

CloudSim Terms of Use

1. General. CloudSim™ (“**CloudSim**”) is a service provided by Applied or one or more of its Affiliates. As used herein, “**Applied**” means the Applied Materials entity listed on the applicable quotation provided to you or your company or other legal entity (or if there is no such quotation, then Applied Materials, Inc.). CloudSim is Applied’s cloud offering for on-demand access to an Applied Materials tool simulator that is accessed on this portal following your acceptance of these Terms of Use. The resources, materials, and information made available by Applied on CloudSim are collectively referred to as the “**Materials**.”

These terms and conditions, together with any pricing, payment, usage scope, and duration terms contained in the applicable Applied quotation or CloudSim portal (the “**Ordering Information**”) are together referred to as this “**Agreement**”.

This Agreement is a contract entered into between Applied and you [or, if you are accessing CloudSim in the course of work for a company (or other legal entity), then this Agreement is a contract entered into between Applied and that company or other legal entity]. You, or such company or other legal entity if applicable, is referred to as “**Customer**” in these terms).

You are entering into this Agreement on behalf of the Customer and its Affiliates (defined below), and if you are accessing CloudSim in the course of your work for a company (or other legal entity), you agree to the CloudSim Terms of Use and this Agreement on behalf of that company (or other legal entity) and represent and warrant that you have authority to bind the company (or other legal entity) to the CloudSim Terms of Use and this Agreement as the Customer hereunder.

Customer’s and Customer’s Affiliates’ access and use of CloudSim and the Materials is governed by and subject to the terms and conditions of this Agreement. In order to access CloudSim and/or Materials, the Customer must accept these terms and conditions. Clicking “ACCEPT” on a log in screen or otherwise accessing or using CloudSim and/or any Materials, by an employee, agent, contractor, or representative of Customer or any of Customer’s Affiliates constitutes acceptance of the terms and conditions of this Agreement. If Customer does not agree to these terms and conditions, neither Customer nor any of its Affiliates nor any of Customer’s or its Affiliates’ respective employees, agents, contractors, or representatives may access or use CloudSim or any Materials. Customer and Applied are each a “**Party**” and collectively are the “**Parties**.” For purposes of this Agreement, an “**Affiliate**” of a Party means any entity directly or indirectly controlling, controlled by, or under common control with that Party and “control” means ownership, directly or indirectly, of at least fifty percent (50%) of the voting or other equity securities of such entity or the power to otherwise direct the management and policies of such entity.

The terms and conditions of this Agreement shall apply to any and all access and use by Customer, Customer’s Affiliates, and each of its and their employees, contractors, and representatives of CloudSim and/or Materials at any time unless Customer has in effect a fully-signed, written agreement with Applied expressly and specifically for the provision of CloudSim and/or Materials. If any acceptance, purchase order, invoice, confirmation notice, or other communication from Customer or any of its Affiliates states terms or conditions additional to or different from the terms and conditions of this Agreement (or the signed agreement, if applicable), those additional or different terms or conditions are hereby deemed material alterations, notice of Applied’s objection to and rejection of them is hereby given, and those additional or different terms or conditions shall have no effect.

2. Subscription License to Software.

a. License. Subject to the terms and conditions of this Agreement, Applied hereby grants to Customer a non-exclusive, revocable (in the event Applied terminates this Agreement in accordance with its terms), non-transferable (except as permitted in Section 16 (Assignment)), non-sublicensable license, during the Term, to:

- i. access and use CloudSim, solely for use by Customer’s Authorized Users (as defined in Section 2(c), below) for Customer’s internal business purposes solely to prepare for and configure Customer’s operation of an Applied tool, subject to the conditions and restrictions in Section 2(b) and in accordance with this Agreement; and
- ii. access and use Materials, solely in furtherance of Customer’s use of CloudSim in accordance with this Agreement.

