

SAP PartnerEdge
General Terms and Conditions for Distribution
分销一般条款和条件
("Distribution GTCS")
(以下简称“分销 GTC”)

Definitions and Interpretation

定义和解释

1. Definitions

定义

“**Add-on**” means any development that adds new and independent functionality to the Software, but does not modify existing SAP functionality, and is developed using APIs.

“**扩展组件**”是指使用 SAP API 所作的任何开发，此类开发旨在增加新的 SAP 软件的独立功能，但不修改现有的 SAP 功能。

“**API**” means SAP application programming interfaces or other SAP code that allow other software products to communicate with or call on the Software or Cloud Service (for example, SAP Enterprise Services, BAPIs, Idocs, RFCs and ABAP calls or other user exits).

“**API**”是指 SAP 的应用程序编程接口或支持其他软件产品与软件或云服务进行通信或调用的其他 SAP 代码（例如，SAP Enterprise Service [企业服务]、BAPI、Idoc、RFC 和 ABAP 调用或其他用户出口）。

“**Associated Company**” means any legal entity of which a person or company has direct or indirect Control and only as long as a person or company maintains direct or indirect Control.

“**关联公司**”是指个人或公司对其持续拥有直接或间接控制权的任何法律实体。

“**Cloud Services**” means SAP’s then-current cloud services offered under and described in detail in the applicable SAP Distribution Model.

“**云服务**”是指相应的 SAP 分销模式下提供并具体说明的 SAP 届时有效的云服务。

“**Confidential Information**” means all information which the Disclosing Party (as defined below) protects against unrestricted disclosure to others, furnished by the Disclosing Party or its Representatives to the party receiving the information (“**Receiving Party**”) or its Representatives under or in connection with any part of this Agreement that (i) the Disclosing Party or its Representatives identifies as confidential and/or proprietary at the time of disclosure and/or (ii) should reasonably be understood to be confidential given the nature of the information, the circumstances surrounding its disclosure or both, including but not limited to information that is related to:

“**保密信息**”是指披露方（定义如下）防止不受限制披露给他人的所有信息，这些信息由披露方或其代表根据本协议下任一部分条款的规定或与本协议下任一部分条款相关的规定向接收信息的一方（以下简称“**接收方**”）或其代表提供，具有如下特点：(i) 披露方或其代表在披露之时确认为保密和/或专属的信息和/或 (ii) 根据信息的性质和/或披露时的情形应被视为具有保密性的信息，包括但不限于与下述内容相关的信息：

a) software, cloud services, maintenance services, other services and in each case other related documentation (“**Disclosing Party’s Software**”) including, without limitation, the following information regarding Disclosing Party’s Software:

软件、云服务、维护服务、其他服务及其他相关文档（以下简称“**披露方软件**”），包括但不限于与披露方软件相关的如下信息：

i. computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in Disclosing Party’s Software;

披露方软件中包含的计算机软件（目标代码和源代码）、编程技术和编程概念、处理方法、系统设计；

ii. benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats relating to Disclosing Party’s Software, and

与披露方软件有关的基准结果、指南、程序列表、数据结构、流程图、逻辑图、功能说明、文件格式，以及

iii. discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to Disclosing Party’s Software;

与披露方软件相关的发现、发明、概念、设计、流程图、文件、产品说明书、应用程序接口规范，以及技术和流程；

b) the research and development or investigations of the Disclosing Party;

披露方的研发或调研数据；

c) product offerings, content partners, product pricing, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, inventions (whether patentable or not), marketing plans, forecasts and strategies. the business plans or operations of the Disclosing Party;

产品供应、内容合作伙伴、产品定价、产品可用性、技术设计图、算法、工序、理念、工艺、程式、数据、图表、商业秘密、技术秘密、改进、发明（无论是否可申请专利）、营销计划、预测与战略，以及披露方的业务计划或运营；

d) the business of any customer or partner of the Disclosing Party;

披露方的任何客户或合作伙伴的业务；

e) Disclosing Party’s properties, employees, finances, operations;

披露方的财产、员工、财务状况、经营状况；

f) with respect to SAP, the SAP Products; and

就 SAP 而言，是指 SAP 产品；和

g) any information about or concerning any third party (which information was provided to the Disclosing Party subject to an applicable confidentiality obligation to the third party).

与任何第三方有关的任何信息（在向第三方承诺相应保密义务后由第三方提供给披露方的信息）。

“Control” means the power to direct or cause the direction of the affairs of an entity whether by means of direct or indirect ownership of fifty per cent (50%) or more of the voting rights or similar rights of ownership or by means of having the power to direct the management or directors whether conferred by constitutional documents, shareholder agreement or other document regulating the affairs of an entity.

“控制权”是指通过直接或间接拥有某个实体百分之五十（50%）或以上的投票权或类似所有权利，或通过章程性文件、股东协议或其他约束某一实体事务的文件而拥有对该实体的管理层或董事的指导权力，从而获得的引导或影响该实体事务发展方向的权力。

“Change of Control” means that a Party is no longer under Control by the same persons or entities that had Control on the Effective Date set out in the Master Distribution Agreement.

“控制权的变更”是指一方不再受在主分销协议规定的生效日期对其拥有控制权的个人或实体的控制。

“Distributor Group” means any legal entity that has direct or indirect Control over the Distributor and only as long as that legal entity maintains direct or indirect Control (**“Parent Companies”**) as well as all Associated Companies of the Parent Companies.

“分销商集团”是指对分销商拥有直接或间接控制权的法律实体，且该法律实体对母公司（以下简称**“母公司”**）及其所有关联公司持续拥有直接或间接的控制权。

“Documentation” means SAP's then-current technical and/or functional documentation which is delivered or made available by SAP or any other member of the SAP Group to Distributor, to an Open Ecosystem Partner or to an End User (either directly or indirectly via Distributor and/or Open Ecosystem Partner) together with the Software, Cloud Services and/or Maintenance Services under any part of this Agreement.

“文档”是指由 SAP 或 SAP 集团的任何其他成员根据本协议下任意条款的规定向分销商、向开放生态系统合作伙伴或向最终用户提供（或直接或间接地通过分销商和/或开放生态系统合作伙伴）随软件、云服务和/或维护服务所附的届时有效的技术性和/或功能性文档。

“End User” means a person or entity to which Open Ecosystem Partner distributes, positions or provides access to a SAP Product in compliance with the applicable SAP Distribution Model and which has been or will be granted a license right by SAP to use a SAP Product but excluding any member of the Distributor Group.

“最终用户”是指开放生态系统合作伙伴向其分销、定位和提供符合其相应的 SAP 分销模式之下的 SAP 产品访问权限，且其已获得或将获得 SAP 授予的 SAP 产品使用许可权限的个人或实体，分销商集团成员除外。

“Export Law” means all constitutions, laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits restrictive measures, trade sanctions, embargos and other legally binding requirements of all federal, country, international, state and local governmental authorities relating to export, re-export or import.

“出口法律”是指所有联邦、国家、国际组织、州和地方政府当局的与出口、再出口或进口有关的所有宪法、法律、法规、规范、条例、指令、判令、法令、禁令、规则、规定、允许限制性措施、贸易制裁、禁运和其他具有法律约束力的要求。

“Feedback” means input regarding the SAP Products, services, business or technology plans, including, without limitation, comments or suggestions regarding the possible creation, modification, correction, improvement or enhancement of the SAP Products and/or services, or input as to whether Distributor believes SAP's development direction is consistent with their own business and IT needs.

“反馈”是指对 SAP 产品、服务、业务或技术计划的看法，包括但不限于，对 SAP 产品和/或服务可能进行的创建、修改、更正、改进或增强的意见或建议，或者分销商对于 SAP 的发展方向是否与其自身的业务和 IT 需求保持一致的看法

“Intellectual Property Rights” means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.

“知识产权”是指因成文法或习惯法或通过合约产生的任何类型的专利权、外观设计权、实用新型或其他类似发明权利、著作权、掩膜作品权、商业秘密或保密权、商标、商号和服务标识及任何其他无形财产权，包括在任何国家对前述任何一项权利的申请与注册，无论此类权利是否完整、现有抑或在此后申请、颁发或取得。

“Maintenance Services” means SAP's then-current maintenance and/or support services offered under and described in detail in the applicable SAP Distribution Model.

“维护服务”是指相应的 SAP 分销模式下提供并具体说明的 SAP 届时有效的维护和/或支持服务。

“Modification” means (i) a change to the delivered source code or metadata; or (ii) any development, other than a change to the delivered source code or metadata, that customizes, enhances, or changes existing functionality of the Software or Cloud Service including, but not limited to, the creation of any new application program interfaces, alternative user interfaces or the extension of SAP data structures; or (iii) any other change to the Software or Cloud Service (other than an Add-on) utilizing or incorporating any SAP Materials.

“修改”是指 (i) 对已交付的源代码或元数据的变更；或 (ii) 对已交付的源代码或元数据的变更以外的任何开发，此类开发对软件或云服务的现有功能进行定制、增强或变更，包括但不限于创建任何新的应用程序接口、备用用户接口或扩展 SAP 数据结构；或 (iii) 运用或结合任何 SAP 材料对软件或云服务（除扩展组件以外）进行的任何其他变更。

“Open Ecosystem Partner” means any person or entity to which Distributor is authorized to market, position and distribute certain SAP Products as further defined in the applicable SAP Distribution Model.

“开放生态系统合作伙伴”是指根据 SAP 分销模式的明确规定，分销商获得授权向其营销、定位和分销特定 SAP 产品的任何个人或实体。

“Price List” means any price list(s) issued by SAP for the applicable SAP Distribution Model setting out the available software, services and the prices or fees as further defined in the in the applicable SAP Distribution Model.

“价目表”是指 SAP 针对相应的 SAP 分销模式发布的任何价目表，其中明确列出了相应的 SAP 分销模式中可用的软件、服务及价格或费用。

“Program Requirements” means that Distributor has to fulfill certain program requirements as described in detail in the applicable SAP Distribution Model and the Distribution Program Guide.

“项目要求”是指分销商必须满足的相应的 SAP 分销模式和分销项目指南中明确规定的特定项目要求。

“Representatives” means:

“代表”是指：

- a) in case of Distributor (i) employees, consultants and (sub)-contractors of any member of the Distributor Group and (ii) attorneys, accountants or other professional business advisors of any member of the Distributor Group, and
就分销商而言，指 (i) 任何分销商集团员工的员工、顾问和承包商（分包商）和 (ii) 任何分销商集团成员的律师、会计或其他专业业务顾问，
- b) in case of SAP (i) employees, consultants and (sub)-contractors of any member of the SAP Group and (ii) attorneys, accountants or other professional business advisors of any member of the SAP Group

就 SAP 而言, 指 (i) 任何 SAP 集团成员的员工、顾问和承包商 (分包商) 和 (ii) 任何 SAP 集团成员的律师、会计或其他专业业务顾问, who are in both cases actively and directly involved in the performance of obligations under any part of this Agreement or who otherwise need to know the Confidential Information for the purpose of Party's performance under any part of this Agreement and are put under obligations of confidentiality substantially similar to those set forth in Part 1 - Article 2 (Confidentiality).

不管是分销商还是 SAP 的代表, 都直接承担本协议下任何部分条款的履行义务, 或为履行本协议下其所代表的一方所负之义务而需获知保密信息, 并遵守与第 1 部分第 2 条 (保密) 实质上类似的保密义务。

"SAP Group" means SAP Parent and any of its Associated Companies.

"SAP 集团"是指 SAP 母公司及其任何关联公司。

"SAP Group Software" means (i) any and all software products listed on the Price List as well as any SAP SDK which are provided by SAP or any other member of the SAP Group to Distributor, to an Open Ecosystem Partner or to an End User (either directly or indirectly via Distributor and/or Open Ecosystem Partner) under any part of this Agreement all as developed by or for the SAP Group; (ii) any new releases, updates or versions thereof made available through unrestricted shipment pursuant to Maintenance Services or warranty obligation by any member of the SAP Group; and (iii) any complete or partial copies or replacements of any of the foregoing.

"SAP 集团软件"是指 (i) 由 SAP 或 SAP 集团的任何其他成员根据本协议任何部分的规定向分销商、向开放生态系统合作伙伴或向最终用户提供 (直接或间接地通过分销商和/或开放生态系统合作伙伴) 价目表上列出的由 SAP 集团开发或为之开发的任何及所有软件产品以及任何 SAP 软件开发工具包 (SDK); (ii) SAP 集团的任何成员根据维护服务或保证责任, 通过无限量发售方式提供的前述软件产品的任何新发布、更新或版本; 以及 (iii) 前述任一产品的任何完整或部分副本或替代品。

"SAP Materials" means any software, programs, tools, systems, data, or other materials made available by SAP or any other member of the SAP Group to Distributor, to an Open Ecosystem Partner or to an End User (either directly or indirectly via Distributor and/or Open Ecosystem Partner) prior to or in the course of the performance under any part of this Agreement including, but not limited to, the other SAP Products.

"SAP 材料"是指在履行本协议的任何部分前或过程中由 SAP 或 SAP 集团任何其他成员向分销商、向开放生态系统合作伙伴或向最终用户提供 (直接或间接地通过分销商和/或开放生态系统合作伙伴) 任何软件、程序、工具、系统、数据或其他材料, 包括但不限于其他 SAP 产品。

"SAP Parent" means SAP SE, a European Company (Societas Europaea, SE) established under the laws of Germany and the European Union, registered with the commercial register of the local court of Mannheim, Germany, under HRB 719915, with registered office in Walldorf, Germany, and business address at Dietmar-Hopp-Allee 16, 69190 Walldorf, Germany.

"SAP 母公司"是指 SAP 股份有限公司, 一家依据德国和欧盟相关法律成立的欧洲公司, 注册于德国曼海姆当地法院, 工商注册号为 HRB 719915, 其注册办公室位于德国沃尔多夫, 办公地址为: Dietmar-Hopp-Allee 16, 69190 Walldorf, Germany。

"SAP Partner Code of Conduct" means SAP Group's global policy document that provides a set of informative guidelines to enable partners to comply with good business practices which is published on SAP's partner-dedicated website.

"SAP 合作伙伴业务行为守则"是指 SAP 集团在专门针对合作伙伴的网站上发布的指导合作伙伴遵守良好业务实践的全球性政策文档。

"SAP Product" means Software, Documentation, SAP Materials, Cloud Services and Maintenance Services.

"SAP 产品"是指软件、文档、SAP 材料、云服务和维护服务。

"SAP SDK" means SAP software development kit that includes tools such as APIs, source code, redistributable files and instructions.

"SAP SDK"是指 SAP 软件开发工具包, 其中包括诸如 API、源代码、可再分发文件和说明之类的工具。

"Software" means SAP Group Software as well as Third Party Software.

"软件"是指 SAP 集团软件和第三方软件。

"Taxes" means all taxes (including, without limitation, VAT, GST, sales, use, property, excise, service, withholding or similar taxes), levies, custom duties and similar charges and any related interest and penalties now or hereafter levied.

