) for the duration of use of the Online Services, Process Personal Data provided by Customer in accordance with this Agreement and Customer's reasonable written instructions which in all circumstances shall be consistent with this Agreement;
- (ii) require that the persons who are authorized to Process Personal Data provided by Customer have a need-to-know and are bound by an appropriate obligation of confidentiality;
- (iii) reasonably assist Customer in complying with its obligations as Controller, regarding sections 32 to 36 of the General Data Protection Regulation, taking into account the nature of Processing as described in the Agreement; If 3DS has reason to believe or is convinced that a Personal Data Breach impacting Customer has occurred, 3DS will (i) notify the incident to Customer without undue delay after becoming aware of such Personal Data Breach, (ii) provide Customer with available information allowing it to comply with its notification obligations with competent supervisory authority;

- (iv) reasonably assist Customer with fulfilling its obligations with regards to responding to requests from Data Subjects to exercise their rights under Applicable Data Protection Legislation in a manner consistent with the use of the Online Services and 3DS's role as Processor;
- (v) make available to Customer the necessary information in 3DS's possession to demonstrate Customer's compliance with its obligations provided for in the Applicable Data Protection Legislation and reflected in this section; and, in case compliance with Applicable Data Protection Legislation cannot be evidenced through the appropriate documentation provided by 3DS, allow for, an audit. Such audit will be (i), notified to 3DS in writing at least thirty (30) days in advance by indicating its scope which shall be limited to assess Customer's compliance where the documentation provided by 3DS is not relevant (ii) conducted by an independent auditor mandated by Customer at Customer's costs and performed not more than once every twelve (12) months;
- (vi) implement the technical and organization measures as described in the Data Processing Exhibit, which Customer deems appropriate taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.
- (vii) keep a list of the Sub-Processors that will be involved in the Processing of Personal Data provided by Customer due to the Processing activities implemented on behalf of Customer and inform Customer of any intended changes concerning the addition or replacement of other Sub-Processors, thereby giving the Customer the opportunity to object to such changes. Customer will be notified at least 15 (fifteen) days in advance before authorizing any new Sub-Processor to Process Personal Data provided by Customer with a mechanism to obtain notice of that update, except in case of emergency. Customer may reasonably object to 3DS's use of a new Sub-Processor if (i) such new Sub-Processor Processes Personal Data provided by Customer, (ii) Customer demonstrates it has a legitimate interest, and notifies 3DS in writing, within fifteen (15) days after receipt of the notification, it being specified that in the absence of an objection from Customer, the Sub-Processor is deemed to be accepted by Customer. If Customer notifies its objection related to the new Sub-Processor within the above timeframe, Customer may terminate the 3DS Offering impacted by this change of Sub-Processor before the end of the notice period of fifteen (15) days after receipt of the notification; and
- (viii) upon termination or expiration of the Agreement, delete or return to Customer Personal Data provided by Customer, at Customer's option, and delete all existing copies, in accordance with the terms of this Agreement, except where applicable law requires retention of Personal Data or where retention of Personal Data is necessary for evidentiary purposes during the applicable statute of limitations.

## 10. Miscellaneous

**10.1. Notices.** All notices required hereunder shall be in writing and delivered to the other party at its contact address as specified in the relevant Transaction Document. In the case of Customer providing a notice to 3DS, any notice shall include a copy to [legal.notice@3ds.com](mailto:legal.notice@3ds.com). For Online Services, notices may also be delivered by 3DS by e-mail and deemed to have been given twenty-four (24) hours after the time such e-mail is sent to Customer. For 3DS Offerings ordered on the 3DS web store, notices shall be delivered pursuant to the processed defined on such 3DS web store.

Notwithstanding the foregoing, where in Section 6.1 a written notice is required, that requirement can be met by exchange of letters, emails or other electronic means for which a process has been provided by 3DS.

