

CELUS Design Platform

Terms of Use

Version: September 2024

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1 Scope | General

- 1.1 These Terms of Use (the "**Terms**") apply between CELUS GmbH, Ridlerstraße 57, 80339 Munich, Germany ("**CELUS**") and the users of CELUS' computer-aided engineering platform ("**CELUS Design Platform**") or recipients of CELUS' services (in each case, the "**End User**" or "**End Users**"). These Terms shall form an integral part of any agreement between CELUS and End User with regard to the use of the CELUS Design Platform, whether entered into by execution of order forms or other order documents by CELUS and End User, by completion of any click-through or other online process, by email correspondence or in any other form (the "**Agreement**").
- 1.2 These Terms shall be deemed to be confirmed by End User at the latest when CELUS grants access to the CELUS Design Platform or provides its Services.
- 1.3 Any terms and conditions of End User which deviate from, conflict with or supplement these Terms shall only become part of the Agreement upon explicit prior written confirmation of CELUS.

2 Specifications of CELUS Design Platform | Provision of CELUS Design Platform

- 2.1 The CELUS Design Platform is a computer-aided engineering platform that supports the design process of board-level electronics based on data from libraries managed by CELUS as well as data provided by other users of the CELUS Design Platform or by third parties. The CELUS Design Platform also functions as a collaboration platform that enables CELUS and CELUS partners such as component manufacturers, simulation companies or design houses ("**CELUS Partners**"), to contribute to End User projects and to support design or production processes. For the avoidance of doubt, however, End Users have no legal right to receive contributions or other support from CELUS or CELUS Partners.
- 2.2 Further specifications of the CELUS Design Platform are included in the documentation available at <https://support.celus.io> (the "**Documentation**"). Unless differently agreed upon by the Parties in writing, any other product information provided to End User, if any, such as marketing material, product descriptions, product roadmaps and the like, shall be for informational purposes only and not form part of the Agreement. Guarantees shall require the written form and must be expressly designated as such.
- 2.3 Through the CELUS Design Platform, End User is granted access to content transmitted, uploaded or provided by other users of the CELUS Design Platform including CELUS Partners or by other third parties (the "**Third Party Content**"). Such Third Party Content remains the property of the respective third party and CELUS does not quality check, assess or approve such Third Party Content. CELUS assumes no responsibility or liability for the correctness, completeness, integrity or accuracy of the Third Party Content.
- 2.4 The engineering results generated by End User through End User's use of the CELUS Design Platform (the "**Results**") are machine-generated rough drafts (of e.g. schematics, layouts of circuit boards) and based on Third Party Content which is not subject to any quality checks or assessments by CELUS. Therefore, the Results

always require verification and validation by End User or by qualified personnel on an individual basis. CELUS is not responsible for any conclusions drawn by End User or any third party from Results or operations executed by the CELUS Design Platform or by End User using the CELUS Design Platform. CELUS is particularly not responsible for the technical, scientific, legal and commercial feasibility of any project, product and undertaking of End User or any third party, or the economic and financial viability of any project, product and undertaking of End User or any third party.

- 2.5 CELUS Design Platform is provided solely as software as a service, i. e., for browser-supported and Internet-based use via End User's end devices. End User shall ensure that the end devices deployed for using the CELUS Design Platform and the connections required comply with the minimum system requirements specified by CELUS in the Documentation. CELUS may, at its sole discretion, subcontract any or all of its obligations under the Agreement to third parties.

3 End User Accounts

- 3.1 In order to be able to use the CELUS Design Platform in accordance with these Terms, End User shall create a dedicated user account on CELUS' website (the "**End User Account**") either in the form of a free public account ("**Community Account**") or a professional account ("**Professional Account**"). Professional Accounts can also be created through premium offerings from dedicated cooperation partners of CELUS ("**Premium Account**").
- 3.2 Community Accounts and Professional Accounts differ in the number of projects that can be carried out under the respective End User Account, where the Results generated by the End User are only accessible to that End User and not shared with or accessible to other End Users or other third Parties ("**Private Projects**"). For the avoidance of doubt, data of Private Projects other than the Results (e.g. project master data, component categories, bill of material, high-level design specifications or project settings) may be used by CELUS for own purposes or shared with CELUS Partners in order to allow them to contribute to the CELUS Design Platform.
- 3.3 While the number of Private Projects that can be created under a Professional Account is not limited, no Private Projects can be processed on the CELUS Design Platform under a Community Account as determined by CELUS.
- 3.4 CELUS reserves the right at any time and at its sole discretion to redesign and/or to partly or fully phase out the Community Account without replacement.
- 3.5 CELUS reserves the right to downgrade a Professional Account to a Community Account, if End User is in default of any fees due.
- 3.6 For the avoidance of doubt, the right to use the CELUS Design Platform is based on a named-user model and individuals other than the End User must independently register on CELUS' website and create their own End User Account prior to using the CELUS Design Platform.