"税款"是指所有的税收 (包括但不限于增值税 (VAT)、商品及服务税 (GST)、营业税、使用税、物权税、消费税、服务税、预扣税或类似税款)、关税和类似的收费, 以及目前或将来征收的任何相关利息和罚金。

"Third Party Software" means (i) any and all software products listed on the Price List which are provided by SAP or any other member of the SAP Group to Distributor, to an Open Ecosystem Partner or to an End User (either directly or indirectly via Distributor and/or Open Ecosystem Partner) under any part of this Agreement all as developed by or for companies other than the SAP Group; (ii) any new releases, updates or versions thereof made available through unrestricted shipment pursuant to Maintenance Services or warranty obligation by any member of the SAP Group; and (iii) any complete or partial copies or replacements of any of the foregoing.

"第三方软件"是指 (i) 由 SAP 或 SAP 集团的任何其他成员根据本协议任何部分的规定向分销商、向开放生态系统合作伙伴或向最终用户提供 (直接或间接地通过分销商和/或开放生态系统合作伙伴) 的价目表上列出的由 SAP 集团以外的企业开发或为其开发的任何及所有软件产品; (ii) SAP 集团的任何成员根据维护服务或保证责任, 通过无限量发售方式提供的前述软件产品的任何新发布、更新或版本; 以及 (iii) 前述任一产品的任何完整或部分副本或替代品。

"Use" means to activate the processing capabilities of the Software, Cloud Services and/or Maintenance Services, load, execute, access, employ the Software, Cloud Services and/or Maintenance Services, or display information resulting from such capabilities.

"使用"是指激活软件、云服务和/或维护服务的处理功能, 加载、执行、访问和使用软件、云服务和/或维护服务, 或显示前述功能产生的信息。

2. Any terms not defined in these Distribution GTCS will have the meaning ascribed to them in other parts of the Agreement.

本分销 GTC 中未定义的所有术语应适用本协议其他部分对其赋予的含义。

3. The headings in these Distribution GTCS are for convenience only and are to be ignored in construing these Distribution GTCS.

本分销 GTC 中的标题仅供参考, 解释本分销 GTC 时可以忽略。

4. Any reference in these Distribution GTCS to a defined document is a reference to that defined document as amended, varied, novated or supplemented from time to time.

本分销 GTC 中对特定文档的任何引用也包括对该文档时而产生的修订、变更、替代或补充内容的引用。

5. Where the context so admits, the singular includes the plural and vice versa.

依据上下文的内容, 单数形式亦应包括复数形式, 反之亦然。

PART 1 – General Terms and Conditions

第 1 部分：一般条款和条件

Article 1 Non-Exclusivity; Freedom of Action

第 1 条 非排他性；行为自由

1. The Parties' obligations under any part of this Agreement are non-exclusive. SAP is not precluded from marketing, licensing, positioning, providing and distributing SAP Products through other partners. Nothing in this Agreement prohibits or restricts either Party's right to develop, make, use, market, license, position, provide and distribute software, cloud services, maintenance services, subscription services or other services, documents, materials or other products similar to or competitive with those of the other Party as long as it does not thereby breach its confidentiality obligations or any other part of this Agreement.

协议各方在本协议任何部分下承担的义务均不具有排他性。SAP 仍然享有通过其他合作伙伴营销、许可、定位、提供和分销 SAP 产品的权利。本协议下的任何条款均不禁止或限制协议各方开发、制作、使用、营销、许可、定位、提供和分销软件、云服务、维护服务、租用服务或其他服务、文档、材料或与另一方的产品类似或具有竞争性的其他产品的权利，但前提是前述行为不得违反本协议下的保密义务或任何其他条款。

2. Distributor acts in its own name, at its own risk and for its own account for the performance of any activities arising under any part of this Agreement. The Parties are therefore independent contractors and do not act as agents or representatives of each other. Neither Party is entitled to hold itself out as representing the other Party or to make any statement or give any undertaking on behalf of the other Party

分销商以自己的名义，自担风险履行本协议下任何部分规定的任何活动，并对活动的履行自行承担风险。因此，协议各方均为独立的承包商，而非彼此的代理人或代表。在任何情况下任何一方均无权自称为另一方的代表，或代表另一方发表任何声明或作出任何承诺。

3. This Agreement must not be construed as creating a partnership, joint venture, agency relationship or granting a franchise under any applicable laws.

在任何适用的法律下，均不得将本协议解释为建立合作伙伴关系、合资关系、代理关系或授予特许经营权。

Article 2 Confidentiality

第 2 条 保密

1. Confidential Information must not be used or reproduced in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information of a party disclosing the information ("**Disclosing Party**") remains the property of the Disclosing Party and must contain any and all confidential or proprietary notices or legends which appear on the original.

除实现本协议目的之需要外，不得以任何形式使用或复制保密信息。披露信息一方（以下简称“**披露方**”）的任何保密信息的任何复制品应为披露方的财产，并应当包含原件中带有的一切及所有保密或专有声明或标识。

2. The Receiving Party must (a) take all Reasonable Steps (as defined below) to keep all Confidential Information strictly confidential; (b) not disclose any Confidential Information to any person other than its Representatives; (c) not use Confidential Information for any purpose other than in connection with the Parties' performance under any part of this Agreement; and (d) not disclose to any person (other than its Representatives) any information about the Agreement, or the terms or conditions or any other facts relating thereto, including, without limitation, the fact that Confidential Information has been made available to the Receiving Party or its Representatives.

接收方必须 (a) 采取一切合理措施（定义如下）对所有保密信息严格予以保密；(b) 不得向代表以外的任何其他人士披露任何保密信息；(c) 不得将保密信息用于与履行本协议任何部分无关的任何其他用途；以及 (d) 不得向任何人（接收方代表除外）披露与本协议、条款或条件相关的任何信息或与之有关的任何其他事实，包括但不限于接收方或其代表已获知保密信息的事实。

"**Reasonable Steps**" means those steps the Receiving Party takes to protect its own similar proprietary and confidential information, which must not be less than a reasonable standard of care.

"**合理措施**"是指接收方为保护自己的类似于专有和保密的信息所采取的措施，此类措施不得低于合理的谨慎程度。

3. The Receiving Party will be responsible for any breach of the terms of this Agreement by it or its Representatives.

接收方应对自身或其代表违反本协议条款的一切行为负责。

4. Confidential Information of either Party disclosed prior to execution of the Agreement is subject to the protections afforded hereunder.

任何一方在签署本协议之前披露的保密信息应受到前述保密规定的约束。

5. The above restrictions on the use and disclosure of the Confidential Information do not apply to any Confidential Information that:

以上有关保密信息的使用或披露的限制条款不适用于以下任何保密信息：

a) is independently developed by Receiving Party without reference to or use of the Disclosing Party's Confidential Information, or is lawfully received free of restriction from a third party having the right to furnish such Confidential Information;

接收方在未参考或使用披露方保密信息的情况下独立开发的、或从有权提供此类保密信息的第三方处合法获得且不存在限制性义务的保密信息；

b) has become generally available to the public without breach of this Agreement by Receiving Party;

在接收方未违反本协议的情况下，已为公众所知的保密信息；

c) at the time of disclosure was known to the Receiving Party free of restriction; or

在披露之时已为接收方不受限制获知的保密信息；或

d) the Disclosing Party agrees in writing is free of such restrictions.

披露方书面同意免除此类保密限制的信息。

6. Neither Party will use the name of the other Party in publicity, advertising, or similar activity, without the prior written consent of the other Party. However, any member of the SAP Group may use Distributor's name in customer and partner listings (including, without limitation, showing Distributor's name, address, contact details, partner engagements, areas of expertise and/or offerings on SAP's websites or online marketplaces) or, at times mutually agreeable to the Parties, as part of the SAP Group's marketing efforts (including without limitation reference calls and stories, press testimonials, site visits, SAPHIRE participation). The SAP Group will make reasonable efforts to avoid having the reference activities unreasonably interfere with Distributor's business. Distributor agrees that SAP may share information on Distributor with any other member of the

SAP Group for marketing and other business purposes and that Distributor has secured permission from its employees to allow SAP to share business contact information with any other member of the SAP Group.

未经对方事先书面同意，任何一方不得将对方的名称用于公开场合、广告或类似活动中。但是，SAP 集团的任何成员均可以将分销商名称用于客户和合作伙伴名单中（包括但不限于在 SAP 网站或在线市场上显示分销商名称、地址、详细联系信息、合作伙伴互动、专业领域和/或产品范围），或作为 SAP 集团营销工作（包括但不限于样板客户拜访和案例、新闻推荐、现场拜访、参与 SAPHIRE）的一部分以双方一致同意的次数进行使用。SAP 集团将尽合理努力避免样板客户活动不合理地干扰分销商的业务运营。分销商同意，SAP 可出于营销和其他业务目的与 SAP 集团的其他成员共享分销商的信息，且分销商已获得其员工的许可，允许 SAP 与 SAP 集团的其他成员共享业务联系信息。

7. In the event that the Receiving Party or any of its Representatives are requested pursuant to, or required by, applicable law, regulation, court order, regulatory agency or other legal process to disclose any Confidential Information or any other information concerning the Disclosing Party, this Agreement, or the Parties' performance hereunder, the Receiving Party must provide the Disclosing Party with prompt notice of such request or requirement in order to enable the Disclosing Party (i) to seek an appropriate protective order or other remedy; (ii) to consult with the Receiving Party with respect to the Disclosing Party's taking steps to resist or narrow the scope of such request or legal process; or (iii) to waive compliance, in whole or in part, with the terms of this Agreement. In the event that such protective order or other remedy is not obtained in a timely manner, or the Disclosing Party waives compliance, in whole or in part, with the terms of this Agreement, the Receiving Party or its Representative will use commercially reasonable efforts to disclose only that portion of the Confidential Information which is legally required to be disclosed and to require that all Confidential Information that is so disclosed will be accorded confidential treatment.

如果根据适用的法律、法规、法院指令、监管机构或其他法律程序的规定或要求，接收方或其任何代表必须披露任何保密信息或涉及披露方、本协议或协议双方在本协议项下义务的任何其他信息，接收方应当立即向披露方通知此类规定或要求，使披露方能够 (i) 寻找合理的保护措施或其他补救措施；(ii) 就规避此类法律程序或缩小此类披露请求的范围所需采取的措施咨询接收方；(iii) 放弃对本协议所有条款或部分条款的遵守。如未能及时获得此类保护措施或采取其他补救措施，或者披露方放弃遵守本协议的全部或部分条款，则接收方或其代表应采取商业上合理的措施，仅披露法律要求披露的部分保密信息，并要求由此披露的所有保密信息均遵循保密处理规定。

8. Distributor may provide or SAP may solicit Distributor's Feedback. All Feedback is provided at the sole discretion of Distributor. Unless the Parties have entered into a separate agreement that includes a comparable license from Distributor to SAP regarding Feedback, Distributor grants to each member of the SAP Group a non-exclusive, perpetual, irrevocable, worldwide, royalty-free license, with the right to sublicense to any licensee, customer and end user of the SAP Group, under all relevant Distributor intellectual property rights, to use, publish, and disclose such Feedback and to display, perform, copy, make, have made, use, sell and otherwise dispose of the SAP Group's and its sublicensees' products or services embodying Feedback in any manner and via any media any member of the SAP Group chooses, without reference to the source ("Feedback License"). Except for the license granted above to use Feedback provided by Distributor at its sole discretion, SAP acquires no title or interest in any pre-existing or independently developed data, information, or intellectual property of Distributor under this Feedback License. Distributor acknowledges that the Feedback is only provided for information purposes but is not intended to be binding upon SAP to any particular course of business, product strategy, service strategy and/or development. If Distributor's Feedback is based on Feedback of an End User, Distributor must ensure that the relevant End User grants to each member of the SAP Group a Feedback License.

分销商可提供反馈，SAP 也可征询分销商的反馈。分销商可自行决定是否提供任何反馈信息。除非协议双方就反馈单独签订一份分销商向 SAP 授予类似许可的协议，否则分销商授予 SAP 集团的所有成员关于分销商所有相关知识产权的一项非独占的、永久性的、不可撤销的、全球范围内的、免特许权使用费的许可，该许可包含向 SAP 集团的任何被许可方、客户和最终用户进行再许可的权利，允许其以任何方式、在不考虑反馈信息来源的情况下，以 SAP 集团任一成员选择的任何介质使用、发布和披露此类反馈信息，显示、执行、复制、制作/促进制作、使用、销售或处置包含此类反馈信息的 SAP 集团及其从属被许可方的产品或服务（以下简称“反馈许可”）。除上述就使用分销商自行决定提供的反馈授予的许可外，SAP 在该反馈许可下未获得分销商已有或独立开发的数据、信息或知识产权的任何权利或权益。分销商承认，反馈仅用于提供信息，不得对 SAP 的任何特定业务流程、产品战略、服务战略和/或开发构成任何约束力。若分销商的反馈基于最终用户的反馈产生，则分销商必须保证相关最终用户对 SAP 集团的每个成员授予反馈许可。

9. The Receiving Party will not be in violation of this Agreement due to the use of any Residuals (defined below) resulting from authorized access to or work with Confidential Information of the Disclosing Party.

接收方使用因授权访问或接触披露方的保密信息而获得的任何残留信息（定义如下）不构成对本协议的违反。

"Residuals" means information in non-tangible form which may be incidentally retained in the unaided memory of Representatives of the Receiving Party who have had access to the Confidential Information, so long as such persons have not studied the information for the purpose of replicating the same from memory; provided, however, that in no event will Residuals include any information that a reasonable person would know was Confidential Information of the Disclosing Party.

"残留信息"是指曾接触过保密信息的接收方代表无意保留在独立记忆中的无形信息，但该等人员不得出于从记忆中复制该等无形信息的目的研究此类信息；此外，在任何情况下，残留信息中均不得包含合理的人员知晓为披露方保密信息的任何信息。

Nothing in this Article 2 (Confidentiality) no. 9 will be deemed to grant any right, title or interest in or to (i) the Disclosing Party's Confidential Information (except for Parties' performance under any part of this Agreement) and/or (ii) any Intellectual Property Right of the Disclosing Party. Neither Party will have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of Residuals.

第 2 条（保密）第 9 款下的任何内容均不得视为授予关于 (i) 披露方的保密信息（协议双方履行本协议任意部分下的义务除外）和/或 (ii) 披露方的任何知识产权的任何所有权、权利和利益。任何一方均没有义务限制或约束此类人员的指派，或通过使用残留信息获得的任何作品支付特许权使用费。

Article 3 Covenants

第 3 条 约定

1. Distributor must inform SAP without undue delay if Distributor becomes aware of any third party: (a) Using or otherwise having unauthorized access to any SAP Product including, without limitation, if Distributor becomes aware of any End User exceeding licensed levels; and/or (b) marketing, licensing, positioning, providing and distributing any SAP Product without authorization. In such case, Distributor must: (a) assist SAP and any other member of the SAP Group in every reasonable way in the pursuance of their respective rights and, upon consultation with the relevant member of the SAP Group, immediately take all steps for the protection of those rights; and (b) temporarily stop marketing, licensing, positioning, providing and distributing SAP Products to any such third party unless and until such ambiguity is resolved to Distributor's and SAP Group's satisfaction.

