END USER SOFTWARE LICENSE AGREEMENT

This End User Software License Agreement ("EUSLA") and the applicable additional Terms and Conditions ("Agreement") is entered into between S.E.I.C.A. S.p.A. and its subsidiaries and divisions ("S.E.I.C.A.") and the Licensee ("Licensee") that accepts this Agreement by written signature, by electronic signature or by any other means available and specified by S.E.I.C.A. Written signature mean traditional writing the signature on a paper sheet while using the electronic system shall mean the Licensee clicking a button. If the Licensee clicks on the button it shall mean that he has read, understood and accepted all the terms. If the Licensee does not accept the terms or do not clicks the button, the installation of the Software will not proceed.

The moment when the Licensee signs the Agreement or clicks on the button shall be considered as the Effective Date.

Article 1. Definitions.

"Additional Terms" means those separate terms and conditions that apply to Products set forth or referenced in an Order, or otherwise agreed by the parties.

"API" means Application Interface Program.

"Confidential Information" has the meaning set forth in Article 8.1.

"Configuration" means any group of Central Processing Units connected to a local area network, that operate together for the purpose of performing the functions of the licensed software and/or restricting the use of the software to the maximum number of licensed users.

"Disabling Device" means any software, hardware or other technology, device or means (including any back door, time bomb, time out, drop dead device, software routine or other disabling device) used by S.E.I.C.A. to disable Licensee's or any Authorized User's access to or use of the Services automatically with the passage of time or under the positive control of Licensor or its designee.

"Documentation" means any documentation provided by S.E.I.C.A. for Software and Hardware. In print, online, embedded as part of a help function, or in license files, "read me" files, header files, or similar files. Hereby Documentation includes license specifications, technical specifications, API information and instructions for use.

"Dongle" means a software license key or other device that allows the Software to be used.

"Error(s)" means a reproducible defect, problem, logical error or bug in the Software that constitutes a failure to comply substantially with the applicable documentation and is reported using standard procedures.

"End-user" means a Licensee of S.E.I.C.A. who obtains a license to the Software Program, including company name, phone number, the Ethernet address or hardware key serial number and the End-user's language (e.g. Verilog or VHDL).

"Hardware" means hardware equipment, devices, accessories, and parts delivered by S.E.I.C.A. hereunder, including firmware incorporated therein.
“Intellectual Property Rights” means any patent, copyright, trademark, trade name, service mark, registered design, design right (registered and unregistered), know-how, right of confidence, trade secret, right to extract or exploit data, database rights, any similar rights protected in any jurisdiction, whether now existing or coming into existence at some future date, any application for any of the above, and any accrued rights of action in respect of any of the above.

“License” means the license granted by Licensor to Licensee to use the Software and Services, and the regulated Documentation, in accordance with the terms and conditions of this Agreement.

“Losses” means any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses.

“Order” means an order form (“Order Form”), statement of work, Software License Agreement (“EUSLA”), or similar ordering document that: (a) incorporates the terms of this Agreement and sets forth the Products ordered by Licensee and any associated fees and (b) has been agreed by manual or electronic signatures of both parties or agreed through an electronic system by prompting the Licensee to accept by clicking a button.

“Product(s)” means Software, Hardware and Documentation.

“S.E.I.C.A. I.P.” means all patents, copyrights, trade secrets, and any other intellectual property rights in or related to Products.

“Software” means computer programs provide to Licensee by S.E.I.C.A. and/or computer programs in which S.E.I.C.A. has proprietary rights and/or sublicense rights granted by a Third Party licensor, and any related materials, including, but not limited to, Documentation related thereto, and any subsequent revisions, improvements or updates provided to Licensee.

“Territory” means whole Europe, USA, Canada, China (including Taiwan), and the Middle East area and any other regions on a case by case basis.

“VIVA” means the proprietary Software, (which has the meaning set forth above) developed and installed by S.E.I.C.A. in all its products.

Article 2. Orders.

2.1. Software is included in the Product(s) supplied to the Licensee and specified in the Order. In case, the Licensee decides specifically to purchase a software license for the Product(s), the terms of this Agreement and all applicable Additional Terms shall apply.