b. Conditions and Restrictions. The license grant in Section 2(a) above does not authorize Customer to, and Customer shall not (directly or indirectly), and Customer shall ensure that Customer’s Authorized Users (as defined below) do not: (i) use CloudSim and Materials for any purpose, commercial or otherwise, other than the permitted use expressly described in Section 2(a) above; (ii) copy, modify, adapt, alter, translate or create derivative works of CloudSim or any Materials, in whole or in part; (iii) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, architecture, structure or underlying technology of CloudSim; (iv) rent, lease, loan, sublicense, distribute, transfer, share (including, without limitation, via screen share), or otherwise provide access (including on a time share, application service, service bureau, or outsourced basis) to CloudSim or Materials to any person or entity other than Customer’s Authorized Users; (v) allow access to CloudSim by any employee, contractor, or other person or entity other than the Authorized Users identified according to Section 2(C) (including, without limitation, through the sharing of user names, e-mail addresses, passwords, or other access credentials); or (vi) use

CloudSim or Materials for purposes of: (A) engaging in activities in violation of applicable law or (B) competitive or benchmarking analysis or for development of any tool competing in any way with any tool or other product or service of Applied or any of its Affiliates or any software or other product or service (including software as a service (SaaS)) or any other offering competing in any way with CloudSim or the Materials. For the avoidance of doubt, a violation or breach of any of the provisions of this Section 2 shall constitute a material breach of this Agreement. All rights in and to CloudSim and Materials not expressly granted to Customer in this Agreement are expressly reserved by Applied.

c. **Authorized Users.** The license grant in Section 2(a) above is limited to access and use of CloudSim and Materials solely by Customer's current employees and contractors who, in each case, are named individuals approved and permissioned by Applied and need to access and use CloudSim and Materials in order to assist Customer in the permitted use of CloudSim (such named individuals approved by Applied in writing, "**Authorized Users**"). Customer will ensure none of its employees, contractors, or third parties other than the Authorized Users access or use CloudSim or any Materials. The total number of Customer's users accessing or using CloudSim may not exceed the total number of Authorized Users set forth in the Ordering Information. Customer shall ensure that all Authorized Users comply with this Agreement with respect to access and use of CloudSim and Materials, to the same extent as this Agreement applies to Customer, and Customer agrees that Customer shall be responsible for any non-compliance. Customer shall provide Applied with any information reasonably requested by Applied with respect to each requested Authorized User up to the number of permitted Authorized Users indicated on the Applied quotation. Such information to be provided by Customer will include, without limitation, the name and email of each requested Authorized User, the country where the User is located and/or from which the User intends to access the Cloudsim and Materials, and the User's countries of citizenship, including and work authorizations, where relevant. If Customer wishes to change any of the Authorized Users, Customer shall provide Applied with a CloudSim Information Request Form or other similar change order, request, or document (in the form provided or requested by Applied) in which Customer specifies the requested changes, including the information requested by Applied for each Authorized User to change or remove. Changes will become effective only when approved in writing and implemented by Applied and such approval is at Applied's sole discretion. Customer will only request as Authorized Users current employees or contractors of the Customer. Customer shall ensure that all current and former Authorized Users comply with this Agreement with respect to access and use of CloudSim and Materials, to the same extent as this Agreement applies to Customer, and Customer agrees that Customer shall be responsible for any non-compliance.

3. **Ownership.** Customer acknowledges that CloudSim and Materials are licensed and not sold. Applied and/or its licensors shall retain exclusive ownership (including all patent, copyright, trade secret, and other intellectual property rights) in and to CloudSim and Materials. Notwithstanding anything to the contrary, to the extent that Customer (or any Authorized User) provides to Applied any suggestions or other feedback relating to any modifications, improvements, fixes, or enhancements to CloudSim and/or Materials, Customer hereby grants to Applied a non-exclusive, irrevocable, worldwide, perpetual, fully transferable and sublicensable (through multiple tiers), royalty-free right and license to use and otherwise exploit the same without restriction. Customer retain ownership of all of its data, information, and files uploaded into CloudSim by Customer's Authorized Users ("**Customer Data**").