分销商一经发现任何第三方有以下行为者，必须立即通知 SAP，不得无故延迟：(a) 使用或未经授权访问任何 SAP 产品，包括但不限于分销商发现任何最终用户超出许可范围的使用；和/或 (b) 未经授权营销、许可、定位、提供和分销任何 SAP 产品。在此情形下，分销商必须：(a) 尽一切合理的努力协助 SAP 和 SAP 集团的其他成员维护其各自的权利，并在咨询相关 SAP 集团的成员后立即采取一切措施保护这些权利；和 (b) 暂停向任何此类第三方营销、许可、定位、提供和分销 SAP 产品，直至此类不当行为达到了令分销商和 SAP 集团满意的处理结果。

2. Distributor must inform SAP immediately (i) of any Change of Control regarding Distributor and (ii) in case of a material part of Distributor's assets or a material part of Distributor's assets utilizing any SAP Material or both being sold or otherwise transferred.

分销商必须就以下情况立即通知 SAP: (i) 分销商控制权的变更和 (ii) 分销商的大部分资产和/或分销商使用了任何 SAP 材料的大部分资产被出售或转让。

Article 4 Trademark License

第 4 条 商标许可

1. Upon Distributor meeting the Program Requirements for the first time and subject to Distributor's compliance with all Program Requirements at all times during the term of this Agreement, SAP grants to Distributor a revocable, non-exclusive, non-transferable license to use the SAP partner logo that SAP makes available to the Distributor in connection with this Agreement in the Territory in accordance with the terms of this Article 4 (Trademark License). This license to use the SAP partner logo that SAP makes available to the Distributor in connection with this Agreement includes the right to use the SAP corporate logo as part of the SAP partner logo (both referred to as "**SAP Logos**"). Distributor is not permitted to grant sublicenses to the SAP Logos.

在分销商初次满足项目要求且在履行本协议的期限内始终遵守所有项目要求的前提下, SAP 授予分销商一项可撤销的、非排他的和不可转让的许可, 允许其根据第 4 条(商标许可)的规定, 在地域内使用 SAP 依据本协议向其提供的 SAP 合作伙伴标识。SAP 根据本协议向分销商提供的 SAP 合作伙伴标识的使用许可包括将 SAP 公司标识作为 SAP 合作伙伴标识(合称为"**SAP 标识**")的一部分进行使用的权利。分销商不得对 SAP 标识进行再许可。

2. When using SAP Logos, Distributor must adhere to all requirements and obligations of the PartnerEdge Branding Guide, including, without limitation, observe SAP's directions concerning the colors and size of the SAP Logos.

在使用 SAP 标识时, 分销商必须遵守并履行 PartnerEdge 品牌指南的各项要求和义务, 包括但不限于遵守 SAP 就标识的颜色和尺寸给出的用法说明。

3. Distributor must not contest the validity of the SAP Logos or support the contesting of their validity and must not derive any right against SAP or any other member of the SAP Group through its use of the SAP Logos. When using SAP Logos, Distributor must indicate that the SAP Logos are registered trademarks of the SAP Group. In this context, Distributor acknowledges that SAP Parent is the sole owner of rights in the SAP Logos. Distributor undertakes to make all those declarations and provide all those documents for the benefit of SAP or any other member of the SAP Group as SAP, SAP Parent or any other member of the SAP Group may require in the prosecution of its rights in the SAP Logos.

分销商不得质疑 SAP 标识的有效性或支持对其有效性的质疑, 不得通过对 SAP 标识的使用获得对抗 SAP 或 SAP 集团的任何其他成员的任何权利。在使用 SAP 标识时, 分销商必须指明 SAP 标识是 SAP 集团的注册商标。分销商在本协议中确认, SAP 母公司是 SAP 标识的唯一权利所有人。当 SAP、SAP 母公司或 SAP 集团的任何其他成员为保护其对 SAP 标识的权利而作出要求时, 分销商应当出于 SAP 或 SAP 集团的任何其他成员的利益作出上述所有权利声明并提供所有相关文档。

4. SAP Group has the sole and exclusive right to protect and defend the SAP Logos at its sole discretion, cost and expense. Distributor will reasonably cooperate with SAP and any other member of the SAP Group, at SAP Group's expense, in the defense and protection of the SAP Logos and will promptly notify SAP of the use of any mark infringing any of the SAP Logos of which it has knowledge.

SAP 集团享有自行决定保护 SAP 标识不受侵犯的唯一且排他性的权利, 并自付相关成本和费用。分销商将合理配合 SAP 和 SAP 集团的任何其他成员保护 SAP 标识不受侵犯(费用由 SAP 集团承担), 如发现任何侵犯 SAP 标识权利的行为, 将立即通知 SAP。

5. All advertising and sales material used by Distributor for a SAP Product must bear the notices prescribed by SAP or any member of the SAP Group concerning trademarks and other identifying marks. Distributor must refrain from (i) registering SAP's name, any name of any other member of the SAP Group (including, in both cases any domain name or trademarks), SAP Parent's logo and/or any logo of any other member of the SAP Group (including, in both cases, any names, logos, domain names or trademarks which are confusingly similar to any of them) for itself or (ii) permitting third parties to use or otherwise exploit SAP's name, logo or trademark and/or any name, logo or trademark of any other member of the SAP Group (including, in both cases, any name, logo, trademark or domain name which are confusingly similar to any of them). Distributor must, at SAP's choice, either transfer any rights regarding such name, logos, trademarks and domain names to SAP or any other member of the SAP Group as soon as they arise or permit SAP and any other member of the SAP Group to exploit them. Distributor must afford SAP and any other member of the SAP Group such assistance as may be necessary for SAP or any other member of the SAP Group to obtain at SAP Group's expense the appropriate registrations for protection in any chosen country.

分销商使用的任何关于 SAP 产品的宣传和销售材料均须带有 SAP 或 SAP 集团的任何其他成员规定的关于商标及其他标识的声明。分销商不得: (i) 为自己注册 SAP 的名称、SAP 集团的任何其他成员的任何名称(两种情形下均包括任何域名和/或商标)、SAP 母公司的标识和/或 SAP 集团的任何其他成员的任何标识(两种情形下均包括与其中任何一项相近且容易造成混淆的任何名称、标识、域名或商标); 或 (ii) 允许第三方使用或以其他方式利用 SAP 的名称、标识或商标和/或 SAP 集团的任何其他成员的任何名称、标识或商标(两种情形下均包括与其中任何一项相近且容易造成混淆的任何名称、标识、商标或域名)。分销商必须根据 SAP 的选择, 将与此类名称、标识、商标和域名有关的任何权利在其一开始产生时就转让给 SAP 或 SAP 集团的任何其他成员, 或允许 SAP 和 SAP 集团的任何其他成员使用这些权利。在 SAP 集团承担费用的情况下, 分销商必须为 SAP 和 SAP 集团的任何其他成员提供在任何选定的国家/地区获得适当的保护注册所需的此类协助。

6. SAP reserves the right to review the use of the SAP Logo in Distributor's marketing, advertising and other promotional materials. Distributor must make no representations regarding the SAP Products except as consistent with SAP's Documentation or as SAP may otherwise approve in writing.

SAP 保留检查 SAP 标识在分销商的营销、宣传和其他促销材料中的使用情况的权利。除与 SAP 的文档内容一致或经 SAP 书面批准外, 分销商不得就 SAP 产品做出任何声明。

Article 5 SAP's obligation to deliver

第 5 条 SAP 的交付义务

1. SAP's obligations concerning the delivery of the SAP Products are outlined in the applicable SAP Distribution Model.

相应的 SAP 分销模式中规定了 SAP 对交付 SAP 产品的义务。

2. Notwithstanding SAP's acceptance of an order, SAP will be entitled to suspend the delivery of any or all SAP Products, the applicable license key or both where and for as long as any of the following adverse conditions is present:

尽管 SAP 接受了订单, 但若出现下列不利情形, SAP 将有权暂停交付任何或所有 SAP 产品和/或适用的许可密钥:

a) Distributor does not pay on the due date any amount payable to SAP under or in connection with the applicable SAP Distribution Model (including, without limitation, the Program Fee) at the place at and in the currency in which it is expressed to be payable;

分销商未在明确规定的日期和地点，使用规定的货币向 SAP 支付相应的 SAP 分销模式下规定的或与之相关的任何应付费用或金额（包括但不限于项目费用）；

- b) Distributor is in substantial breach of any part of this Agreement, including without limitation, the reasons set out in Part 1 - Article 9 no. 1b) and no. 2 (Termination for good cause);

分销商实质上违反了本协议下任何部分的规定，包括但不限于第 1 部分第 9 条第 1b) 款和第 0 款（出于正当理由终止）规定的理由；

- c) delivery is inappropriate or impossible due to technical problems not in SAP Group's responsibility (for example, unresolved defect notices, product liability risks, software production problems, provided these events are not attributable to the SAP Group);

因非由 SAP 集团造成的技术问题致使不适合或无法交付（例如，非由 SAP 集团造成的未决缺陷通知、产品责任风险、软件生产问题）；

- d) Distributor, Open Ecosystem Partner or End User or both cannot be relied upon to observe SAP's rights or the rights of any other member of the SAP Group in any or all SAP Products;

分销商、开放生态系统合作伙伴和/或最终用户不能保证 SAP 或 SAP 集团的任何其他成员对任何或所有 SAP 产品所拥有的权利；

- e) export restrictions as set out in Part 1 - Article 13 (Export Regulations);

第 1 部分第 13 条（出口条例）规定的出口限制；

- f) SAP determines that the laws or policies or both of any country are or become insufficient to protect any Intellectual Property Rights in any SAP Product; or

SAP 认为任何国家/地区的法律和/或政策不足以保护任何 SAP 产品的任何知识产权；或

- g) any other reason for suspension similar to those listed in subsection 0 to 0 above.

与上述第 0 至第 0 款列举的暂停交付理由类似的其他理由。

3. SAP must inform Distributor without undue delay if SAP suspends the delivery of any or all SAP Products or applicable license key or both due to the reasons set out in this Article 5 (SAP's obligation to deliver) no. 2.

SAP 因第 5 条（SAP 的交付义务）第 2 款规定的原因暂停交付任何和所有 SAP 产品和/或适用的许可密钥时，必须立即通知分销商，不得无故延迟。

4. SAP's right to suspend the delivery does not mean that any part of this Agreement is terminated. If in case of this Article 5 (SAP's obligation to deliver) no. 1c) and f) suspension of delivery continues for a period of more than three consecutive months, either Party may terminate any order concerning the affected SAP Product with one month's prior written notice to the other Party.

SAP 暂停交付的权利并不代表本协议的任何部分的效力终止。若根据第 5 条（SAP 的交付义务）第 00 款和第 0 款作出的暂停交付行为持续时间超过连续三个月，则任意一方均可提前一个月通知另一方，终止与受影响的 SAP 产品有关的任何订单。

Article 6 Prices and Fees

第 6 条 价格和费用

1. Price/Fee. The prices or fees for the Software and Cloud Services depend on the applicable SAP Distribution Model and are set forth therein.

价格/费用。软件和云服务的价格或费用由相应的 SAP 分销模式确定并加以规定。

2. Maintenance Fee. The fee for Maintenance Services depends on the applicable SAP Distribution Model and is, if applicable, set forth therein.

维护费用。维护服务的费用由相应的 SAP 分销模式确定并加以规定（如适用）。

3. Program Fee. If applicable, Distributor agrees to pay to SAP the annual program fee(s) as set out in the Distributor Program Guide and the RSPI ("Program Fee"). With regard to the first invoice, the Program Fee will be calculated by SAP from the Effective Date of the relevant SAP Distribution Schedule to 31 December of the respective calendar year. Subsequent Program Fees will be calculated from 1st January to 31 December and must be paid by the Distributor annually in advance.

项目费用。如适用，分销商同意根据分销项目指南和 RSPI 向 SAP 支付年度项目费用（以下简称“项目费用”）。SAP 开具的第一张发票将计入从相关的 SAP 分销计划生效日期起至该日历年的 12 月 31 日止的项目费用。后续的项目费用的计算期间为每年的 1 月 1 日至 12 月 31 日，并且必须由分销商按年提前支付。

4. Net Prices. The prices of the Price List are net prices. Fees and other charges described in any part of this Agreement do not include national or local sales, VAT, GST, foreign withholding, use, property, excise, service, or similar taxes now or hereafter levied, all of which are for Distributor's account.

净价。价目表中的价格为净价。本协议任何部分所载之费用及其他收费均不包括由分销商缴纳的现在或将来所征收的国家或地方的营业税、增值税（VAT）、商品及服务税（GST）、外地预提所得税、使用税、物权税、消费税、服务税或类似税款。

Article 7 Invoices and Payment

第 7 条 开票和付款

1. SAP is not obliged to issue an individual invoice for each individual order by Distributor but is entitled to issue collective invoices.

SAP 没有义务就分销商定购的每个单独的订单开具单独的发票，但有权出具汇总发票。

2. Distributor has to pay to SAP any fee as well as any other amount due to SAP under any part of this Agreement within the Payment Period as set out in Part 2 – Article 6 (Payment Period). All amounts due to SAP under any part of this Agreement have to be paid in the currency indicated in Part 2 - Article 7 (Currency).

分销商必须在第 2 部分第 6 条（付款期间）规定的付款期间内，向 SAP 支付本协议任何部分下规定的应支付给 SAP 的任何费用以及任何其他金额。根据本协议任何部分的规定应支付给 SAP 的所有金额均需以第 2 部分第 7 条（货币）规定的币种进行支付。

3. Payment will be considered to have been made when the payment is received by SAP in the bank account designated by SAP for such payments.

SAP 在其为此项付款指定的银行账户收到该款项时视为收讫该款项。

4. Distributor may offset claims only if they are uncontested or finally and bindingly awarded by a court of law.

分销商仅可对无争议的索赔或者法院已终裁的索赔进行抵销。

5. If Distributor fails to pay any fee or any other amount payable by it on its due date, interest will accrue at the Default Interest Rate set out in Part 2 - Article 8 (Default Interest Rate). However, the assertion of further damages is not excluded.

若分销商未在到期日支付其应付的任何费用或金额, 则利息将按照第 2 部分第 8 条(违约利率)规定的违约利率累积计算。另外, 对于进一步损害的主张也包含在内。

6. If Distributor fails to pay any fee or other amount payable by it on its due date, SAP may at its sole discretion:

若分销商未在到期日支付其应付的任何费用或金额, 则 SAP 可自行决定:

a) suspend Distributor's rights to market, provide, position and distribute any or all SAP Products until such time as any outstanding amount has been received by SAP;

中止分销商营销、提供、定位和分销任何及所有 SAP 产品的权利, 直至 SAP 收到全部未清款项为止;

b) suspend Distributor's right to use the SAP Logo;

中止分销商使用 SAP 标识的权利;

c) require full payment from Distributor for any amount due by Distributor to SAP; and

要求分销商全额支付其应向 SAP 支付的任何金额; 和

d) avail itself of any other rights or remedies existing under any part of this Agreement, in law or in equity.