- 3.7 The End User shall use reasonable efforts to prevent any unauthorized access to, or use of, the CELUS Design Platform and notify CELUS without delay of any such unauthorized access or use.

4 Proprietary Rights

CELUS and its suppliers own and shall retain all proprietary rights, including all copyright, database rights, patent, trade secret, trademark and all other intellectual property rights, in and to the CELUS Design Platform including any portions of software included with the CELUS Design Platform ("**Software**"), and/ or any data contained in the CELUS Design Platform such as schematics, reference designs or component data. With respect to the Software and/ or data included in the CELUS Design Platform, which is licensed to CELUS by its suppliers, such suppliers are third party beneficiaries of this Agreement (§ 328 German Civil Code (*BGB*)). The CELUS Design Platform may only be used by End Users as prescribed by the Agreement and particularly these Terms (including the Documentation).

5 License Grant | License Restrictions

- 5.1 CELUS hereby grants to End User, during the Subscription Term, a non-exclusive, non-transferable, non-sublicensable right to use the CELUS Design Platform on its end devices for private and/or internal business purposes only through the provision of an End-User Account.
- 5.2 Except as otherwise provided in the Agreement, End User shall not (and shall not permit any third party to): (a) sublicense, sell, resell, assign, share, lease, rent or otherwise distribute the Software or access to the Software; (b) decompile, reverse engineer or disassemble any portion of the Software, or attempt to discover any source code or other operational mechanisms of the Software except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties; (c) copy, modify, adapt, translate or create derivative works based on all or any part of, the Software except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties; (d) modify any proprietary rights notices that appear in the CELUS Design Platform or components thereof; (e) use the CELUS Design Platform in violation of any applicable laws and regulations or outside of the license scope set forth herein; (f) configure the CELUS Design Platform to collect (aa) any personal data, particularly data that falls within the definition of 'special categories of data' within the meaning of the EU General Data Protection Regulation or a similar concept; (bb) passwords or other authentication credentials; or (cc) any payment or other financial data, biometric data or genetic data;
- 5.3 End User shall not export or re-export, directly or indirectly, any components of the Software or any technical data included in the CELUS Design Platform or any copy, portions or direct product thereof in breach of any applicable laws and regulations. In particular, End User shall comply with the sanctions imposed by the Federal Republic of Germany, the European Union and the United Nations. End User shall, at its own expense, obtain all necessary customs, import, or other governmental authorizations and approvals.

6 Use of Results by CELUS and third parties

- 6.1 To the extent that the Results generated by the End User in the course of a **Private Project** become the subject of intellectual property rights of the End User, the End User herewith grants to CELUS, and CELUS accepts, the non-exclusive, unlimited (in terms of time and territory), sublicensable, royalty-free and irrevocable right to use the Results for the sole purpose of performing CELUS' obligations under the Agreement and of improving and optimizing the CELUS Design Platform and specific functionalities thereof, including for bug fixing, testing and rectifying defects as well as for statistical analyses.
- 6.2 Results generated in a project other than a Private Project ("**Community Project**") shall be considered community content and may be made accessible to and used by other End Users of the CELUS Design Platform, CELUS Partners or other third parties. Prior to creating a new Community Project, End User is required to explicitly accept corresponding license terms as shown in in-app agreement ("**Community Project License Terms**") to allow CELUS' and other parties' use of the Results.