4. **Applied Responsibilities.**

- a. Subject to the terms and conditions of this Agreement, during the Term, Applied agrees to provide to Customer online access to the number of CloudSim simulators Customer purchased as set forth in the Ordering Information to be hosted on a virtual machine instance. Each CloudSim simulator will have one or more capabilities as set forth in the Applied quotation and/or the Materials.
- b. Applied will from time to time provide Customer with access credentials for CloudSim, including a user name and password ("**Access Credentials**"). The CloudSim simulators for which Customer purchases a license under this Agreement will be dedicated for Customer and will not be accessible by Applied without Customer's consent, except in the following instances:
 - i. installation/upgrade of the CloudSim software version on the simulators at Customer's request,
 - ii. performing maintenance and support services, including troubleshooting issues on the simulators, and
 - iii. providing any updated Terms of Use to Customer.
- c. Applied will provide the following limited software support services for Customer's use of and access to CloudSim and Materials:
 - i. alterations to the CloudSim software version made upon written mutual agreement between Customer and Applied or as may be provided to Customer as part of a general update or upgrade;
 - ii. Applied's standard documentation regarding CloudSim operation; and
 - iii. reasonable efforts to correct connection issues for CloudSim simulators hosted on virtual machines on Applied's environment.

- d. For clarity, under this Agreement, Applied does not provide any support related to or make any commitments with respect to the following:
 - i. CloudSim downtime caused by operator made changes or Customer's infrastructure;
 - ii. CloudSim downtime caused by issues at Customer's end or location (e.g., power outages, internet connectivity issues); and
 - iii. CloudSim software operation-related issues.
 - e. Following the termination of the Agreement or expiration of the then-current Term, Applied will delete or destroy all of Customer's Customer Data and the virtual machine instance that hosted Customer's CloudSim simulators in accordance with Applied's standard practices.
5. Customer's Responsibilities. In addition to Customer's obligations, restrictions and conditions in Sections 2(b) and 2(c) and elsewhere in this Agreement, Customer agrees to the following:
- a. Customer is solely responsible for procuring and maintaining any hardware, software, telecommunications services, and other infrastructure necessary to access and use CloudSim and Materials.
 - b. Customer shall keep all Access Credentials and Customer Data confidential and for Customer's internal use only. Customer understands that Customer is responsible for all use (including any unauthorized use) of Access Credentials associated with Customer or Customer's account and the Customer Data. Customer shall employ all physical, administrative, and technical controls, including, without limitation: denied party screening and other information security procedures and safeguards necessary to prevent unauthorized access to CloudSim and Materials; ensuring secure distribution of all Access Credentials and Customer Data; and protecting against any unauthorized access to or use of Customer Data, CloudSim, Materials, and any other Applied software.
 - c. Customer shall provide Applied with the names and contact information of two persons available at Customer's site who shall serve as primary contacts between Customer and Applied.
 - d. Customer shall provide email approval, upon request, for selected Applied users to access CloudSim for troubleshooting, debugging, improving, and/or evaluating CloudSim and/or Materials and providing maintenance and support services.
 - e. Customer agrees that Applied may access and use maintenance and performance data or logs and/or Customer Data, as required, in order to perform maintenance and support services, troubleshooting, debugging, improving, and/or evaluating CloudSim and/or Materials.
 - f. If Customer is located in China, then Customer will ensure that Customer Data does not contain any sensitive or specially regulated data under applicable Chinese laws and regulations that may impose specific obligations with relation to cross-border transfer, data security, or protection on Applied.
 - g. Customer represents, warrants, and covenants to Applied that Customer owns or otherwise has and will have the necessary rights and consents in and relating to the Customer Data so that they do not and will not infringe, misappropriate, or otherwise violate any intellectual property rights, or any privacy or other rights of any third party, or violate any applicable law or regulation.
6. Fees. CloudSim and Materials are subject to an annual subscription fee ("**Annual Subscription Fee**"). The Annual Subscription Fee for the first year of the Term is set forth in the Ordering Information and covers the first year following the Activation Date (as defined below). If the Annual Subscription Fee will change for a subsequent year, Applied will inform Customer, through the CloudSim portal or otherwise, prior to the end of the current year of the Term, of the Annual Subscription Fee for the subsequent year. Customer agrees to pay the applicable Annual Subscription Fee for each year of the Term (as defined below). If Customer fails to pay by the first day of any year of the Term, Applied may terminate or suspend Customer's access to CloudSim and Materials, at Applied's discretion.
7. Term and Termination; Survival.
- a. Term; Renewal Option. The term of the license granted under 2(a) commences on the date any Customer personnel access or use CloudSim or any Materials ("**Activation Date**") and will continue thereafter unless earlier terminated in accordance with this Agreement. Each year of the Term begins on the Activation Date or a subsequent anniversary of the Activation Date. On each anniversary of the Activation Date, the term of the Agreement will renew automatically for consecutive one-year renewal terms, unless either Party provides the other with written notice of its election to not renew to at least thirty (30) days prior to the respective anniversary of the Activation Date (the initial term and each renewal term, collectively, the "**Term**"). If Applied informs Customer of a changed Annual Subscription Fee for the subsequent year, the applicable fee for the renewal term shall be the changed Annual Subscription Fee. If Applied does not inform Customer of any changed Annual Subscription Fee for the subsequent year, the applicable fee for that renewal term shall be the same Annual Subscription Fee as the current year.
 - b. Termination. This Agreement may be terminated by a Party immediately upon notice to the other Party if the other Party is in material breach of this Agreement and has failed to cure such breach within thirty (30) days after notice of the breach.