行使其根据法律或衡平法在本协议任何部分下享有的任何其他权利或救济。

7. Distributor acknowledges and agrees that all fees to be collected by it are for its own account. For avoidance of doubt, any fees due to SAP under any part of this Agreement are not contingent upon payments from third parties (including, without limitation, End Users).

分销商承认并同意, 所有应付费用均由其自行支付。为避免疑义, 任何根据本协议任何部分应向 SAP 支付的费用均不受第三方支付情况的影响(包括但不限于最终用户)。

8. SAP may require Distributor to settle any invoice in full prior to SAP's delivery under the respective order if:

在以下情况下, SAP 可以要求分销商在 SAP 根据相应订单作出交付之前付清任何发票:

a) Distributor is at that time in arrears with a substantial amount payable to SAP;

分销商当时拖欠 SAP 大量应付金额;

b) in the preceding twelve months, Distributor failed - several times or for a substantial amount - to settle invoices in full when due and owing;

在过去 12 个月中, 分销商多次拖欠或未能付清一定金额的到期应付的发票;

c) there is no prior business relationship with Distributor;

之前与分销商之间不存在业务关系;

d) Delivery is to be made outside of Territory; or

在地域之外交付; 或

e) Distributor's registered office is outside of the Territory.

分销商的注册办公地址在地域之外。

9. SAP may require all distributors in a country (including Distributor) to settle any invoice in full prior to SAP's delivery of an SAP Product if this is - in SAP's reasonable discretion - needed to safeguard SAP's justified financial interests.

若 SAP 经合理判断认为有必要确保 SAP 的正当财务利益, SAP 可以要求一个国家/地区内的全部分销商(包括分销商在内)在 SAP 交付 SAP 产品之前付清任何发票。

Article 8 Audit

第 8 条 审查

1. In the event SAP has justified reasons to believe that a breach of any part of this Agreement has occurred or will most likely occur, SAP has the right to perform an audit of such activities and records of (i) Distributor and/or (ii) any member of the Distributor Group involved in the performance of obligations under any part of this Agreement.

若SAP有正当理由认为已经出现或极有可能出现违反本协议任何部分之规定的情形, 则SAP有权对 (i) 分销商和/或 (ii) 分销商集团中履行本协议任何部分下义务的任何成员的此类活动和记录进行审查。

2. The audit will be conducted by an independent expert appointed by SAP. By choosing the expert, SAP will take into account Distributor's legitimate business interests. SAP will bear the costs of the audit unless the expert establishes a breach by the Distributor in which case Distributor has to bear the costs.

SAP将指派独立的专家执行审查。SAP在选择专家时将考虑分销商的合法业务利益。SAP将承担审查的费用, 但是在专家确定分销商存在违约行为时, 审查费用将由分销商承担。

3. SAP will provide one week's advance notice of an audit unless SAP has reasons to believe that Distributor will use the time to eliminate proof for a breach.

SAP将提前一周通知分销商审查事宜, 但SAP有理由认为分销商将利用这段时间销毁违约证据的除外。

4. The audit will take place during normal business hours and SAP will instruct its auditor to conduct the audit in such a manner that it will not unreasonably interfere with Distributor's business operations.

审查将在正常的工作时间内进行。SAP将指示其审查人员采取合适的方式, 以避免对分销商的业务运营造成不合理的干扰。

5. Distributor must make full disclosure to the expert, and ensure that (i) any member of the Distributor Group involved in the performance of obligations under any part of this Agreement and any of (ii) Distributor's Representatives cooperate fully and provide information, grant viewing access to all necessary and useful documents and permit the making of copies of them.

分销商必须向专家进行充分披露, 并确保 (i) 分销商集团中履行本协议任何部分下所规定义务的任何成员和 (ii) 任何分销商代表全力配合和提供信息, 授予专家查看所有必要和有用文档的权限, 并允许对这些文档进行复制。

6. The expert will be bound in writing to confidentiality for the benefit of SAP and the Distributor. The expert will undertake not to disclose information to SAP, except for the purpose of providing a report of the audit and, in case of a breach of any part of this Agreement, any information establishing such a breach.

为保护 SAP 和分销商的利益，专家将受到书面保密约定的约束。专家承诺不对 SAP 披露信息，但是为提供审查报告和出现违反本协议任何部分之规定的情形下为提供任何违约证明信息的除外。

7. Distributor's Confidential Information disclosed during the audit will not be used by SAP for any purpose other than to verify and proof if a breach of any part of this Agreement has occurred.

SAP不得将审查过程中披露的分销商保密信息用于证明存在违反本协议任何部分条款之外的其他目的。

8. Additional audit requirements are, if applicable, set out in the applicable SAP Distribution Model.

其他审查要求（如有）见相应的SAP分销模式的规定。

Article 9 Termination for good cause

第 9 条 因正当理由而终止

1. The affected SAP Distribution Model may be terminated by either Party immediately upon written notice to the other Party in the following cases:
在下述情况下，受影响的 SAP 分销模式可由任意一方书面通知另一方后立即终止：

a) Non-Payment. Distributor does not pay on the due date any amount payable to SAP under or in connection with the applicable SAP Distribution Model (including, without limitation, the Program Fee) at the place at and in the currency in which it is expressed to be payable unless payment is made within thirty days of the due date.

未付款。分销商未在明确规定的日期和地点，使用规定的货币向 SAP 支付相应的 SAP 分销模式下规定的或与之相关的任何应付费用或金额（包括但不限于项目费用），分销商在到期日后 30 日内付款的除外。

b) Breach of other provisions. A Party does not comply with any provision of any part of this Agreement other than those referred to in this Article 9 no. 1a) (Non-Payment), 2a) (Repeated Non-Payment) and 2b) (Breach of material provisions) unless the non-compliance is capable of remedy and is remedied within thirty days of the other Party giving notice.

违反其他规定。一方未遵守本协议下除第 9 条第 1a)款（未付款）、第 2a)款（多次未付款）和第 2b)款（违反实质性规定）之外的任何其他部分下的任何规定，违约行为可补救且在另一方发出通知后 30 日内采取补救措施的除外。

2. Any or all SAP Distribution Models may be terminated by either Party for good cause immediately upon written notice to the other Party. Such good cause exists in particular, without limitation, in each of the events or circumstances set out below:

任何一方均可出于正当理由，在向另一方发出书面通知后立即终止任何或所有 SAP 分销模式。此类正当理由尤其是指下述各项事件或情形，但不限于此：

a) Repeated Non-Payment. Distributor does repeatedly not pay on the due date any amount payable to SAP at the place and in the currency in which it is expressed to be payable.

多次未付款。分销商多次未在明确规定的日期和地点，使用规定的货币向 SAP 支付任何应付的金额。

b) Breach of material provisions. A Party does not comply with material provisions of any part of this Agreement. Material provisions are in particular the obligations under Part 1 - Article 2 (Confidentiality), Part 1 - Article 13 (Export Regulations), Part 1 - Article 15 (Compliance) and Part 2 - Article 4 (Reservation of title, rights and interest).

违反实质性规定。一方未遵守本协议任何部分的实质性规定。实质性规定尤其是指第一部分第 2 条（保密）、第 13 条（出口条例）、第 15 条（合规）和第 2 部分第 4 条（所有权、权利和利益的保留）下规定之义务。

c) Insolvency. The other Party (i) is unable, is deemed unable or admits its inability to pay its debts as they fall due, (ii) suspends or threatens to suspend making payments on any of its debt or, by reason of actual or anticipated financial difficulties, (iii) commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness or (iv) is over-indebted (value of assets is less than its liabilities taking into account contingent and prospective liabilities) ("Insolvent").

破产。另一方 (i) 不能、被认为不能或承认不能偿付到期债务，(ii) 因实际财务困难或预期的财务困难中止或宣称将中止偿还其任何债务或 (iii) 与一个或多个债权人协商延迟履行债务或 (iv) 资不抵债（在综合考虑其或有负债和预期负债后，其资产价值少于债务额）（以下简称“破产”）。

d) Insolvency Proceedings. An application has been filed or any other step is taken for the initiation of insolvency, bankruptcy, composition or similar proceedings against the other Party, any such application has been rejected for lack of assets, any enforcement against the other Party could not be carried out or any execution measures have been initiated against the other Party which have not been set aside within one month (e.g. setting aside of a seizure or an attachment) ("Insolvency Proceedings").

破产程序。针对另一方的破产、调解或类似程序的申请已提交或已进入任何其他阶段，但此类申请因资产不足而遭拒绝，无法对另一方执行任何强制措施，或已针对另一方启动了任何执行措施并在一个月内未予以撤销（例如：未撤销扣押物或附属物）（以下简称“破产程序”）。

e) Cessation of business. The other Party suspends or ceases to carry on all or a material part of its business.

停止营业。另一方中止或停止运营所有业务或重要业务。

f) Change of ownership. In the event of a Change of Control if the business interests of the other Party are materially affected (for example, if a direct competitor of a Party becomes a direct or indirect majority shareholder).

所有权变更。如果因控制权的变更而使另一方的业务利益受到实质性影响（如一方的直接竞争对手间接或直接成为其主要股东）。

Article 10 Effect of Termination

第 10 条 终止的效力

1. Model-specific effects of termination are set out in each SAP Distribution Model.

相应的 SAP 分销模式中对于终止的效力有具体的规定。

2. If a SAP Distribution Model is terminated, rescinded or ended in any other way:

若 SAP 分销模式以任何其他方式终止、解除或撤销，

a) Distributor's right to:

则分销商享有的如下权利：

- i. hold itself out as distributor of SAP under or in connection with such SAP Distribution Model;
成为此类 SAP 分销模式下或与之相关的分销商;
- ii. use the SAP trademarks, including, without limitation, the SAP Logos which he was authorized to use as set out in Article 4 (Trademark License) under or in connection with such SAP Distribution Model; and
使用 SAP 商标, 包括但不限于在此类 SAP 分销模式下或因与之相关而根据第 4 条 (商标许可) 的规定授权其使用的 SAP 标识; 以及
- iii. use the Documentation and other marketing programs and other materials and all copies, reproductions, summaries, or extracts thereof or based thereon of any member of the SAP Group distributed under or in connection with such SAP Distribution Model,
使用 SAP 集团任何成员在此类 SAP 分销模式下或因与之相关而分发的文档和其他营销计划和材料, 以及通过或根据这些文档和材料生成的所有副本、复制品、摘要或摘录,

immediately ends.

将立即终止。

b) Distributor must within thirty days irretrievably destroy or upon SAP's request deliver to SAP all copies of the:

分销商必须在 30 天内彻底销毁或应 SAP 的要求向 SAP 交付所有下述内容的副本:

- i. Software products distributed under the relevant SAP Distribution Model;
在相应的 SAP 分销模式下分发的软件产品;
- ii. SAP Logos and other SAP trademarks which Distributor was authorized to use as set out in Article 4 (Trademark License) under or in connection with such SAP Distribution Model; and
在此类 SAP 分销模式下或因与之相关而根据第 4 条 (商标许可) 的规定授权其使用的 SAP 标识和其他 SAP 商标; 以及
- iii. all Documentation and other marketing programs and materials and all copies, reproductions, summaries, or extracts thereof or based thereon of any member of the SAP Group distributed under or in connection with such SAP Distribution Model,
SAP 集团的任何成员在此类 SAP 分销模式下或因与之相关而分发的所有文档和其他营销计划和材料, 以及通过或根据这些文档和材料生成的所有副本、复制品、摘要或摘录,

that are in the possession of Distributor, any member of the Distributor Group and/or any of Distributor Group's Representatives, except to the extent Distributor is legally required to keep a copy for a longer period in which case such return or destruction shall occur at the end of such period;

这些材料由分销商、分销商集团的任何成员和/或分销商集团的任何代表所拥有, 除非法律要求分销商对副本保留更长的期限, 在此情况下, 前述返还或销毁行为应在该期限届满时执行;

c) a duly authorized representative of the Distributor must certify in writing to SAP within thirty days that Distributor has fulfilled its obligations under this Article 10 (Effect of Termination) no. 2b).

分销商经正式授权的代表必须在 30 天内以书面方式向 SAP 证明分销商已履行其在第 10 条 (终止的效力) 第 2b) 款下负有的义务。

3. If a SAP Distribution Model is terminated, rescinded or ended in any other way:

若 SAP 分销模式以任何其他方式终止、解除或撤销:

- a) the Receiving Party's right to use the Confidential Information immediately ends;
则接收方使用保密信息的权利立即终止;
- b) the Receiving Party must within thirty days irretrievably destroy or upon Disclosing Party's request deliver to Disclosing Party all Confidential Information of the Disclosing Party and all copies, reproductions, summaries, or extracts thereof or based thereon in the Receiving Party's possession, custody or control or in the possession, custody or control of any Representative of the Receiving Party, except to the extent Receiving Party is legally required to keep a copy for a longer period in which case such return or destruction shall occur at the end of such period. However, (i) if a legal proceeding has been instituted to seek disclosure of the Confidential Information, such material shall not be destroyed until the proceeding is settled or a final judgment with respect thereto has been rendered and (ii) the Receiving Party shall not, in connection with the foregoing obligations, be required to identify or delete Confidential Information held in archive or back-up systems in accordance with general systems archiving or backup policies; and

接收方必须在 30 天内彻底销毁或应披露方的要求向披露方交付由接收方拥有、保管或控制或由接收方的代表拥有、保管或控制的披露方的所有保密信息及其或根据其生成的所有副本、复制品、摘要或摘录, 除非法律要求接收方对副本保留更长的期限, 在此情况下, 前述返还或销毁行为应在该期限届满时执行。但是, (i) 若已启动要求披露保密信息的法律程序, 则此类材料需待该法律程序调停或达成最终判决后方得销毁, 且 (ii) 基于前述义务, 接收方不得被要求确认或删除根据一般系统归档或备份策略在归档或备份系统中保留的保密信息; 以及

c) a duly authorized representative of the Receiving Party must certify in writing to the Disclosing Party within thirty days of Disclosing Party's written request that the Receiving Party has fulfilled its obligations under this Article 10 (Effect of Termination) no. 3b),

接收方经正式授权的代表必须在披露方提出书面请求后 30 日内, 以书面形式向披露方证明接收方已履行其在第 10 条 (终止的效力) 第 00 款下负有的义务,

unless the Receiving Party is permitted under any other SAP Distribution Model that has not been terminated, rescinded or ended in any other way to use the Confidential Information.