2.2. Delivery of Software materializes when S.E.I.C.A. makes Software available to Licensee via electronic download from a website specified by S.E.I.C.A. Physical shipment of the media may be done at S.E.I.C.A.’s option, as a favor to Licensee, or because specific elements of the Software are not available for electronic download. Software will be delivered subject to EXW (Incoterms 2020) for all kind of deliveries unless agreed on the contrary in a written document.

2.3. Licensee will pay the fees set forth in the applicable Order within 30 days of the invoice date unless otherwise agreed by the parties.
2.4. All prices are exclusive of any taxes and any other fee applicable. Licensee agrees to pay or reimburse S.E.I.C.A. for the payment of any applicable taxes or duties including, but not limited to, sales taxes, value added taxes, goods and services taxes, consumption taxes, or any other fee that is imposed by any government authority on Licensee’s use of or license to the Products. If Licensee is exempt from value-added or sales tax, then it must provide a valid, timely, and executed exemption certificate to S.E.I.C.A.

If Licensee is required by law to make any income tax deduction or to withhold income tax, after the application of reductions available under international treaties, from any sum payable directly to S.E.I.C.A. hereunder, Licensee will promptly effect payment thereof to the applicable tax authorities, and will also promptly provide S.E.I.C.A. with official tax receipts or other evidence issued by the applicable tax authorities to support a claim for tax credit relief. Notwithstanding the foregoing, Licensee is responsible for, and will indemnify S.E.I.C.A. for, any taxes, including withholding taxes, resulting from making licenses available to users in geographic regions outside the country in which Licensee is located as per the Order.


3.1. S.E.I.C.A. grants Licensee a non-exclusive, non-transferable limited license to install and use Software and related Documentation for Licensee’s internal business purposes and subject to the applicable Additional Terms. Software is provided in object code form only, unless otherwise specified in this Agreement. Software is the trade secret of S.E.I.C.A. Licensee may copy Software only as required to support the authorized use. Each copy must include all notices and legends embedded in Software and affixed to its medium or container as received from S.E.I.C.A. S.E.I.C.A. retains title to and ownership of Software and its intellectual property rights. S.E.I.C.A. reserves all rights in the Products and intellectual property not expressly granted herein.

3.2. S.E.I.C.A. reserves the right to embed a reporting mechanism in Software to determine unauthorized use of licenses. The mechanism does not transmit technical or business data that Licensee processes with Software.

3.3. S.E.I.C.A.’s Software may contain Third Party technology, including Open Source Software, which may need to be licensed under separate license terms. Third Party terms shall be specified in the Documentation and control solely with respect to Third Party technology.

Article 4. Licensee Responsibilities and Prohibited Actions.

4.1. Unless previously agreed in written by the Parties or requested by applicable law, Licensee is not allowed to facilitate or transfer, loan, lease, publication, or use of Software to or for the benefit of any Third Party.

4.2. Licensee will not reverse engineer, decompile, or otherwise attempt to discover the source code of Software or its associated algorithms, which are the trade secrets of S.E.I.C.A. or its subsidiaries. Licensee and its users will not otherwise modify, adapt or merge the software. These provisions do not apply to the extent they conflict with applicable law or the License applicable to the Licensee.

4.3. Licensee and its users may not cause or permit the transfer, loan, lease, publication or use of the Product to or for the benefit of any third party without the prior written consent of S.E.I.C.A. Licensee will use Software provided in source code form only to modify or enhance Software for its authorized use. Licensee will not otherwise modify, adapt, or merge Software.

Licensee will not subject Software to any Open Source Software license that conflicts with this Agreement or that does not otherwise apply to such Software. Licensee will not use Software for the purpose of developing or enhancing any product that is competitive with Software.
Licensee will only use APIs identified as published in the Documentation and only as described therein to support the authorized use of Software. The restrictions set out in this Section do not apply to the extent they conflict with mandatory applicable law.