This Agreement may be terminated by a Party pursuant to any other specific right of termination expressly granted to the Party under Agreement. Upon termination or expiration of this Agreement, (a) the rights and licenses granted to Customer with respect to CloudSim and Materials will terminate automatically, (b) Customer shall, and shall cause its Authorized Users to, immediately cease further use of CloudSim and Materials, and (c) Customer's access to CloudSim and Materials shall terminate. Applied may terminate this Agreement for convenience at any time upon thirty (30) days' advance written notice to Customer, and if Applied terminates this Agreement for convenience under this sentence, Customer shall be entitled to a pro rata credit of the Annual Subscription Fee paid by Customer for the current annual term, based on the effective termination date and the time remaining in that annual term. Such credit must be used by Customer on purchases of Applied products and services within a period beginning on the effective termination date and ending on the end date of originally-scheduled current year of the Term had Applied not terminated for convenience. Without limiting the foregoing, Applied reserves the right to automatically terminate access for any license at the expiration of its term, even if the remainder of this Agreement remains in effect.

c. Survival. Anything to the contrary notwithstanding, termination or expiration of this Agreement will not affect (i) any obligations for payment or remedies for breach arising on or prior to the effective date of such termination or expiration or (ii) Sections 1, 3, 5(e), 7(c), 8, and 10 through 17 of this Agreement, all of which will survive any termination or expiration of this Agreement. Applied may (without limitation of any other rights or remedies) suspend access to and use of CloudSim in the event that Customer or any of its Authorized Users has breached any of the provisions of Section 2 of this Agreement. Any such suspension will not constitute a termination of this Agreement, but will not limit Applied's other rights to terminate this Agreement.

8. Confidentiality.

a. The receiving Party agrees to disclose the disclosing Party's Confidential Information (defined below) only to the receiving Party's Affiliates and those of the receiving Party's employees, contractors, and representatives who (i) need to know that information to enable the receiving Party to perform this Agreement or to use, in accordance with this Agreement, CloudSim and/or Materials purchased from Applied and (ii) are legally required, by contract or otherwise, to maintain the confidentiality of the information in accordance with this Agreement. Notwithstanding the foregoing, Customer may not, and will ensure that its Authorized Users do not, disclose any Confidential Information received or derived from Applied or its Affiliates to third party contractors (individuals and entities) that are in the business of designing, making, or selling equipment, parts, or service for semiconductor manufacturing, display manufacturing, or the manufacturing of photovoltaic wafers, cells, modules, and/or panels. The receiving Party shall protect the disclosing Party's Confidential Information with at least the care with which it protects its own confidential information of a similar nature but in any event, not less than a reasonable standard of care and shall be liable for any disclosure of the disclosing Party's Confidential Information by receiving Party's employees, contractors and representatives that is not permitted under this Agreement. The disclosing Party's "**Confidential Information**" means any information or materials disclosed or made available by a Party to the other Party, provided that (1) in the case of a written or other tangible disclosure, the disclosing Party affixes a "Proprietary", "Confidential" or similar legend indicating the confidential nature of the information, or (2) in the case of an oral or visual disclosure, the disclosing Party makes an oral statement at the time of disclosure to identify the information as confidential and delivers to the receiving Party a written summary of the information confirming that the disclosing Party regards the same as Confidential Information within thirty (30) days of disclosure. Information identified as confidential by the disclosing Party at the time of disclosure pursuant to clause (2) of the preceding sentence shall be treated by the receiving Party as Confidential Information under this Agreement during the thirty (30) day period permitted for providing written confirmation. Notwithstanding the foregoing, CloudSim, Materials, drawings, specifications, designs, manuals, other reference materials for CloudSim, and the personal data of any Applied or Applied-Affiliate personnel shall be deemed Applied's Confidential Information regardless of marking. Confidential Information excludes information that the disclosing Party can demonstrate (i) is generally available to the public through no fault or act of the receiving Party; (ii) was already known to the receiving Party prior to its disclosure by the disclosing Party; (iii) was rightfully disclosed to the receiving Party by a third Party, subject to no restrictions of confidentiality; or (iv) was developed by the receiving Party without reference to the disclosing Party's Confidential Information.