但接收方根据未以其他方式终止、解除或撤销的任何其他 SAP 分销模式获得授权使用保密信息的除外。

4. Termination does not relieve Distributor from its obligation to pay any fees that remain unpaid.

终止不应免除分销商支付尚未付清的费用的义务。

Article 11 Tax

第 11 条 税款

All Taxes will be borne by the Distributor. If any Tax has to be withheld or deducted from any payment under or in connection with any part of this Agreement, Distributor must increase the payment to SAP to ensure that after the withholding or deduction SAP receives an amount equal to the payment SAP would have received if the Tax had not to be withheld or deducted.

所有税款均由分销商承担。若需要从本协议下任何部分规定的或与本协议任何部分相关的任何付款中扣留或扣除任何税款，则分销商必须增加向 SAP 支付的款项，以保证在扣留或扣除税款后 SAP 收到的款项与未扣留或扣除前相等。

Distributor shall communicate to SAP its VAT or GST identification number(s) attributed by (i) the country where Distributor has established its business, and/or (ii) any other country where Distributor has established a fixed establishment, to which any SAP Product under this Agreement is provided. SAP shall consider the SAP Products under this Agreement to be for Distributor's business use and provided to the location(s) of the Distributor in accordance with the provided VAT or GST identification number(s).

分销商应告知 SAP 其 VAT 或 GST 识别号，这些编号来自 (i) 分销商业务运营所在的国家/地区，和/或 (ii) 分销商设立的接受本协议下 SAP 产品的固定机构所在的其他任何国家/地区。SAP 应将本协议下的 SAP 产品视为用于分销商的业务用途，并根据所提供的 VAT 或 GST 识别号将 SAP 产品提供给分销商所在地。

Article 12 Changes to Terms

第 12 条 条款变更

1. Notwithstanding anything in this Agreement, SAP reserves the right to change the Price List without prior written notice. Any change to the Price List will become effective on the date indicated in the Price List or if no such date is indicated, upon the earliest of (i) it being published on SAP's partner-dedicated website or (ii) it otherwise being provided by a member of the SAP Group to the Distributor. With regard to any order for a SAP Product, the Price List that was effective on that point in time when Distributor places a completely and correctly filled-out order for the relevant SAP Product with SAP is decisive. Existing quotes provided by SAP to Distributor will be honored for the time that the quote is valid or in case the quote does not contain a validity date for the time during which the quote can reasonably be expected to be accepted.

无论本协议有何种规定，SAP 保留未经事先书面通知变更价目表的权利。价目表的任何变更将于其上写明的生效日期生效，若未写明此生效日期，则以下述两个日期中较早的为准：(i) 在 SAP 专门面向合作伙伴的网站上发布之时或 (ii) 由 SAP 集团成员向分销商提供之时。对于针对 SAP 产品的任何订单，价目表的生效日期由分销商针对相关 SAP 产品下达完整且正确填写的订单的时间所决定。而 SAP 提供给分销商的现有报价在该报价的有效期间内，或在报价未包含有效期间但经合理预计将被接受时，仍然有效。

2. SAP reserves the right to change any or all parts of this Agreement (in particular by replacing parts of it with an updated version), including, without limitation, any SAP Distribution Model, the Distribution GTCS, the Distributor Program Guide, the PartnerEdge Branding Guide, the RSPI and any other guide or agreement concluded under or in connection with any part of this Agreement as may be reasonably required and consistent with SAP's practices.

SAP 保留变更本协议任何或所有部分（尤其是使用更新版本替换部分内容）的权利，包括但不限于任何 SAP 分销模式、分销 GTC、分销商项目指南、PartnerEdge 品牌指南、区域特定计划信息(RSPI)以及应 SAP 实践的合理要求而根据本协议的任何部分或与之相关的内容订立的任何其他指南或协议。

3. SAP will give Distributor at least:

SAP 将给予分销商：

a) if Distributor is located in EMEA or APJ, three months; and

若分销商位于欧洲、中东和非洲地区或亚太及日本地区，则不少于 3 个月；

b) if Distributor is located in North America or Latin America, sixty days,

若分销商位于北美或拉丁美洲，则不少于 60 天，

prior notice in writing or in any other documented form of changes to any or all parts of this Agreement as set out in this Article 12 (Changes to Terms) no. 2. Unless otherwise stated in the notice, the notice will become effective:

的提前书面通知，或以任何其他规定的形式就对本协议的任何或所有部分的变更（如第 12 条（条款变更）第 2 款所述）告知分销商。除非通知中另有规定，否则通知将于下述时间生效：

a) if Distributor is located in EMEA or APJ, after three months; and

若分销商位于欧洲、中东和非洲地区或亚太及日本地区，生效时间为 3 个月后；

b) if Distributor is located in North America or Latin America, after sixty days ("Change Period").

若分销商位于北美或拉丁美洲，生效时间为 60 天后（以下简称“变更期限”）。

If the justified interests of Distributor are negatively affected by any of these changes, Distributor is entitled to terminate the affected part of this Agreement with effect to the expiration of the applicable Change Period. If Distributor does not terminate within the applicable Change Period, the changes are deemed to be accepted by Distributor.

若分销商的正当利益因上述任何变更而受到不利影响，则分销商有权终止本协议受影响的部分，终止生效时间为适用的变更期限届满之时。分销商未在前述时间内终止的，视为分销商接受变更内容。

4. Any change that SAP reasonably believes to be beneficial to Distributor may, at SAP's discretion, become effective upon notice by SAP. Such changes include, but are not limited to, increased discounts, promotions and program enhancements. Should Distributor believe a change not to be beneficial, Distributor must notify SAP in writing within five days of receipt of such notice that Distributor does not agree with SAP's assumption and state the reasons why the change would not be beneficial to Distributor. In such case, this Article 12 (Changes to Terms) no. 3 applies.

对于 SAP 有合理理由认为有利于分销商的任何变更，SAP 可自行决定于 SAP 发出通知时生效。前述变更包括但不限于增加折扣、促销与项目提升。若分销商认为变更对其不利，其必须在收到此类变更通知的 5 日内以书面形式告知 SAP 其存有异议，并阐明变更将对其不利的理由。在此情形下，适用第 12 条（条款变更）第 3 款的规定。

5. SAP may elect to discontinue the distribution of any or all components or functionality of any or all of the SAP Products and to cancel any or all orders for the discontinued SAP Product without liability to Distributor. However, SAP will return any fee prepaid by Distributor for the discontinued SAP Product, including, without limitation, prepaid license fees for discontinued Software, Maintenance Services and/or Cloud Services less an appropriate amount covering the period of actual use of the discontinued SAP Product by the End User.

SAP 可选择停止分发任何或所有 SAP 产品的任何或所有组件或功能，取消停止分销的 SAP 产品的任何或所有订单，且无需对分销商负责。但是，SAP 将退还分销商就停止分销的 SAP 产品预付的任何费用，包括但不限于对停止分销的软件、维护服务和/或云服务的预付许可费（扣除最终用户实际使用停止分销的 SAP 产品期间应付的费用）。

Article 13 Export Regulations

第 13 条 出口条例

1. SAP Products and parts of SAP Products (e.g. new versions, releases, updates, upgrades, patches, fixed or correction of a software product) are subject to Export Laws of various countries, including, without limitation, the laws of the People's Republic of China, the United States, the EU, Ireland and Germany. Distributor agrees that it will not submit any SAP Product or parts thereof to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP and that it will not export, re-export or import any SAP Product or parts thereof to countries, persons or entities prohibited by any applicable Export Law. In that context, Distributor is responsible for complying with all applicable Export Laws. Distributor will take all necessary actions and precautions to ensure that any permitted distributor, reseller, end user and other customer complies with the Export Law.

SAP 产品和 SAP 产品的组成部分（例如，软件产品的新版本、发布、更新、升级、补丁、修订或更正）受各个国家/地区的出口法律的制约，包括但不限于中国、美国、欧盟、爱尔兰和德国的法律。分销商同意，未经 SAP 的事先书面同意，分销商不得出于许可或其他监管审批的目的而向任何政府部门提交任何 SAP 产品或其组成部分，且不得向任何适用的出口法律禁止的国家/地区、个人或实体出口、再出口或进口任何 SAP 产品或其组成部分。在此情况下，分销商有义务遵守所有适用的出口法律。分销商将采取所有必要行动和预防措施，确保任何获得许可的分销商、经销商、最终用户和其他客户均不违反出口法律。

2. If SAP or any other member of the SAP Group wants to deliver and/or grant access to any SAP Product or parts thereof to Distributor, Open Ecosystem Partner or directly to an End User, Distributor will support SAP and any other member of the SAP Group in obtaining any required authorization, approval or other consent from the competent authorities by providing any necessary or useful declarations or other necessary or useful information, e.g. End User certificates, as may be requested by SAP or any other member of the SAP Group. Distributor acknowledges that the delivery of and/or granting of access to any or all SAP Products or parts thereof may be subject to the prior obtaining of export or import authorizations or both from the competent authorities and that this process may (i) considerably delay or prevent the delivery of and/or granting of access to any or all SAP Products or parts thereof; (ii) impact SAP's ability or the ability of any other member of the SAP Group to provide Maintenance Services, Cloud Services Subscription Services, Services or other services and (iii) lead to SAP or any other member of the SAP Group having to limit, suspend or terminate Distributor's, Open Ecosystem Partner's and/or End User's access to Maintenance Services, Cloud Services Subscription Services, Services or other services.

如 SAP 或 SAP 集团的任何其他成员希望向分销商、开放生态系统合作伙伴或直接向最终用户交付和/或授予任何 SAP 产品或其组成部分的访问权限，分销商应当通过提供 SAP 或 SAP 集团的任何其他成员要求的任何必要的或有用的声明或其他必要的或有用的信息（如最终用户证书），协助 SAP 或 SAP 集团的任何其他成员从主管当局处获得所需的任何授权、审批或其他准许。分销商承认，对任何或所有 SAP 产品或其组成部分访问权限的交付和/或授予可能需要事先从主管当局获得出口和/或进口授权，而该流程可能 (i) 极大地延迟或阻碍对任何或所有 SAP 产品或其组成部分访问权限的交付和/或授予；(ii) 影响 SAP 或 SAP 集团的任何其他成员提供维护服务、云服务租用服务、服务或其他服务的能力，以及 (iii) 导致 SAP 或 SAP 集团的任何其他成员不得限制、暂停或终止分销商、开放生态系统合作伙伴和/或最终用户对维护服务、云服务租用服务、服务或其他服务的访问权限。

3. If Distributor wants to deliver and/or grant access to any SAP Product or parts thereof directly to an Open Ecosystem Partner or an End User, it is Distributor's sole responsibility to obtain any required authorization, approval or other consent from the competent authorities to comply with any applicable Export Law. SAP assumes no responsibility or liability for Distributor's failure to obtain any such required authorization, approval or other consent. Distributor acknowledges, that in case SAP or any other member of the SAP Group delivers and/or grants access to any SAP Product or parts thereof directly to an Open Ecosystem Partner or an End User, this Article 13 (Export Regulations) no. 2 applies especially, without limitation, regarding the provision of Maintenance Services, Cloud Services, Subscription Services, Services or other services. SAP will, upon Distributor's reasonable request, provide any required information regarding a SAP Product or parts thereof originally provided by SAP or any other member of the SAP Group to Distributor. Distributor acknowledges that SAP or any other member of the SAP Group may not be able to deliver and/or grant access to a SAP Product or parts thereof to the Distributor in case the export, re-export or import of a SAP Product or parts thereof to Open Ecosystem Partner, End User or both is prohibited by any applicable Export Law.

若分销商希望向开放生态系统合作伙伴或最终用户交付和/或授予对任何 SAP 产品或其组成部分的访问权限，则分销商全权负责遵守任何适用的出口法律向主管当局获取任何所需的授权、审批或其他准许。若分销商未获得任何此类所需的授权、审批或其他准许，SAP 概不承担任何责任或义务。分销商承认，若 SAP 或 SAP 集团的任何其他成员直接向开放生态系统合作伙伴或最终用户交付和/或授予任何 SAP 产品或其组成部分的访问权限，则第 13 条（出口条例）第 2 款适用，尤其适用于但不限于维护服务、云服务、租用服务、服务或其他服务的提供。应分销商的合理要求，SAP 将向分销商提供最初由 SAP 或 SAP 集团的任何其他成员提供的关于 SAP 产品或其组成部分的任何必要信息。分销商承认，若向开放生态系统合作伙伴和/或最终用户出口、再出口或进口 SAP 产品或其组成部分为适用的出口法律所禁止，则 SAP 或 SAP 集团的任何成员可能无法向分销商交付和/或授予 SAP 产品或其组成部分的访问权限。

4. Neither SAP nor any other member of the SAP Group assumes any responsibility or liability:

SAP 或 SAP 集团的任何其他成员均不对如下事项承担任何义务或责任：

a) for any delay caused in the delivery and/or granting of access to any or all SAP Products or parts thereof due to export or import authorizations or both having to be obtained from the competent authorities;

因需从主管当局获取出口、进口或进出口授权而导致的对任何或所有 SAP 产品或其组成部分的交付和/或授予访问权限的延迟；

b) if any required authorization, approval or other consent for the delivery of and/or granting of access to any or all SAP Products or parts thereof cannot be obtained from the competent authorities;

无法从主管当局处获取交付和/或授予对任何或所有 SAP 产品或其组成部分的访问权限所需的授权、审批或其他准许；

c) if the delivery of and/or granting of access to any or all SAP Products or parts thereof is prevented due to applicable Export Laws; and
交付和/或授予对任何或所有 SAP 产品或其组成部分的访问权限受适用的出口法律的阻碍；和

d) if access to Maintenance Services, Cloud Services Subscription Services, Services or other services has to be limited, suspended or terminated due to applicable Export Law.

因适用出口法律的规定而不得限制、暂停或终止对维护服务、云服务租用服务、服务或其他服务的访问。

5. SAP may terminate any or all part of this Agreement with one month's prior written notice if SAP or any relevant member of the SAP Group may not deliver or grant access to the SAP Products to Distributor due to an embargo, trade sanction or other comparable restrictive measure, which is expected to be in place for six months or longer.

若 SAP 或 SAP 集团的任何相关成员因可能持续 6 个月或更长时间的禁运、贸易制裁或其他类似的限制性措施而无法向分销商交付或授予对 SAP 产品的访问权限，则 SAP 可经提前一个月发出书面通知终止本协议的任何或所有部分。

Article 14 Data Protection

第 14 条 数据保护

1. Both Parties use information technology to store and process data concerning their business relationships. They must observe any applicable data protection laws.

双方运用信息技术存储和处理涉及双方之间业务关系的数据。双方须遵守相关的数据保护法。

2. Both Parties are responsible for permitting the personal data to be processed and for protecting the rights of the data owner.

双方负责获取个人数据的处理授权和保护数据所有人的权利。

3. Distributor must ensure that each Open Ecosystem Partner consents to the processing of its personal data by SAP for the purposes of fulfilling SAP's obligations under this Agreement. Distributor will indemnify SAP from any loss incurred by SAP out of any Open Ecosystem Partner's claim if Distributor fails to obtain such consent from an Open Ecosystem Partner.