4.4. Licensee will provide S.E.I.C.A. all necessary information in order to identify (“Host Identifier”) each workstation or server upon which the license management portion of Software will be installed, for S.E.I.C.A. to create a license file enabling Software access per the scope of the licenses granted under each Order.

4.5. Licensee recognizes that its anti-piracy software and any other software installed in the machine may conflict with the normal run of S.E.I.C.A.’s Software and will allow it to be deactivated.

4.6. If Licensee needs to host Software within a Third Party (“Provider”) it shall require to sign a previously written separate agreement with S.E.I.C.A. Licensee must retain control at all times of the Software hosted by the Provider, unless otherwise agreed with S.E.I.C.A. If S.E.I.C.A. agrees to this option, Licensee shall make Provider comply with all the duties and obligations specified in this Agreement. If Licensee realizes that an actual or suspected unauthorized use or disclosure of Software by the Provider had occurred, it shall immediately terminate Provider’s access to Software and notify it to S.E.I.C.A. A breach of this Agreement caused by a Provider will constitute a breach by Licensee. Licensee will indemnify and hold S.E.I.C.A. (and its subsidiaries) harmless from all claims, damages, fines, and costs (including attorney’s fees and expenses) arising in connection with Licensee’s use of the Provider’s services. Licensee will notify SIECA if the Provider, or its relevant business, comes under the control of a third party, in which case S.E.I.C.A. may withdraw its prior consent.

4.7. Licensee and its users are sole responsible for the prevention of security issues with regard to licensee’s systems and data, including Products employed on licensee’s or its user systems, and will take all reasonable efforts to exclude Trojans, malware, viruses, spyware and any other malicious software.

4.8. Licensee recognizes that S.E.I.C.A. does not have any access nor control of Licensee’s processes or the creation, validation, sale, or use of Licensee’s products and thus then, S.E.I.C.A. will not be liable for any claim or demand made against Licensee by any third party, except for S.E.I.C.A.’s obligations to indemnify Licensee against infringement claims as expressly set forth herein.

4.9. Licensee is liable for any breach of this Agreement by any user of the Products.

4.10. Licensee will, at all times, keep detailed records identifying Software, the location of each copy thereof, and the location and identity of workstations and servers where Software is installed. Licensee agrees that S.E.I.C.A. may perform, from time to time and given sufficient advance notice, an audit to verify the compliance of this Agreement allowing access to its facilities, workstations and servers. Licensee shall assist S.E.I.C.A. in determining compliance with this Agreement.

Article 5. Warranties and Disclaimers.

5.1. S.E.I.C.A. warrants that, for a period of 120 days after the date Software has been made initially available to Licensee under an Order, it will provide the material features and functions described in the Documentation. This warranty does not include (a) free provided Software, (b) Software provided upon re-mix and (c) Software that is designated as retired or not generally supported as of the date of the Order. In case of defective Software, S.E.I.C.A.’s entire liability and Licensee exclusive remedy for a breach of this warranty will be, at S.E.I.C.A.’s choice, to correct or handle errors, or replace defective Software or refund license fees paid for defective Software returned by Licensee.
5.2. Disclaimer.

S.E.I.C.A. MAKES NO WARRANTIES EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED IN THIS AGREEMENT. REPRESENTATIONS ABOUT PRODUCTS, FUNCTIONALITY, OR SERVICES IN ANY COMUNICATION WITH LICENSEE CONSTITUTE TECHNICAL INFORMATION, NOT A WARRANTY OR GUARANTEE. S.E.I.C.A. DISCLAIMS ALL OTHER WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. S.E.I.C.A. DOES NOT WARRANT THAT THE OPERATIONS OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE.


6.2. S.E.I.C.A. shall indemnify and defend, at its expense, any action brought against Licensee to the extent that it is based on a claim that any Product infringes any copyright, any trade secret, or a patent or trademark issued or registered by the United States, Japan, or a member of the European Patent Organization, and will pay all damages finally awarded against Licensee by a court of competent jurisdiction or agreed in a settlement, provided that Licensee gives S.E.I.C.A.: (a) prompt written notice of the claim, (b) all requested information and reasonable assistance related to the claim, and (c) sole authority to defend or settle the claim. S.E.I.C.A. will not admit liability or incur obligations on Licensee’s behalf without Licensee’s prior written consent, which shall not be unreasonably withheld.