7 Updates | Availability of CELUS Design Platform

- 7.1 CELUS may carry out necessary updates to the CELUS Design Platform in order to maintain compliance with these Terms and the Agreement such as to maintain its functionalities as well as an appropriate level of security.
- 7.2 CELUS shall also be entitled to make changes to the CELUS Design Platform in order to improve its usability, security or stability, to extend or supplement its features or to restrict them. CELUS may also make changes to the CELUS Design Platform to ensure compliance with legal, regulatory or security requirements. If a change more than insignificantly impairs the End User's ability to access the CELUS Design Platform or to use it in accordance with the Agreement, CELUS shall inform the End User within a reasonable period of time.
- 7.3 CELUS strives to offer constant availability of the CELUS Design Platform but cannot warrant uninterrupted availability thereof. CELUS offers the CELUS Design Platform as a service and therefore has no influence and is not responsible for End User's Internet access or Internet connection including its availability, bandwidth or any costs and expenses of End User associated therewith.

8 Fees | Payment Terms

- 8.1 End User's right to use the CELUS Design Platform in accordance with these Terms under a Community Account shall be free of charge.
- 8.2 For the right to use the CELUS Design Platform in accordance with these Terms under a Professional Account, End User shall pay to CELUS a subscription fee ("**Subscription Fee**") as further specified in the Agreement and/or the End User Account. The Subscription Fee shall be paid upfront and in full for the following twelve (12) months of the Subscription Term. Deviating from the above, no Subscription Fee may payable to CELUS for specific Premium Accounts.

- 8.3 All fees shall be exclusive of statutory VAT. All fees shall be due and payable by End User within fourteen (14) days' of receipt of an invoice from CELUS without discount unless specified otherwise in the End User Account.

9 Additional Services

- 9.1 CELUS and End User may agree on the provision of additional services by CELUS to End User (the "**Services**") on a case by case basis. The Services may include but are not limited to training and enablement services and/or general consulting services in connection with the use of the CELUS Design Platform by End User. CELUS and End User shall agree on the scope of the Services as well as the Service fees and the Service term (if any) on a case by case basis.
- 9.2 All Services shall be rendered on a time and materials basis. End User shall reimburse CELUS for travel and expenses (at cost) incurred in connection with the Services (if any).
- 9.3 End User agrees to provide reasonable cooperation and information as necessary to permit CELUS to perform the Services. CELUS staff shall not be integrated into the operational organization of the End User. Instructions to CELUS staff must not be given by End User's staff or representatives but only by CELUS' representatives.

10 Defect as to quality

- 10.1 The extent, nature and quality of the services to be performed by CELUS are determined by these Terms and the Documentation. Any other information or requirements do only form part of the Agreement if so agreed in writing.
- 10.2 End User shall report any defects to CELUS without delay, using the email support system offered by CELUS.
- 10.3 In the event of defects of the CELUS Design Platform leading to a material reduction of the usability of the CELUS Design Platform, CELUS shall be required to rectify the defect and if CELUS is unable to materially restore such functionality within a reasonable period of time from the date of notice of said defect, End User shall be entitled to terminate the Agreement.
- 10.4 CELUS shall keep End User informed at reasonable intervals and to a reasonable extent of the status of the rectification of a defect. CELUS makes no assurances as to the time at which a defect shall be removed.

11 Infringement of third party rights

- 11.1 CELUS warrants that the use of the CELUS Design Platform in accordance with the Agreement does not infringe any third-party rights. CELUS shall indemnify the End User against all claims of third parties due to infringements of intellectual property rights for which CELUS is responsible in connection with the contractual use of the CELUS Design Platform. The End User shall inform CELUS without undue delay of any claims asserted against it by third parties on the basis of the contractual use of the CELUS Design Platform and shall grant CELUS the sole authority to decide on defense of rights and settlement negotiations and furnish CELUS with any powers

of attorney which may be required in this regard on a case-by-case basis. End User shall support CELUS in the defense in any manner which may be reasonably expected.