分销商应当确保所有开放生态系统合作伙伴均同意由 SAP 为履行 SAP 于本协议项下的义务而处理其个人数据。因分销商未获得任何开放生态系统合作伙伴的同意而导致开放生态系统合作伙伴提出索赔主张并致使 SAP 发生损失的，分销商应当就任何此类损失向 SAP 作出赔偿并使 SAP 免受此类损失的侵害。

Article 15 Compliance Obligations

第 15 条 合规义务

1. Distributor shall conduct operations in compliance with applicable laws, rules and regulations in exercising rights and obligations under any part of this Agreement. Laws may include but not be limited to the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, and local anticorruption legislation that may apply. Distributor shall comply with SAP's Partner Code of Conduct, or Distributor may comply with its own code of conduct if comparable standards are established. The Distributor is not listed by any government agency as debarred, suspended, proposed for suspension or debarment or otherwise determined to be ineligible for government procurement programs.

分销商在行使本协议任何部分下的权利和履行本协议任何部分下的义务时应当遵守适用的法律、法规和规定。法律包括但不限于美国的《海外反腐败行为法》、英国的《反贿赂法案》以及当地可能适用的反腐败法。分销商应遵守 SAP 合作伙伴业务行为守则，或者如果分销商制定了类似的标准，也可以遵循自己的业务行为守则。分销商未被任何政府部门列为政府采购项目的排除、暂停单位，亦未被提议为暂停或排除单位或被列入政府采购项目不合格名单。

2. In exercising rights and obligations under any part of this Agreement, Distributor and anyone acting on Distributor's behalf shall not make, offer, promise or authorize payment of anything of value directly or indirectly to any of the following Prohibited Parties for the purpose of unlawfully influencing their acts or decisions:

在根据本协议之任何部分行使权利和履行义务时，分销商及代表其行事的任何人不得出于以不合法的手段影响下述任何被禁止方的行为或决策之目的，直接或间接交付、提供、承诺交付或委托交付任何有价值物品：

- a) Employees, consultants, or representatives of the customer or prospect,
客户或潜在客户员工、顾问或代表，
- b) Government officials or employees,
政府官员或雇员，
- c) Political party officials or candidates,
政党官员或候选人，
- d) Officers or employees of any public international organization,
任何国际公共组织的官员或雇员，
- e) Immediate family member of such persons (or any other person) for the benefit of such persons.

或为对此类人员授利而对其直系亲属（或任何其他人士）进行任何交付。

Business entertainment conducted for the fulfillment of any part of this Agreement must be appropriate, transparent, compliant with policies of the guest's company, and absent of any appearance of an attempt to influence business decisions.

为履行本协议之任何部分而提供的业务招待必须合理、透明、符合客户企业的相关政策，且不得有任何试图影响业务决策的表现。

3. Distributor shall only have rights to delegate its obligations under this Agreement to subcontractors if expressly permitted under this Agreement. Distributor shall require all subcontractors to agree to terms substantially similar to this Article 15 (Compliance Obligations) in writing. Distributor must obtain SAP's prior written consent before paying any third party a commission, finder's fee, referral fee, success fee, or any similar payment for activities for purposes of securing business on behalf of SAP under any part of this Agreement, except pursuant to Distributor's standard partner programs.

只有本协议明确许可，分销商才有权将自己在本协议下的义务委托给分包商。分销商应要求所有分包商书面同意与第 15 条（合规义务）实质上相似的条款。除遵守分销商的标准合作伙伴计划外，在依据本协议之任何部分，出于为 SAP 获取业务之目的而向任何第三方支付佣金、中介费、介绍费、成交费或任何类似费用之前，分销商必须事先征得 SAP 的书面同意。

4. Distributor shall not obtain on SAP's behalf or provide to SAP any information which is not legally available in the Territory (as defined in the relevant SAP Distribution Schedule), or which is procurement-sensitive, proprietary, or classified, where there is reason to believe that possession of such information is unauthorized, illegal, or unethical.

分销商不得代表 SAP 获取或向 SAP 提供在地域内不能合法取得的信息（如相关 SAP 分销协议所述），或有理由认定信息是未经授权、非法或不道德获取的敏感信息、专有信息或分类信息。

Article 16 Transferability and Subcontracting

第 16 条 可转让性与分包

1. Neither Party may without the other Party's prior written consent assign, novate, delegate, pledge, subcontract or otherwise transfer any part of this Agreement or any of its rights or obligations under any part of this Agreement to any third party, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation, unless expressly otherwise agreed in the relevant SAP Distribution Schedule.

未经另一方事先书面同意，任何一方均不得向任何第三方让与、抵债、委托、抵押、转包或以其他方式转让（无论是基于自愿还是因法律规定而导致的）本协议之任何部分或在本协议项下的任何权利或义务，包括以资产出售、合并或并购的方式进行转让，相关 SAP 分销协议中明确同意的除外。

2. Notwithstanding this Article 16 (Transferability and Subcontracting) no. 1:

尽管存在第 16 条（可转让性与分包）第 1 款的规定：

- a) SAP is free to assign, novate, pledge or otherwise transfer any part of this Agreement (in whole or in part) to any member of the SAP Group and in case of a Change of Control to the new persons or entities having Control over SAP. SAP will notify Distributor of such transfer or intention to transfer without undue delay. Upon such transfer being effective, SAP will no longer be party to the transferred part of the Agreement, but only the SAP entity acting as transferee.

SAP 可不受约束地向 SAP 集团的任何成员以及在控制权变更情形下向拥有 SAP 控制权的个人或实体让与、抵债、抵押或以其他方式转让本协议之任何部分（全部或部分）。SAP 应及时就此类转让或转让意图通知分销商。在此类转让生效后，SAP 将不再是本协议转让部分的缔约方，仅作为受让人的 SAP 实体成为缔约方。

- b) SAP may delegate, subcontract or otherwise transfer any of its rights or obligations under any part of this Agreement (in whole or in part) to any member of the SAP Group without notifying the Distributor of such transfer. SAP and any member of the SAP Group may use third parties as sub-contractors for fulfilling any of their rights or obligations under any part of this Agreement. SAP will continue to be liable for such obligations.

SAP 可向 SAP 集团的任何成员委托、转包或以其他方式转让其在本协议（全部或部分）任何部分下的任何权利或义务，而无需就此转让通知分销商。SAP 和 SAP 集团的任何成员可使用第三方分包商履行其在本协议任何部分下的任何权利或义务。而 SAP 将继续为此类义务承担责任。

Article 17 Miscellaneous

第 17 条 其他条款

1. Retention of data. With regard to business transactions covered by any part of this Agreement, Distributor must retain any records for a period of ten years starting on 1st of January of the year following the year during which the data were transmitted or otherwise transferred, or for the minimum period prescribed by applicable law, whichever is longer. In addition, Distributor must maintain during the term of any part of this Agreement and for three years thereafter current, complete and accurate reports on the number and location of all copies of the SAP Products it has distributed as well as on all of SAP's Confidential Information in its possession or in the possession of its Representatives.

数据保留。对于本协议任何部分所涵盖之商业交易，分销商必须将所有记录保留十年时间（从传输或以其他方式转移数据后下一年的 1 月 1 日算起）或适用法律规定的最短期限，以较长者为准。此外，在本协议任何部分的有效期限内以及有效期届满三年内，分销商还必须针对其所分销的 SAP 产品的所有副本的数量和位置以及其或其代表所掌握的所有 SAP 保密信息，保留完整且准确的最新报告。

2. Force Majeure. If the performance of any part of this Agreement or any obligation under it (other than for the payment of amounts due hereunder) is prevented, restricted or interfered with by reason of any act of God, act of government, strike or labour dispute, failure of transportation, fire or flood or other casualty, internet or telecommunications failure, or failure of subcontractors or suppliers arising from a like cause or from any other cause beyond the reasonable control of the affected Party, the affected Party will be excused from such performance for so long as and to the extent that such force prevents, restricts or interferes with that Party's performance provided the affected Party:

不可抗力。因天灾、政府行为、罢工或劳动纠纷、交通不畅、火灾、洪水或其他意外事故、互联网或电信故障、或因类似原因造成的分包商或供应商不能履行本协议，或因任何其他无法为受影响一方所合理控制的情形导致本协议之任何部分或其中任何义务（支付到期款项除外）的履行受到阻碍、限制或妨碍的，则在受影响方满足下述前提下，在此类不可抗力阻碍、限制或妨碍该方履行本协议的范围内，免除该受影响方的责任：

- a) provides prompt written notice of such interference, the nature of such interference and the expected duration of such interference to the other Party; and

立即以书面形式通知另一方此类妨碍事实及其性质和预计持续时间；并

- b) resumes performing its obligations hereunder promptly following the removal of such interfering condition.

在此类妨碍条件消除后立即恢复履行其义务。

The existence of any of the conditions described as Force Majeure above, does not mean that any part of this Agreement is terminated. If any of these conditions continues for a period of more than three consecutive months, either Party may terminate any order concerning the affected SAP Product with one month's prior written notice to the other Party.

任何归于上述不可抗力情形的存在并不代表本协议之任何部分的效力终止。前述情形持续时间超过连续三个月的，任何一方均可提前一个月书面通知另一方终止与受影响的 SAP 产品有关的任何订单。

3. Remedies and Waiver.

救济与弃权。

- a) No waiver will be valid against any Party hereto, unless made in writing and signed by the Party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.

对本协议任何一方作出的弃权表示仅在以书面形式作出并由该弃权所针对的一方签署后方为有效，并且仅以该书面弃权的明确规定为限。

- b) The waiver by either Party of a breach of, non-compliance with or default in any of the provisions of this Agreement by the other Party may not be construed as a waiver of any succeeding breach, non-compliance or default of the same or other provisions; nor will any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that is has or may have hereunder be operated as a waiver thereof; nor will any single or partial exercise of any right, power or privilege prevent any further or other exercise thereof or the exercise of any other right, power or privilege.

一方对本协议任何条款的违反或违约由另一方弃权，不得视作此后任意一方对同一条款或其他条款的违反或违约的弃权；任何一方延期或未能行使本协议项下的任何权利、权力或特权的，均不应视为放弃相关权利；履行本协议任何单项或部分条款亦不应排除履行本协议其他条款或行使本协议项下的任何权利、权力或特权。

- c) Where this Agreement expressly states that particular acts or omissions of SAP or Distributor pursuant to a particular term or condition of this Agreement are a "material breach," that designation is for purposes of specificity and clarity. Such designation is not a waiver by SAP or Distributor to claim that other acts or omissions under other terms or conditions of this Agreement are material breaches.

本协议的特定条款和条件明确声明 SAP 或分销商的特定行为或疏忽为“实质违约”的，该指定仅出于具体说明之目的。此类指定并不表示 SAP 或分销商放弃对实质违反本协议其他条款或条件的其他行为或疏忽进行索赔的权利。

4. **Partial Invalidity.** If any provision of this Agreement is or becomes wholly or in part illegal, invalid or unenforceable, the illegality, invalidity or unenforceability of such provision will not affect the other provisions of this Agreement, which will remain in full force and effect. The illegal, invalid or unenforceable provision will be replaced by a valid and enforceable provision which approximates as closely as possible the intent of the invalid or unenforceable provision. This will also apply in cases of contractual gaps.

部分无效性。本协议的任何条款全部或部分不合法、无效或不能执行的，此类条款的不合法性、无效性和不能执行性将不会对本协议下其他条款的效力产生影响，其他条款仍将具有完全效力。非法、无效或不能执行的条款将由在意图上与无效或不能执行的条款尽可能接近的有效且可执行的条款替代。存在合同漏洞时本条款将同样适用。

5. **Entire Agreement.** This Agreement constitutes the complete and exclusive understanding of the Parties with respect to the subject matter hereof, and supersedes all prior sales proposals, negotiations, agreements and other representations, discussions or communications, whether oral or written, including but not limited to, any letters of understanding the Parties may have executed in contemplation of this Agreement. Each Party acknowledges that it is entering into the Agreement as a result of its own independent investigation and not as a result of any representation of the other Party not contained herein.

完整的协议。本协议构成协议双方之间就协议所议主旨的完整且唯一的声明，并取代双方之前为执行本协议口头或书面达成的所有销售方案、谈判、协议及其它陈述、讨论或沟通，包括但不限于任何谅解函。各方承认其依靠自身独立调查的结果而非未包含在本协议内的另一方的任何陈述而达成本协议。

6. **Costs and Expenses.** Each Party will bear its own costs, charges, fees and expenses (including fees for legal or other advisers).

成本和支出。各方将自行承担成本、收费、费用和支出（包括法律费用或其他顾问费用）。

7. **Counterparts.** The Master Distribution Agreement, any SAP Distribution Schedule and any other part of this Agreement may be signed in one or more counterparts, each of which will be considered an original but all of which together form one and the same instrument and will be treated as if the signatures on the counterparts were on a single copy. The Master Distribution Agreement, any SAP Distribution Schedule and any other part of this Agreement may be validly executed by means of transmission of signed facsimile, pdf or any other documented form for which a process has been provided by SAP. Signatures sent by fax, pdf, email or other electronic means for which a process has been provided by SAP will be deemed original signatures.

协议副本：主分销协议、任何 SAP 分销协议和本协议的任何其他部分均可签署一份或多份副本，每份皆视为原件，但是所有副本一并构成唯一的同一份法律文件，并且所有副本上的签名都将被视为在一份副本上。主分销协议、任何 SAP 分销协议和本协议的任何其他部分可通过传输经签署的传真件、pdf 或 SAP 提供流程的任何其他文档形式进行有效签署。通过传真、pdf、电子邮件或 SAP 提供流程的其他电子形式提供的签名应视为原件签名。

8. **Effective Date.** If a Party signs a part of this Agreement but fails to date its signature, the date that the other Party receives the signing Party's signature will be deemed to be the date on that the signing Party signed that part of the Agreement.

生效日期。若一方在签署本协议的一部分时未填写签署日期，则另一方收到已签署方签署文件之日将被视为其签署该部分协议的签署日。

9. **Amendments.** Any modification, amendment or supplement to this Agreement (including this Article 17 (Miscellaneous) no. 9 must be made in writing or in any other documented form for which a process has been provided by SAP.

修订。对本协议的任何修改、修订或补充（包括此处第 17 条（其他条款）第 9 款）必须以书面形式或 SAP 提供流程的任何其他文档形式作出。

10. **Priority of Agreements.** The following descending order of precedence will apply, in the event of any conflict or inconsistency between parts of the Agreement: (a) the applicable SAP Distribution Schedule; (b) the applicable SAP Distribution Model; (c) the Master Distribution Agreement; (d) the Distribution GTCS; (e) the Distributor Program Guide; (f) the PartnerEdge Branding Guide; and (g) the RSPI.