b. Notwithstanding the foregoing, Confidential Information may be disclosed by the receiving Party to the extent disclosure is required by law or by the order of a tribunal with jurisdiction, provided the receiving Party notifies the disclosing Party of such mandatory disclosure as soon as reasonably possible; the disclosing Party is provided a reasonable opportunity to contest such disclosure, or to seek a protective order; and the receiving Party reasonably cooperates with the disclosing Party's efforts to do so. The receiving Party acknowledges that disclosure or use of Confidential Information in breach of this Agreement may cause irreparable harm to the disclosing Party, and monetary damages may be difficult to ascertain or be an inadequate remedy for such breach. The receiving Party therefore agrees that the disclosing Party will have the right, in addition to all other rights and remedies, at law or in equity to seek injunctive relief for any breach or threatened breach of the obligations regarding disclosure or use of Confidential Information.

c. This Agreement and the transactions hereunder are considered Confidential Information of the Parties. Neither Party



will issue any press release, advertising or other form of public disclosure with respect to this Agreement or the activities contemplated herein without the prior written approval of the other Party.

9. Compliance with Laws. Customer shall, and shall ensure that Customer's Affiliates and Authorized Users shall, comply with any and all applicable laws, ordinances, rules, regulations and the like, of all governmental units, agencies or entities, in the course of Customer's and their use of CloudSim and Materials.

10. Disclaimers.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, APPLIED (INCLUDING, FOR PURPOSES OF THIS SECTION 10, ITS AFFILIATES AND LICENSORS) DOES NOT MAKE ANY, AND HEREBY EXPRESSLY DISCLAIMS ALL, WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE SOFTWARE, DOCUMENTATION, HARDWARE, MAINTENANCE SERVICES, AND ANY OTHER PRODUCTS, SERVICES, OFFERINGS, INFORMATION OR ITEMS, INCLUDING CLOUDSIM AND MATERIALS, PROVIDED, OR TO BE PROVIDED, TO CUSTOMER ARISING OUT OF OR RELATING TO THIS AGREEMENT (COLLECTIVELY, THE "OFFERINGS"), INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES OF TITLE OR NON-INFRINGEMENT, WARRANTS THAT THE OFFERINGS PROVIDE ACCURATE OR CORRECT SIMULATION RESULTS THAT ARE CONSISTENT WITH REAL WORLD RESULTS OR ACTUAL PERFORMANCE OF THE TOOLS BEING SIMULATED OR ANY OTHER WARRANTIES THAT MAY ARISE FROM USAGE OF TRADE OR COURSE OF DEALING. THE OFFERINGS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, "WITH ALL FAULTS". WITHOUT LIMITING THE FOREGOING, APPLIED DOES NOT MAKE, AND HEREBY EXPRESSLY DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES AND/OR GUARANTEES REGARDING (I) THE USE OF OR THE RESULTS OF THE USE OF THE OFFERINGS IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, TIMELINESS, AVAILABILITY, SECURITY, CONSISTENCY WITH REAL WORLD RESULTS OR ACTUAL PERFORMANCE OF THE TOOL BEING SIMULATED OR OTHERWISE, OR (II) WHETHER ACCESS TO, OR USE OR OPERATION OF, THE OFFERINGS WILL BE UNINTERRUPTED OR ERROR FREE. FOR THE AVOIDANCE OF DOUBT, THE PROVISION OF ANY UPDATE WILL NOT EXTEND OR RENEW ANY WARRANTY PERIOD APPLICABLE TO THE OFFERINGS.