6.3. If a permanent injunction is obtained against Licensee’s use of a Product, S.E.I.C.A. shall try to obtain for Licensee the right to continue using the Product or will replace or modify it to become non-infringing. If such remedies are not reasonably available, S.E.I.C.A. will refund the fees paid for the enjoined Product for the remainder of the license term, or amortized over 60 months from the initial delivery of Hardware, and accept the return of the Product. S.E.I.C.A. may, in its sole discretion, provide the remedies specified in this Section to mitigate infringement prior to the issuance of an injunction.

6.4. Notwithstanding anything to the contrary herein, S.E.I.C.A. will not have any liability or indemnification obligation to Licensee to the extent that an infringement claim arises out of (a) use of a prior version of the Product to the extent that a current version is non-infringing, (b) failure to use a correction, patch, or new version of the Product offered by S.E.I.C.A. that performs substantially the same functions, (c) use of the Product in combination with any software, equipment, data, or products not provided by S.E.I.C.A., (d) use of a Product provided at no charge (e) use of a Product that is designated as retired or not generally supported as of the date of the Order, (f) any adjustment, modification, or configuration of a Product not made by S.E.I.C.A., or (g) instructions, assistance, or specifications provided by Licensee.
6.5. Clauses 6.2., 6.3. and 6.4. defines the sole and exclusive liability of S.E.I.C.A. to Licensee for infringement of third-party intellectual property rights.

**Article 7. Export Control Laws.**

7.1. S.E.I.C.A.’s obligations under this Agreement are conditioned upon Licensee’s compliance with, and Licensee hereby agrees to comply with all applicable export, and re-export controls, embargoes, and economic and trade sanctions laws and regulations, including in any event, those of the European Union (“Export Laws”).

7.2. Licensee guarantees that any Products provided hereunder and any derivatives thereof will not be (a) downloaded or accessed by a Sanctioned Person, (b) exported, re-exported (including any ‘deemed exports’), shipped, distributed, delivered, sold, resold, supplied, or otherwise transferred, directly or indirectly, to any Sanctioned Person or otherwise in a manner contrary to the Export Laws, (c) used for any purpose prohibited by the Export Laws, or unless expressly authorized by S.E.I.C.A. in writing, (d) used for non-civilian purposes.

Without limiting the foregoing, Licensee represents and warrants that (a) it is not a Sanctioned Person, and (b) it will not download or otherwise access, or facilitate a third party’s download or access of, any Product from a Sanctioned Country. Licensee will, at least once per year, review and update its list of users who have access to a Product and confirm that no such user is a Sanctioned Person and that all such users may continue to access Products in compliance with Export Laws.

7.3. S.E.I.C.A. may conduct the necessary Export Laws checks and, upon request, Licensee will provide S.E.I.C.A. with any necessary information. “Sanctioned Country” means a country or territory that is itself the subject or target of any comprehensive trade or economic sanctions. “Sanctioned Person” means any person (a) listed in the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Department of Treasury’s Office of Foreign Assets Control or in any Export-Control-Related list of designated persons maintained by the U.S. Department of Commerce, the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, or the United Kingdom; (b) operating, organized, or resident in a Sanctioned Country; (c) the government of, or acting for or on behalf of the government of a Sanctioned Country; or (d) owned or controlled by one or more such persons.

7.4. In case Licensee discloses to S.E.I.C.A. any information subjected to Export Laws that require controlled data handling it shall notify, in writing, S.E.I.C.A. in advance of the disclosure.

7.5. In the event that Licensee fails to comply with any provision of Article 7 or violates any Export Laws in connection with Products, S.E.I.C.A. will have the right to take action in accordance with the terms of this Agreement and any applicable law.

Further, Licensee will indemnify and hold harmless S.E.I.C.A., its subsidiaries and their representatives against any claims, damages, fines, and costs relating in any way to Licensee’s noncompliance with Section 7, including Licensee’s violation or alleged violation of any Export Laws.