- 11.2 In the event of an impairment of the permitted use of the CELUS Design Platform due to a defect in title, CELUS shall remove the reason for the claim for infringement of intellectual property rights within a reasonable period. At CELUS' discretion, CELUS shall do so either by acquiring the right to continue to use the relevant services or by amending or replacing the relevant services within a reasonable scope.
- 11.3 CELUS shall not be liable in respect of the infringement of intellectual property rights to the extent that the CELUS Design Platform has been used in violation of the Agreement. In particular, CELUS shall not be liable if the CELUS Design Platform is modified, combined, operated or used by End User with programs or data not provided by CELUS or approved in advance in writing by CELUS and third-party claims are derived therefrom.
- 11.4 If a claim is made against CELUS due to an infringement or alleged infringement of third party intellectual property rights as a result of the End User's violation of the Agreement, particularly against clause 5.2 or 5.3 of these Terms, End User shall indemnify CELUS against such claims upon first request, unless the End User is not responsible for the breach.

12 CELUS' Liability

- 12.1 Subject to deviating provisions in the Agreement, CELUS, its legal representatives and vicarious agents are not liable for damages, irrespective of the legal reason.
- 12.2 This does not apply (i) in case of intentional or grossly negligent acts, (ii) to damage from injury to life, body or health, (iii) for damage resulting from the absence of any guaranteed characteristics; and (iv) for damage from the violation of a cardinal duty (i.e. a material contractual duty, which has to be fulfilled in order to enable the execution of the contract in the first place, the violation of which would put at risk the achievement of the purpose of the contract and on the compliance with which the contractual partner does and may in general rely).
- 12.3 With the exception of CELUS' liability pursuant to clause 12.2 (i) to (iii), CELUS' liability shall be limited to the compensation of the foreseeable, typically occurring damage.
- 12.4 The total liability of CELUS arising out of or in connection with the Agreement, whether in contract or tort or otherwise shall in no circumstances exceed a sum equal to 150% of the total fees paid (plus fees payable) by End User in the twelve (12) months immediately preceding the event which gave rise to the liability.
- 12.5 CELUS shall be liable for loss of data only up to the amount of typical recovery costs which would have arisen had proper and regular data backup measures been taken.
- 12.6 To the extent that End User may be redirected to databases, websites, services etc. of third parties via Third Party Content available on the CELUS Design Platform, e.g.

as a result of the inclusion of links or hyperlinks etc. by other users of the CELUS Design Platform, CELUS shall not be liable either for the accessibility, existence or security of such databases or services or for the contents thereof. In particular, CELUS shall bear no liability for the legal propriety, substantive correctness, completeness, timeliness, etc. thereof.

- 12.7 Clauses 12.4 to 12.6 shall not apply in case CELUS is liable pursuant to clause 12.2 (i) to (iii).

13 Subscription Term | Termination

- 13.1 The term of the Agreement shall initially be twelve (12) months, starting with creation of the End-User Account. It shall always renew by another twelve (12) months unless earlier terminated in accordance with these Terms (the initial term and any renewal term thereof together the “**Subscription Term**”).
- 13.2 CELUS and End User may terminate the Agreement for convenience with effect to the end of the then current Subscription Term with two (2) weeks’ prior notice. Any right to terminate the Agreement for convenience with effect prior to expiry of the Subscription Term shall be excluded.
- 13.3 The right to terminate the Agreement for good cause with immediate effect shall remain unaffected. Good cause entitling CELUS to terminate the Agreement by notice to the End User shall include without being limited to (a) End User being in default of payment by more than forty-five (45) days, (b) End User committing a material breach of the Agreement, e.g. by breaching the use restrictions under clause 5, or (c) End User becomes insolvent or unable to pay its debts.
- 13.4 For a period of sixty (60) days following the end of the Subscription Term or following any downgrade of a Professional Account to a Community Account pursuant to clause 3.5, End User shall have the right to create backup copies of the generated Results. CELUS shall be entitled to restrict End User’s access to such Results thereafter. CELUS may retain Results generated in a Private Project for the purpose of enabling any future use of the CELUS Design Platform by the End User (if any).

14 Confidentiality

- 14.1 If CELUS or End User receive Confidential Information (as defined below), they may only use such Confidential Information to exercise their rights and fulfil their obligations under the Agreement and shall take reasonable measures to avoid unauthorized disclosure or misuse of Confidential Information. They shall not disclose Confidential Information, except (a) to their employees, subcontractors, or professional advisers who have a legitimate need to know the Confidential Information and are legally bound to keep such Confidential Information confidential, (b) to a potential acquirer of its relevant assets, stock, or business under a strict duty of confidentiality, but only to the extent such potential acquirer has executed a term sheet, letter of intent or other similar agreement to negotiate such acquisition, and (c) as required to be disclosed by applicable law, or judicial or other governmental or regulatory order.