协议的优先顺序。本协议各部分之间产生任何冲突或不一致时，适用以下按降序排列的优先顺序：(a) 适用的 SAP 分销协议；(b) 适用的 SAP 分销模式；(c) 主分销协议；(d) 分销 GTC；(e) 分销商项目指南；(f) PartnerEdge 品牌指南；和 (g) RSPI。

11. **Partner Terms.** Any purchase order, shrink- or click-wrap or other document issued by Distributor is for administrative convenience only. In the event of any conflict between the provisions of this Agreement and any pre-printed terms contained in any purchase order, shrink- or click-wrap or other document issued by the Distributor, the provisions of this Agreement prevail and govern and any new additional, conflicting or inconsistent terms and conditions in the purchase order, shrink- or click-wrap or other document will be inapplicable.

合作伙伴条款。分销商发出的任何采购订单、拆封许可合同或点击成交合同或其他文件仅为便于管理之目的。本协议的规定与分销商在发布的任何采购订单、拆封许可合同或点击成交合同或其他文件中印就的条款产生任何冲突时，将以本协议的规定为准，采购订单、拆封许可合同或点击成交合同或其他文件中的任何其他冲突条款或不一致的条款和条件不予适用。

12. **Survival.** Part 1 - Article 2 (Confidentiality), Part 1 - Article 8 (Audit), Part 1 - Article 10 (Effects of Termination), Part 1 - Article 17 no. 1 (Retention of data), Part 1 - Article 17 no. 4 (Partial Invalidity), Part 2 - Article 1 (Limitation of Liability), Part 2 - Article 2(Third Party Claims), Part 2 - Article 3 (Performance Warranty), Part 2 - Article 4 (Reservation of title, rights and interest), Part 2 - Article 12 (Governing Law and Jurisdiction) of will survive any termination of any part of this Agreement.

存续。本协议之任何部分以任何形式终止后，第一部分的第 2 条（保密）、第 8 条（审计）、第 10 条（终止的效力）、第 17 条第 1 款（数据保留）、第 17 条第 4 款（部分无效）、第 2 部分的第 1 条（责任限制）、第 2 条（第三方索赔）、第 3 条（性能保证）、第 4 条（所有权、权利和利益的保留）、第 12 条（管辖法律和司法管辖区）将继续有效。

PART 2 – Country specific Terms and Conditions

第 2 部分：国家/地区特定的条款和条件

Article 1 Limitation of Liability

第 1 条 责任限制。

1. **Not Responsible.** SAP and its licensors will not be responsible under any part of this Agreement (i) if a SAP Product is not used in accordance with the Documentation or (ii) if the defect or liability is caused by Distributor, Open Ecosystem Partner and/or End User, a Modification or Add-on (other than a Modification or Add-on made by a member of the SAP Group which is provided through Maintenance Services or under warranty) or third-party software. SAP AND ITS LICENSORS WILL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF ANY OF THE SAP PRODUCTS DISTRIBUTED, POSITIONED OR PROVIDED UNDER OR IN CONNECTION WITH ANY PART OF THIS AGREEMENT.

无责任。存在以下情况的，SAP 及其许可方在本协议项下不承担责任：(i) SAP 产品未按文档说明使用；或 (ii) 缺陷或责任由分销商、开放生态系统合作伙伴和/或最终用户、修改或扩展组件（SAP 集团的成员通过维护服务或基于保证提供的修改或扩展组件除外）或第三方软件造成。SAP 和其许可方对根据本协议任何部分或与之相关的内容分销、定位或提供的任何 SAP 产品的固有的危险使用而导致的任何索赔或损害不承担责任。

2. Exclusion of Damages; Limitation of Liability. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR:

损害排除; 责任限制。即使本协议中有任何相反规定, 除:

a) DAMAGES RESULTING FROM (i) UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION; (ii) FRAUD OR WILLFUL MISCONDUCT; (iii) DEATH OR PERSONAL INJURY ARISING FROM EITHER PARTY'S GROSS NEGLIGENCE OR ARISING FROM EITHER PARTY'S WILLFUL MISCONDUCT; OR

损害因 (i) 未经授权使用或披露保密信息而导致; (ii) 欺诈或故意的不当行为所导致 (iii) 因任何一方的重大过失或故意不当行为导致他人受伤或死亡而造成; 或

b) SAP'S RIGHT TO COLLECT FEES OWNED UNDER OR IN CONNECTION WITH ANY PART OF THIS AGREEMENT,

SAP 征收根据本协议任何部分或与之相关的内容收取费用的权利外,

UNDER NO CIRCUMSTANCES AND REGARDLESS OF THE NATURE OF ANY CLAIM WILL SAP, ITS LICENSORS OR DISTRIBUTOR BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT IN EXCESS OF:

在任何情况下, 不论索赔性质如何, SAP、其许可方或分销商都不对另一方或其他任何个人或实体承担超过以下费用的索赔金额:

i. IN CASE OF THE DISTRIBUTION OF SOFTWARE, THE LICENSE FEES PAID UNDER THE RELEVANT SAP DISTRIBUTION MODEL BY DISTRIBUTOR TO SAP FOR THE SOFTWARE DIRECTLY CAUSING THE DAMAGES; OR

就分销软件而言, 分销商在相关的 SAP 分销模式下就引起损害的软件向 SAP 支付的已付许可费; 或

ii. IN CASE OF THE DISTRIBUTION OF CLOUD SERVICES OR MAINTENANCE SERVICES, THE LICENSE FEES PAID UNDER THE RELEVANT SAP DISTRIBUTION MODEL BY DISTRIBUTOR TO SAP IN THE TWELVE MONTHS PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM FOR THE CLOUD SERVICES OR MAINTENANCE SERVICES DIRECTLY CAUSING THE DAMAGES,

就分销云服务或维护服务而言, 分销商在相关的 SAP 分销模式下, 在导致索赔的事件发生前 12 个月内, 就直接导致损害的云服务或维护服务向 SAP 支付的许可费,

OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ATTORNEYS' FEES, COURT COSTS, INTEREST OR EXEMPLARY OR PUNITIVE DAMAGES.

或对任何特殊的、偶发的、衍生的或间接的损害、商誉或利润损失、停工、数据丢失、计算机故障、律师费、诉讼费、利息或惩罚性赔偿等金额承担责任。

THE ABOVE MENTIONED LIMITATIONS OF LIABILITY WILL NOT APPLY REGARDING DISTRIBUTOR'S LIABILITY TOWARDS SAP OR ITS LICENSORS IF DISTRIBUTOR IS FOUND TO HAVE (i) MADE UNAUTHORIZED COPIES OF A SAP PRODUCT, (ii) MISAPPROPRIATED A SAP PRODUCT, OR (iii) DISTRIBUTED, POSITIONED OR PROVIDED A SAP PRODUCT TO A THIRD PARTY IN VIOLATION OF ANY PART OF THIS AGREEMENT.

若分销商 (i) 制作未经授权的 SAP 产品副本 (ii) 滥用 SAP 产品, 或 (iii) 违反本协议任何部分的规定向第三方分销、定位或提供 SAP 产品, 则上述责任限制不适用分销商对 SAP 或其许可方在此情形下应付的责任。

The provisions of this Agreement allocate the risks between SAP and Distributor. The license fees paid by Distributor reflect this allocation of risk and the limitations of liability herein. It is expressly understood and agreed that each and every provision of this Agreement which provides for a limitation of liability, disclaimer of warranties or exclusion of damages, is intended by the Parties to be severable and independent of any other provision and to be enforced as such.

本协议的规定在 SAP 与分销商之间进行了风险分配。分销商支付的许可费反映了前述风险分配和本协议项下的责任限制。协议双方均明确理解并一致同意, 本协议中有关责任限制、保证免责声明或免除赔偿的各项条款均各自分割且独立行使, 不受本协议项下其他条款的影响。

3. Exclusions and Limitations for Third Party Software. SUBJECT TO THE EXCLUSION OF DAMAGES STATED IN Article 1 (LIMITATION OF LIABILITY) NO. 2 AND WITH RESPECT TO THIRD PARTY SOFTWARE, UNDER NO CIRCUMSTANCES AND REGARDLESS OF THE NATURE OF ANY CLAIM WILL SAP OR ITS LICENSORS' BE LIABLE FOR AN AMOUNT IN EXCESS OF THE LICENSE FEES PAID UNDER THE RELEVANT SAP DISTRIBUTION MODEL BY DISTRIBUTOR TO SAP FOR THE THIRD PARTY SOFTWARE DIRECTLY CAUSING THE DAMAGES.

针对第三方软件的免责和限制。根据第 1 条 (责任限制) 第 0 款中所述的免除赔偿责任, 在涉及到第三方软件时, 在任何情况下, 无论索赔性质如何, SAP 及其许可方所承担的赔偿金额均不超过分销商在相关 SAP 分销模式下就直接引起损害的第三方软件向 SAP 支付的许可费。

4. Time bar. Distributor must initiate a cause of action for any claim(s) arising out of or relating to any part of this Agreement and its subject matter within two years from the date when Distributor knew, or should have known after reasonable investigations, of the facts given rise to the claim(s).

时限。对于因本协议之任何部分及其主旨引起或与之相关的任何索赔, 分销商须在知晓或经合理调查后应当知晓引发索赔的事由之日起的二年内提出诉讼理由。

5. Extension to group members. Any limitations to the liability and obligations of SAP according to this Article 1 (Limitation of Liability) will also apply for the benefit of any member of the SAP Group and their respective licensors.

向集团成员扩展。第 1 条 (责任限制) 针对 SAP 的责任和义务规定的所有限制同样适用于 SAP 集团的任何成员和其各自的许可方的利益。

Article 2 Third Party Claims

第 2 条 第三方索赔

1. Infringement and Defense of Distributor

针对分销商的侵权索赔和为其提供的抗辩

a) SAP will, at its sole discretion, either defend Distributor against or settle any claim brought against Distributor in the Territory if such claim (i) is brought by any owner of the Intellectual Property Right specified below giving rise to the claim and (ii) alleges that the distribution of the Software, Cloud Services or both by the Distributor, in accordance with the terms and conditions of any part of this Agreement, constitutes a direct infringement or misappropriation of such owner's patent claim(s), copyright, trademark or trade secret right. SAP will pay damages finally awarded against Distributor (or the amount of any settlement SAP enters into) with respect to such claims.

任何因下列原因导致对分销商提出索赔的, SAP 将自行决定在地域内为分销商提供抗辩或调停此类索赔: (i) 由下述引起索赔的知识产权的所有者提出的索赔, 和 (ii) 声称分销商根据本协议之任何部分的条款和条件对软件和/或云服务的分销构成对该所有者的专利申请、版权、商标或商业秘密权的直接侵犯或盗用的索赔。SAP 将会承担就此类索赔作出的终审判决对分销商造成的损失 (或 SAP 达成的任何和解金额)。

b) This obligation of SAP does not apply if the alleged infringement or misappropriation results from:

若声称的侵权或盗用因下述原因引起，则 SAP 的前述义务不予适用：

i. Use or distribution of the Software or Cloud Services in conjunction with any software or service other than the SAP Products;

将软件或云服务与 SAP 产品以外的任何软件或服务一起使用或分销；

ii. Use or distribution of the Software in conjunction with an apparatus other than a Designated Unit (defined as information technology devices (e.g. hard disks or central processing units) identified by Distributor pursuant to any part of this Agreement in the order for the Software placed for a specific End User that has been previously approved by SAP or otherwise officially made known to the public as appropriate for Use or interoperation with the Software);

将软件与指定装置（是指分销商根据本协议之任何部分在为特定最终用户订购软件的订单中指定且已经 SAP 事先核准或正式公告为适合与软件配合使用或交互操作的信息技术设备，如硬盘或中央处理器）以外的其他装置一起使用或分销；

iii. failure to promptly use an update provided by a member of the SAP Group if such infringement or misappropriation could have been avoided by use of the update; and/or

因未及时使用 SAP 集团成员提供的更新而导致的本应可以通过使用更新避免的侵权或盗用；和/或

iv. unlicensed activities by Distributor, Open Ecosystem Partner, End User and/or a third party, including alterations of the Software, Cloud Services or both (other than alterations of the Software, Cloud Services or both made by a member of the SAP Group).

分销商、开放生态系统合作伙伴、最终用户和/或第三方的未经许可的活动，包括修改软件和/或服务（SAP 集团成员对软件和/或云服务的修改除外）。

c) This obligation of SAP will also not apply if Distributor fails to timely notify SAP in writing of any such claim; however Distributor's failure to provide or delay in providing such notice shall not relieve SAP of its obligations under this Article 2 (Third Party Claims) except to the extent SAP is prejudiced by Distributor's failure to provide or delay in providing such notice.

若分销商未能及时以书面形式通知 SAP 任何此类索赔，SAP 的前述义务也将不予适用；但是，分销商未能提供或延误提供此类通知不得免除 SAP 在此处第 2 条（第三方索赔）下的义务，因分销商未能提供或延误提供此类通知而对 SAP 造成损害的除外。

d) SAP is permitted to control fully the defense and any settlement of any such claim as long as such settlement does not include a financial obligation on or admission of liability by the Distributor. In the event Distributor declines SAP's proffered defense or otherwise fails to give full control of the defense to SAP's designated counsel, then Distributor waives SAP's obligations under this Article 2 (Third Party Claims) no. 1. Distributor must reasonably cooperate in the defense of such claim and provide SAP with all relevant information and reasonable support. Distributor may appear in any proceedings concerning such claim or legal dispute, at its own expense, through counsel reasonably acceptable to SAP. SAP expressly reserves the right to cease such defense of any claim(s) in the event the relevant Software, Cloud Services or both is no longer alleged to infringe or misappropriate, or is held not to infringe or misappropriate, the third party's rights. SAP may settle or mitigate damages from any claim or potential claim by (i) procuring for the Partner the right to continue distributing the Software, Cloud Services or both; or (ii) substituting alternative substantially equivalent non-infringing programs, services and supporting documentation for the Software, Cloud Services or both. Distributor must not undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation of the Software, Cloud Services or both that is prejudicial to SAP's rights.

SAP 可以全权控制对任何前述索赔的抗辩与和解，但前提是和解不包含分销商需要承担或承认债务。分销商拒绝 SAP 提供的抗辩或未给予 SAP 的指定律师以抗辩的全部控制权的，则表示分销商放弃了 SAP 在第 2 条（第三方索赔）第 1 款项下需要承担的义务。分销商必须对此类索赔的抗辩给予合理的配合，并向 SAP 提供所有相关的信息以及合理支持。分销商可在自行承担费用的前提下，通过 SAP 能够合理接受的辩护律师参加关于此类索赔或法律纠纷的任何诉讼程序。相关软件和/或服务不再存在侵犯或盗用第三方权利嫌疑的或不被认为是侵犯或盗用第三方权利的，SAP 明确保留停止对任何索赔的前述抗辩的权利。SAP 可通过如下方式解决或减轻因任何索赔或潜在索赔导致的损害：(i) 为合作伙伴获得继续分销软件和/或云服务的权利；或 (ii) 以实质等同的非侵权项目、服务和支持文档替换软件和/或服务。分销商不得就软件和/或云服务的任何侵权或盗用行为或侵权或盗用嫌疑作出任何有损于 SAP 权利的反应。

e) The liability limitations contained in Article 1 (Limitation of Liability) apply to all claims made under this Article 2 (Third Party Claims) no. 1. Any limitations to the liability and obligations of SAP according to this Article 2 (Third Party Claims) no. 1 will also apply for the benefit of any member of the SAP Group and their respective licensors.