**10.2. Force Majeure.** Neither party hereto shall be liable for any default in the performance of its obligations under this Agreement resulting from (i) a force majeure event as defined by the law governing this Agreement and the courts in such jurisdiction, or (ii) the following causes: strikes (whether previously announced or not), war (declared or not), riots, governmental action, acts of terrorism, acts of God (fire, flood, earthquake, etc.), or any electrical, utility, or telecommunication outage.

**10.3. Third Party Hosting.** Customer is authorized to install and use the Licensed Programs remotely on machines operated by a well-established third party service provider and to appoint such provider to host the Licensed Programs solely for and on behalf of Customer; provided, however, that (i) only duly authorized users shall have the right to use the Licensed Programs, (ii) Customer shall ensure that such service provider grants access to the Licensed Programs solely for the purpose of providing the services mentioned above to Customer in compliance with the terms of this Agreement, and (iii) such service provider is not part of a group of companies that provides products or services competing with 3DS Offerings. If Customer becomes aware of any unauthorized access, use, or disclosure of the Licensed Programs, Customer shall immediately terminate the service provider's access to the Licensed Programs.

**10.4. Severability.** If any provision of this Agreement is found to be illegal, void or unenforceable, the other provisions shall remain in full force and effect, and the affected provision will be modified so as to render it enforceable and effective to the maximum extent possible in order to effect the original intent of the parties.

**10.5. Transfer, Assignment & Subcontract.** Any subcontract, assignment, delegation or other transfer (including without limitation, by way of merger, change of control, acquisition, divestiture, or operation of law or contribution in kind) of this Agreement or any of Customer's rights, duties, benefits or obligations hereunder is subject to 3DS's prior written approval. Any attempt to do so without such consent is void. This Agreement shall be binding upon, and inure to the benefit of 3DS and its successors and assigns. 3DS may assign, delegate, subcontract, or otherwise transfer any of its rights or obligations hereunder, in whole or in part, without Customer's consent.

**10.6. Entire Agreement.** This Agreement comprises the complete agreement between the parties relating to the subject matter hereof and supersedes all prior and contemporaneous proposals, agreements, understandings, representations, and communications, whether oral or written. Customer confirms that it (i) has full knowledge of all terms herein and those incorporated herein by reference, (ii) agrees to be bound by and to comply



with such terms, and (iii) in entering into this Agreement, has not relied upon the future availability or functionality or product updates with respect to any 3DS Offering. Any term or condition contained and/or referenced in Customer's purchase order shall not in any way supersede, supplement, or otherwise modify the terms of this Agreement. No waiver or modification of any provision of this Agreement shall be binding unless made in writing and signed by both parties. A party's failure at any time to require performance of any provision hereof shall in no manner affect its right at a later time to enforce that or any other provision.

**10.7. Amendments & Non-Waiver.** No waiver, alteration, modification, or cancellation of any of the provisions of this Agreement shall be binding unless made by written amendment signed by both parties. A party's failure at any time to require performance of any provision hereof shall in no manner affect its right at a later time to enforce that or any other provision.

**10.8. Language.** This Agreement is provided in English and may be provided, for informational purposes only, in a language other than English. The English version shall be the only binding and enforceable version of this Agreement.

**10.9. Survival.** The following sections of this Agreement shall survive termination or expiration thereof: Sections 1 ("Definitions"), 2.2 ("Scope"), 4 ("Intellectual Property"), 5 ("Warranty, Limitation of Liability, Risk of Use and Indemnity"), 6.2 ("Effect of Expiration or Termination"), 7 ("Additional Terms for Online Services"), 8 ("Export"), 9 ("Customer Data; Data Privacy") and 10 ("Miscellaneous").

**10.10. Governing Law and Jurisdiction.** This Agreement shall be governed and construed in accordance with the laws of England and Wales. The English courts shall have exclusive jurisdiction to hear any dispute arising out of or in connection with the interpretation and/or performance of this Agreement. Customer acknowledges and agrees that the paragraph immediately above shall not prevent, restrict or otherwise limit in any manner, 3DS's rights to seek equitable remedies, including injunctive relief before any competent court in any jurisdiction.