Some jurisdictions do not allow the exclusion of implied warranties or limitations on applicable statutory rights of a consumer, so the exclusion and limitations in this section may not apply to Customer.

11. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL APPLIED OR ITS AFFILIATES BE LIABLE IN CONTRACT, TORT OR OTHERWISE (INCLUDING FOR NEGLIGENCE), FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR FOR PROPERTY DAMAGE, LOST REVENUES, PROFITS OR GOODWILL, LOSS OF BARGAIN OR EXPECTATION, OR LOSS OF PRODUCTION, IN EACH CASE ARISING FROM OR RELATED TO THIS AGREEMENT, THE PERFORMANCE BY APPLIED OR ITS AFFILIATES HEREUNDER, OR CLOUDSIM OR MATERIALS, REGARDLESS OF WHETHER OR NOT APPLIED OR ITS AFFILIATE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER THE REMEDIES IN THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (A) APPLIED'S AND ITS AFFILIATES' TOTAL, CUMULATIVE LIABILITY FOR ANY CLAIM IN CONTRACT, TORT, OR OTHERWISE (INCLUDING FOR NEGLIGENCE) ARISING FROM OR RELATED TO THIS AGREEMENT, THE PERFORMANCE BY APPLIED THEREUNDER, OR CLOUDSIM OR MATERIALS SHALL NOT EXCEED THE ANNUAL SUBSCRIPTION FEES ACTUALLY PAID BY CUSTOMER TO APPLIED, FOR THE ANNUAL PERIOD IN WHICH THE CLAIM ARISES, WITH RESPECT TO CLOUDSIM AND MATERIALS GIVING RISE TO SUCH CLAIM; AND (B) WITHOUT EXPANDING THE FOREGOING LIMIT, APPLIED'S AND ITS AFFILIATES' MAXIMUM AGGREGATE LIABILITY HEREUNDER, FOR ANY AND ALL CLAIMS IN CONTRACT, TORT OR OTHERWISE (INCLUDING FOR NEGLIGENCE), SHALL IN NO CASE EXCEED THE PORTION OF THE ANNUAL SUBSCRIPTION FEES ACTUALLY PAID TO APPLIED BY CUSTOMER DURING THE TWELVE (12) MONTHS PRECEDING THE DATE THAT THE FIRST CLAIM ARISES UNDER THIS AGREEMENT. THE EXISTENCE OF ANY OTHER LIMITATIONS OF LIABILITY SET FORTH HEREIN WILL NOT INCREASE THIS OVERALL AGGREGATE LIMIT. Regardless of whether any remedy provided for hereunder fails of its essential purpose, the allocation of risk in this Agreement is material to this transaction, the limitations of liability in this Section will be given full effect, and Customer acknowledges and agrees that Applied would not enter into this transaction without the limitations of liability herein.

12. Governing Law. This Agreement and the commercial transactions covered hereunder shall be governed in accordance with the laws of the State of California, U.S.A., excluding its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement or any transactions hereunder.