- 14.2 **"Confidential Information"** means any information that is directly or indirectly disclosed or made accessible in connection with the Agreement (a) to CELUS by or on behalf of End User, or (b) to End User by or on behalf of CELUS, and which is identified as 'confidential' or which, given the nature of the information or circumstances surrounding the disclosure, should reasonably be understood by the recipient to be confidential, but does not include information that the recipient can demonstrate it already rightfully knew or possessed, becomes public through no fault of the recipient, is received by the recipient from a third party with the legal right to disclose it, or can be shown to have been independently developed by the recipient without reference to the discloser's Confidential Information. For the avoidance of doubt, with the exception of Results generated in a Private Project, data entered by an End User in the CELUS Design Platform and information relating to the End User's projects and other activities on the CELUS Design Platform shall not be considered Confidential Information.

15 Data Protection

CELUS and End User shall comply with any applicable laws concerning the protection of personal data including but not limited to the EU General Data Protection Regulation. Further information on how CELUS processes the End User's personal data can be found in the data privacy policy available on CELUS' website.

16 No Set-off | No Assignment

- 16.1 End User may only invoke a right to set-off to the extent that its counter-claims have been (a) finally established by a court of law, (b) are uncontested or have been acknowledged by CELUS.
- 16.2 End User shall not assign any of its rights or obligations under these Terms or under the Agreement without the prior written consent of CELUS, unless the End User proves a legitimate interest in the assignment.

17 Revision of these Terms

- 17.1 CELUS may amend and/or update these Terms with future effect from time to time and as necessary for technical, economic or legal reasons.
- 17.2 Any revision of these Terms shall be announced to End User in text form (simple email shall suffice) no later than six (6) weeks before their proposed effective date.
- 17.3 End User may either approve or object to the revision before their proposed effective date. The revision shall be deemed approved by End User, unless End User objects to the revision before their proposed effective date. CELUS shall expressly inform End User thereof in the respective announcement.

18 Applicable Law | Jurisdiction

- 18.1 These Terms and the Agreement (including any Community Project License Terms agreed to by the End User) and all rights arising from or in connection therewith are subject to German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). This shall not affect any

mandatory provisions of another national law that may be applicable in relation to the End User pursuant to Art. 6 para. 2 sentence 2 of Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I).

- 18.2 If End User is a merchant or if it has no place of general jurisdiction in Germany, the venue of exclusive (and international) jurisdiction for all disputes arising from or in connection with the Agreement (including any Community Project License Terms agreed to by the End User) shall be Munich, Germany. However, CELUS may also submit a dispute to the court in the place of the End User's domicile. Mandatory statutory provisions governing places of exclusive jurisdiction shall remain unaffected.

19 Written Form | Severability

- 19.1 Amendments and supplements to the Agreement shall be subject to a written agreement by End User and CELUS in order to be valid. The same shall apply to any agreement to deviate from or cancel this requirement of written form.
- 19.2 Should any provision of these Terms be or become ineffective or invalid in whole or in part, the effectiveness and validity of the other provisions of these Terms shall not be affected.

20 Miscellaneous

- 20.1 Where the expressions 'in writing', 'written form' or variations thereof are used in these Terms, this shall mean 'in writing' within the meaning of § 126 of the German Civil Code. The electronic exchange of copies of documents signed by hand shall suffice. Unless expressly stated otherwise in these Terms, simple emails shall not suffice.
- 20.2 Except as otherwise expressly provided for in these Terms, any notices and declarations submitted by End User to CELUS, including but not limited to notices of termination or setting of deadlines, shall be made at least in text form to be valid; a simple email shall suffice if not stipulated otherwise in these Terms.
- 20.3 These Terms and/or any Agreement between CELUS and End User do not create any company, joint venture, partnership, or any company of any other kind between CELUS and End User.
- 20.4 References to statutory provisions in these Terms shall be for clarification purposes only. Consequently, statutory provisions shall also apply without such clarification provided that they are not directly amended or expressly excluded by these Terms.