7.6. S.E.I.C.A. will not be obligated to perform under this Agreement if such performance is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions including, but not limited to, embargoes or other sanctions imposed by the United Nations, the European Union, or the United States.

**Clause 8. Confidentiality and Data Protection.**

8.1. “Confidential Information” means all information disclosed by one party or any of its affiliates to the other party under this Agreement that is marked as confidential or the confidential nature of which is evident to a reasonable person.
S.E.I.C.A. Confidential Information includes the terms of this Agreement, Products, S.E.I.C.A.'s IP, and any information Licensee derives from benchmarking the Products.

The receiving party will:

(a) not disclose Confidential Information, except on a need-to-know basis to its employees, affiliates’ employees, consultants, contractors, and financial, tax and legal advisors; and with respect to the use of Products solely as authorized by the agreed license terms:
(b) use and copy Confidential Information only as required to exercise rights or perform obligations under this Agreement,
(c) protect Confidential Information from unauthorized use or disclosure.
(d) will ensure that all its recipients of Confidential Information are bound by confidentiality obligations and use restrictions at least as restrictive as those herein:
(e) will be liable for compliance with this Section by each of its recipients.

8.2. Exclusions.

Confidentiality obligations shall not apply to any Confidential Information that:
(a) is or becomes generally available to the public other than as a result of disclosure by the receiving party in violation of this Agreement;
(b) becomes available to the receiving party from a source other than the disclosing party, provided that the receiving party has no reason to believe that such source is itself bound by a legal, contractual, or fiduciary obligation of confidentiality;
(c) was in the receiving party’s possession without an obligation of confidentiality prior to receipt from the disclosing party;
(d) is independently developed by the receiving party without the use of, or reference to, the disclosing party’s Confidential Information; or
(e) is required to be disclosed by a governmental agency or law, so long as the receiving party promptly provides the disclosing party with written notice of the required disclosure, to the extent such notice is permitted by law, and cooperates with the disclosing party to limit the scope of such disclosure.

8.3. Data Protection.

In case S.E.I.C.A. processes any personal data on Licensee’s behalf in connection with the Product, the terms set out in S.E.I.C.A.’s data protection policy will apply and are incorporated herein by reference.

Article 9. Termination.

9.1. Licenses with a limited term terminate upon expiration of the term. S.E.I.C.A. may immediately terminate this Agreement or any Product license granted upon notice to Licensee (a) for reasonable cause, including, without limitation, Licensee’s unauthorized installation or use of S.E.I.C.A.’s software, Licensee filing or being filed in bankruptcy, Licensee ceasing to do business, or any breach of Clauses 2.3, 3, 7, or 8 of this Agreement, (b) in order to comply with the law or requests of governmental entities, or (c) for any other breach that remains uncured after 30 days’ notice thereof.

9.2. Upon termination of this Agreement, the licenses granted automatically terminate. Licensee, upon termination of any license, will, automatically and immediately, remove and destroy all copies of Software, Documentation, and any other S.E.I.C.A.’s Confidential information in its possession, and provides a written certification of destruction.

9.3. As a result of termination according to Article 9, S.E.I.C.A. will not provide Licensee with any refund or credit.
9.4. Termination of this Agreement or license granted hereunder, will not relieve Licensee of its obligations to pay the total fees set forth in any Order, which fees will become due and payable immediately upon termination.

9.5. The following Clauses 2.3, 2.4, 5.2, 6.1, 7, 8, 9.2 and 10.7. will survive termination of this Agreement.

**Clause 10. General Provisions.**

10.1. S.E.I.C.A. Subsidiaries.


10.2. Assignment.

This Agreement will extend to and be binding upon the successors and permitted assigns of the parties. However, this Agreement and the licenses granted hereunder will not be assigned, sublicensed, or otherwise transferred (by operation of law or otherwise) by Licensee without the prior written consent of S.E.I.C.A. S.p.A.