13. Dispute Resolution. If any dispute arising out of or related to this Agreement is not resolved amicably by the Parties, such dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce ("ICC") in effect as of

the date of this Agreement before three (3) arbitrators (unless otherwise mutually agreed to by the Parties), with the first appointed by Customer, the second by Applied and the third, who shall be the presiding arbitrator, by the other two (2) co-arbitrators, in consultation with the Parties (or, if such two co-arbitrators fail to agree within 60 days, by the ICC Court). The seat of arbitration shall be San Francisco, California and the language of the arbitration will be English. The Parties agree to apply the International Bar Association Rules on the Taking of Evidence in International Arbitration. The Parties undertake to maintain confidentiality as to the existence of the arbitration proceedings and as to all submissions, correspondence and evidence relating to the arbitration proceedings. This provision shall survive the termination of the arbitral proceedings. During the pendency of the arbitral proceedings, the Parties shall share equally the costs of such arbitration as assessed by the ICC. Each Party shall bear its own attorneys' fees incurred. The award rendered by the arbitrators may be entered in any court having jurisdiction over the Party or Parties to the dispute against which enforcement is sought, or a court in any other competent jurisdiction where the assets of said disputing Party or Parties are located. The written award of the arbitrators will be final and binding. Nothing in this Section 13 prevents any Party from seeking interim relief in a court of competent jurisdiction, and such action shall not be incompatible with the agreement to arbitrate contained herein or the availability of interim measures of protection under the ICC Rules. For that purpose, both Parties consent to the jurisdiction of the courts located in Santa Clara County, California.

14. Equitable Remedies. Customer agrees that Customer's breach of Sections 1, 2, 3, 5, 8, 9 or 16 of this Agreement would cause irreparable harm to Applied for which monetary damages alone would not be an adequate remedy. Accordingly, Customer agrees that, in addition to any other remedies to which Applied may be entitled, in the event of any such breach by Customer, Applied shall be entitled to seek equitable relief (including injunctive relief) with respect to such breach in any court of competent jurisdiction (notwithstanding any exclusive venue or arbitration provisions of this Agreement).

15. Notices. Any notice or other communication intended to have legal effect under this Agreement must be in writing and may be delivered: (1) personally; (2) by courier service, all fees prepaid; or (3) by email (with a confirming copy sent by courier on the next business day). Either Party may change its address by giving notice of the new address to the other Party. Applied's email address for notice is: Legal_Notices@amat.com

16. Assignment. Neither Party may assign this Agreement, in whole or in part, by operation of law or otherwise, without the other Party's prior written consent, except Applied may without Customer's consent (a) assign its rights to receive payment hereunder; (b) assign or delegate all or part of its rights or duties to any current or future Affiliates; and (c) subcontract all or any part of the development, provision, support, and/or maintenance of CloudSim and/or Materials (provided Applied will remain primarily responsible for performance). Any attempted assignment in violation of this Section 16 is void and of no effect. This Agreement will be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

17. Miscellaneous. If any provision of this Agreement is held to be unenforceable in whole or in part, such provision or part will be enforced to the maximum extent permissible so as to effect the intent of the Parties, the enforceability of the remainder will not be affected, and the unenforceable provision or part will be replaced by a new provision or part that is enforceable and that accomplishes the intention of the Parties to the maximum extent allowed under applicable law. This Agreement will be construed constructive presumptions against the drafting Party, and without reference to the paragraph headings, which headings are for reference only. All references to "Sections" are intended to refer to Sections of this Agreement. Unless otherwise expressly indicated, "including" means "including but not limited to" and "discretion" means "sole discretion." Neither Party will be liable for default of any obligation in this Agreement (other than payment obligations) if such default results from "**Force Majeure**," which means any event or circumstance beyond a Party's reasonable control including but not limited to governmental acts or directives, strikes, acts of God, pandemics, epidemics or disease, war, terrorism, riot, civil commotion, fire, flood, embargoes, delays in delivery, or failure to obtain or withdrawal of any export or import license. No waiver or modification of or addition to any of this Agreement or applicable Ordering Information will be binding on Applied unless expressly agreed to in writing by an authorized representative of Applied. A waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again. This Agreement may be amended only by a written agreement signed by both Parties, except that if Applied provides updated Terms of Use to Customer (through the CloudSim portal or otherwise) prior to an annual renewal, then those updated Terms of Use will apply for the renewal term and thereafter unless the parties agree otherwise in writing or the Terms of Use are later updated as provided above. This Agreement, including the applicable Ordering Information, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings (oral and written) with respect to the matters covered by this Agreement. Neither Party has entered into this Agreement based on representations other than those contained in this Agreement.

Document Version Date: September 21, 2023

Applied Confidential