10.3. Feedback.

In case a Licensee provides any ideas regarding the Products, including suggestions for changes or enhancements (collectively “Feedback”) in the course of using or evaluating the Products, the Licensee agrees that such Feedback may be used by S.E.I.C.A. without any condition and/or restriction.

10.4. Force Majeure.

Neither party will be liable for any delay or failure to perform its obligations under this Agreement due to any cause beyond its reasonable control (“Force Majeure”), which could not have been prevented, provided the delayed party notifies the other party within three (3) days of the event. The following events are considered Force Majeure and shall relieve the affected Party of its obligations hereunder as long as the circumstances last: fire, pandemics and/or medical emergencies, mobilization, requisition, war, flood, explosion, embargo, acts (or the failure to act) of a government of a country where the Product is to be delivered (in its sovereign or contractual capacity), currency restriction, insurrection, acts of God, and any event beyond the control and without the fault or negligence of the affected Party.

10.5. Notices.

All Notices relating to this Agreement will be in writing, and no oral ones will be accepted, and sent to the Party’s address as specified in the applicable Order. Each Party may change its reception notice address for delivery given a written notice to the other.


The official language of the Agreement shall be English. In case S.E.I.C.A. provides a translation of the Agreement in a different language requested by the Licensee, the English version of the Agreement will prevail in case of any conflict.

10.7. Governing Law and Jurisdiction.

This Agreement shall be governed by the substantive law of Italy, without reference to any conflict of laws rules. The parties agree that the United Nations Convention on International Sales of Goods shall not apply to this Agreement.
All disputes arising out of or in connection with the present agreement shall be settled under the Rules of Arbitration of the International Chamber of Commerce ("ICC Rules") by one or more arbitrators appointed in accordance with the said Rules. The seat of arbitration shall be Milan, Italy. The language to be used in the arbitral proceedings shall be English, and orders for the production of documents shall be limited to the documents on which each party specifically relies in its submission.

Nothing in this Clause shall restrict the right of the parties to seek interim relief intended to preserve the status quo or interim measures in any court of competent jurisdiction.

Notwithstanding the foregoing, to the extent permissible under applicable laws and to the extent it would not result in the invalidity or inapplicability of this Section, the parties agree that S.E.I.C.A., at its sole discretion, may bring an action in the courts of the jurisdiction(s) where the Products are being used or Licensee has its place of business, (a) to enforce its intellectual property rights or (b) for the payment of fees related to Products.

10.8. License Rights applicable to the US Government.

S.E.I.C.A.'s Products are commercial products that were developed exclusively at private expense. In case the Products are acquired directly or indirectly by the U.S. Government for its use, then the parties agree that the Products are considered "Commercial Items" and "Commercial Computer Software" or "Computer Software Documentation", as defined in 48 C.F.R. §2.101 and 48 C.F.R. §2.227-7014(a)(1) and (a)(5), as applicable. Software and Documentation may only be used under the terms and conditions of this Agreement as required by 48 C.F.R. §12.212 and 48 C.F.R. §227.7202. The U.S. Government will only have the rights set forth in this Agreement, which supersedes any conflicting terms or conditions in any government order document, except for provisions which are contrary to applicable mandatory federal laws. S.E.I.C.A. will not be required to obtain a security clearance or otherwise be involved in accessing U.S. Government classified information.

10.9. Order of Precedence.

In the event of a conflict between this Agreement and any Additional Terms, those Terms prevail. In the event of a conflict between this Agreement and an Order, the Order prevails with respect to the Products ordered.

The terms of any purchase order or similar Licensee document are excluded and such terms will not apply to any Order for Products, and will not supplement or modify this Agreement.

10.10. No Waiver; Validity and Enforceability.

The failure to enforce any provision of this Agreement will not be construed as a waiver of such provision. If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected, and such provision will be deemed restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

10.11. Entire Agreement.

This Agreement constitutes the full and complete agreement between the parties with respect to the subject matter hereof and supersedes any previous or contemporaneous agreements or communications, whether written or verbal, relating to such subject matter. This Agreement may not be varied other than in writing by manual signatures or by electronic signatures of authorized representatives of both parties.

--- End of Agreement ---