第 1 条（责任限制）中包含的责任限制适用于第 2 条（第三方索赔）第 1 款下所述的所有索赔。第 2 条（第三方索赔）第 1 款针对 SAP 的责任和义务规定的所有限制同样适用于 SAP 集团的任何成员和其各自的许可方的利益。

f) THE PROVISIONS OF THIS Article 2 (THIRD PARTY CLAIMS) NO. 1 STATE THE SOLE, EXCLUSIVE AND ENTIRE LIABILITY AND OBLIGATION OF SAP AND ITS LICENSORS TO DISTRIBUTOR, AND IS DISTRIBUTOR'S SOLE REMEDY, WITH RESPECT TO THE INFRINGEMENT OR MISAPPROPRIATION OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

第 2 条（第三方索赔）第 1 款规定了 SAP 及其许可方就侵犯或盗用第三方知识产权对分销商承担的唯一、排他的且全部的责任和义务，以及分销商可获得的唯一救济。

2. Indemnification by Distributor. If an action is brought against any member of the SAP Group by a third party (including tax or other authorities) arising from or relating to:

分销商的保障和赔偿。若第三方（包括税务机构和其他机构）因如下原因或与之相关的原因对 SAP 集团的任何成员提起诉讼：

a) any Taxes that are levied against any member of the SAP Group even though they should, according to any part of this Agreement or applicable law, have been born by the Distributor in the first place;

根据本协议之任何部分或适用法律对 SAP 集团的任何成员征收的应由分销商先行承担的任何税款；

b) any member of the Distributor Group breaching Part 1 - Article 13 (Export Regulations) or Part 1 - Article 15 (Compliance Obligations) or both;

分销商集团的任何成员违反第 1 部分第 13 条（出口条例）和/或第 15 条（合规义务）的规定；

c) any agreement between Distributor and its Open Ecosystem Partners, distributors, resellers or End Users;

分销商与其开放生态系统合作伙伴、分销商、经销商或最终用户之间的任何协议；

d) any claim that a product or service which is provided by any member of the Distributor Group other than the SAP Products infringes, misappropriates or violates any Intellectual Property Right of any third party;

因分销商集团的任何成员提供的产品或服务（SAP 产品除外）侵犯、盗用或违反任何第三方的任何知识产权导致的任何索赔；

- e) an allegation that the Distributor's, Open Ecosystem Partner's or End User's use of the SAP Products in violation of any part of this Agreement violates, infringes or misappropriates the rights of a third party; and

声称分销商、开放生态系统合作伙伴或最终用户违反本协议任何部分的规定使用 SAP 产品的行为违反、侵犯或盗用第三方的权利；和

- f) a third party's assertion that the Distributor acted as agent, representative or otherwise on SAP's behalf,

第三方主张分销商是 SAP 的代理、代表或以 SAP 的名义行事，

Distributor will defend the affected member of the SAP Group, at Distributor's expense, and will pay any settlement amounts Distributor authorizes and all damages, costs and fees (including, without limitation, attorneys' fees and costs of litigation) finally awarded against such member of the SAP Group in the action.

分销商应自行承担费用为受影响的 SAP 集团成员进行抗辩，支付应由分销商支付的任何和解金额，并就诉讼的最终判决给 SAP 集团的此类成员带来的所有损失、成本和费用（包括但不限于律师费和诉讼费）给予补偿。

Article 3 Performance Warranty

第 3 条 性能保证

1. In case of an Sell On Premise Distribution Model and any other SAP Distribution Model concerning the sale or distribution of Software that is not expressly mentioned in this Part 2 - Article 3 (Performance Warranty) the following warranty applies:

对于销售企业预置型分销模式和未在第 2 部分第 3 条（性能保证）中明确规定的与销售和分销软件有关的任何其他 SAP 分销模式，适用下述保证：

- a) SAP warrants that the Software will substantially conform to the specifications contained in the Documentation for six months following Delivery of the Software. The warranty does not apply: (i) if the Software is not used in accordance with the Documentation; (ii) if the nonconformance is caused by a Modification or Add-on (other than a Modification or Add-on made by a member of the SAP Group which is provided through Maintenance Services or under warranty), Distributor, Open Ecosystem Partner, End User, another third party, third-party software, third party database or any other software not distributed by SAP; or (iii) to any unlicensed activity of Distributor, Open Ecosystem Partner and/or End User. SAP does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance or that the applications contained in the Software are designed to meet all of Distributor's, Open Ecosystem Partner's and/or End User's business requirements.

SAP 保证于交付软件后的六个月内，软件在实质上符合文档中所规定的规格。该项保证不适用于以下情形：(i) 未依照文档使用软件的；(ii) 不符合要求是由于修改或扩展组件（SAP 集团成员通过维护服务或基于保证提供的修改或扩展组件除外）、分销商、开放生态系统合作伙伴、最终用户、其他第三方、第三方软件、第三方数据库或任何非由 SAP 提供的其他软件造成的；或 (iii) 任何未经许可的分销商、开放生态系统合作伙伴和/或最终用户活动。SAP 不保证软件运行具有不间断性，或软件完全没有小的瑕疵或错误，但此类小瑕疵或错误不会对软件性能产生实质性的影响，亦不保证软件中包含的应用程序是为满足分销商、开放生态系统合作伙伴和/或最终用户的所有业务需求而设计的。

- b) Provided Distributor notifies SAP in writing with a specific description of the Software's nonconformance within the warranty period and SAP validates the existence of such nonconformance, SAP will, at its option: (i) repair or replace the nonconforming Software, or (ii) refund the license fees paid for the applicable nonconforming Software in the two latter cases (replacement and refund) in exchange for a return of such nonconforming Software. This is Distributor's sole and exclusive remedy under this warranty. Distributor's written notification of any nonconformance must include sufficient detail for SAP to analyse the alleged nonconformance. Distributor must provide and ensure that End User also provides commercially reasonable assistance to SAP in analysing and remediating any nonconformance of the Software.

若分销商在保证期内书面通知 SAP 软件的不符合要求之处且经 SAP 证实的确存在不符合要求的情况，则 SAP 将自行选择：(i) 修复或更换不符合要求的软件，或 (ii) 退还就不符合要求的软件支付的许可费用，在后两种情形下（更换和退款）要求返还此类不符合要求的软件。这是分销商在本保证条款中的唯一且专属的救济途径。分销商应就任何不符合要求的情况以书面形式详细告知 SAP，以便 SAP 对声称的不符合要求的情况进行分析。分销商必须保证自己和最终用户均提供商业上合理的协助，帮助 SAP 分析和纠正软件的任何不符合要求之处。

- c) SAP may fulfill its warranty obligations directly vis-à-vis Distributor's affected End Users. In such case and to the extent that SAP fulfills its warranty obligations directly vis-à-vis Distributor's affected End Users, Distributor will not have any claim against SAP out of this Part 2 - Article 3 (Performance Warranty). If SAP refunds the license fees paid by Distributor to SAP or the license fees paid by End User to Distributor for the nonconforming Software directly to the End User, Distributor will have not claim against SAP regarding the refund of the license fees paid by it to SAP but in the latter case (refund of license fees paid by End User to Distributor) will have to repay to SAP the difference between the license fee paid by End User to Distributor to the license fee paid by Distributor to SAP (Distributor's margin).

SAP 可向分销商的受影响最终用户直接履行保证责任。若 SAP 向分销商的受影响最终用户直接履行保证责任，则分销商将无权根据第 2 部分第 3 条（性能保证）向 SAP 提起任何索赔。若 SAP 直接向最终用户返还分销商就不符合要求的软件向 SAP 支付的或最终用户就此类软件向分销商支付的许可费，分销商将无权向 SAP 索赔其向 SAP 支付的许可费退款，但是在后一种情形下（最终用户向分销商支付的许可费的退款），分销商需向 SAP 支付最终用户向分销商支付的许可费和分销商向 SAP 支付的许可费之间的差额（分销商利润）。

- d) Express Disclaimer. SAP AND ITS LICENSORS DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS OR GUARANTEES WITH RESPECT TO ANY SAP PRODUCT EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

免责声明。SAP 与其许可方不承担关于 SAP 产品的任何其他明示或默示的陈述、担保、条件或保证，包括但不限于任何关于适销性、质量或适合特定用途的默示保证，但法律规定不得免责的默示保证除外。

2. In case of an Sell Cloud Distribution Model the following warranty applies:

对于销售云分销模式，适用下述保证：

SAP AND ITS LICENSORS DISCLAIM ALL REPRESENTATIONS, WARRANTIES, CONDITIONS OR GUARANTEES WITH RESPECT TO THE CLOUD SERVICES EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

SAP 与其许可方不承担关于云服务的任何其他明示或默示的陈述、担保、条件或保证，包括但不限于任何关于适销性、质量或适合特定用途的默示保证，但法律规定不得免除的默示保证除外。

Article 4 Reservation of title, rights and interest

第 4 条 所有权、权利和利益的保留

1. The SAP Products and SAP's Confidential Information and all title, rights and interest, especially, without limitation, any Intellectual Property Rights embodied in the SAP Products and SAP's Confidential Information are the sole and exclusive property of the SAP Group or their licensors,

subject to any rights, title or interest expressly granted to Distributor in the applicable SAP Distribution Model. Unless Distributor is working under a valid SAP development license, Distributor is not permitted to modify or otherwise make derivative works of any SAP Product. Any such unauthorized works developed by Distributor, and any Intellectual Property Rights embodied therein, will be the sole and exclusive property of SAP or any other member of the SAP Group as requested by SAP.

依据适用的 SAP 分销模式明确授予分销商的任何所有权、权利和利益, SAP 产品和 SAP 保密信息以及所有权利、所有权和利益, 尤其是但不限于 SAP 产品和 SAP 保密信息中包含的所有知识产权, 均为 SAP 集团或其许可方的唯一且专有的财产。除获得有效的 SAP 开发许可外, 分销商不得对任何 SAP 产品进行修改或制作衍生品。分销商所开发的任何此类未经授权的作品及其中包含的任何知识产权均应为 SAP 的唯一且专有的财产或根据 SAP 的要求为 SAP 集团的任何其他成员的唯一且专有的财产。

2. Distributor is not entitled to copy, translate, disassemble, decompile, reproduce or reverse engineer any SAP Product nor create or attempt to create the source code from the object code of a SAP Product in any manner or take any other measure for the purposes of obtaining the source code of a SAP Product,

分销商无权对任何 SAP 产品进行拷贝、翻译、反汇编、反编译、复制或反向工程, 也不得以任何方式从 SAP 产品的目标代码中创建或试图创建源代码, 或采取任何其他以获得 SAP 产品源代码为目的的措施,

unless such action is indispensable to obtain information necessary to achieve interoperability of a SAP Product with an independently created computer program and SAP or any other member of the SAP Group has not provided such information to Distributor within a reasonable period of time, despite a prior written request by Distributor. Information obtained through such action may not be:

除非此类行为是获取实现软件与独立创建的计算机程序之间互操作性的必要信息所必不可少的, 且即使分销商已事先发出书面请求, 但 SAP 或 SAP 集团的任何其他成员未在合理的时间内向分销商提供此类信息。通过此类行为获得的信息不得:

a) used for purposes other than to achieve interoperability of the independently created computer program;

用于为实现与独立创建的计算机程序之间的互操作性以外的其他目的;

b) given to third parties, unless this is necessary to establish interoperability of the independently created computer program; and

提供给第三方, 除非是建立与独立创建的计算机程序之间的互操作性所必需的;

c) used for the development, creation or marketing of computer programs similar to the relevant SAP Product or for any other act which infringe SAP's Intellectual Property Rights.

用于开发、创建或营销与相关 SAP 产品类似的计算机程序, 或用于任何其他侵犯 SAP 知识产权的行为。

3. If Distributor wishes to exercise any right to reverse engineer to ensure interoperability in accordance with applicable law, Distributor must provide prior written notice to SAP and permit SAP, at its option, to make an offer to provide information and assistance reasonably required to ensure interoperability of a SAP Product with other independently created computer program for a fee to be mutually agreed upon.

若分销商希望依据适用法律的规定行使任何反向工程权利, 以确保互操作性, 则应提前向 SAP 发出书面通知, 并允许 SAP 自行选择是否提供合理需要的信息和协助, 以确保 SAP 产品与其他独立创建的计算机程序之间的互操作性, 相关费用由双方共同商定。

4. Distributor must not change or remove SAP's copyright and authorship notices attached to or relating to any SAP Product.

分销商不得变更或删除附于任何 SAP 产品之后或与任何 SAP 产品相关的 SAP 版权和著作权声明。

5. SAP retains:

SAP 保留:

a) any title, rights and/or interest expressly granted to Distributor in the applicable SAP Distribution Model; and

在适用的 SAP 分销模式中明确授予分销商的任何所有权、权利和/或利益;

b) title in any disc or other data media on which a SAP Product is delivered to Distributor under or in connection with the applicable SAP Distribution Model,

根据适用的 SAP 分销模式或因与之相关而借以向分销商交付 SAP 产品的任何磁盘或其他数据媒介的所有权,

(0 and 0 together the "Reserved Assets")

(0 和 0 统称“保留资产”)

until all of SAP's claims against Distributor in connection with the concerned business relationship with an Open Ecosystem Partner and End User under or in connection with the applicable SAP Distribution Model ("Secured Claims") are fully and finally satisfied and discharged.

直至 SAP 对分销商就其根据适用的 SAP 分销模式或因与之相关而与开放生态系统合作伙伴和最终用户形成的相关业务关系的所有索赔 (“有担保的索赔”) 最终完全得以满意解决和清偿。

6. As long as Distributor is not in breach of his contractual obligations under any part of this Agreement affecting the applicable SAP Distribution Model especially as long as Distributor's payment of any or all of the Secured Claims is not delayed, Distributor is entitled to pass on or ask SAP to pass on the Reserved Assets in the proper and ordinary course of business.

一旦分销商不再违反其在本协议之任何部分下对适用的 SAP 分销模式有影响的合同义务, 尤其是分销商及时付清任何及所有有担保的索赔时, 分销商有权在正常且适用的业务流程中继续使用保留资产或要求 SAP 授权其继续使用保留资产。

7. The creation of pledges, liens or other security interest over as well as the assignment as security of the Reserved Assets is not permitted.

禁止将保留资产用于抵押、留置或其他物权担保, 或者作为担保物进行转让。

8. Distributor undertakes to inform SAP immediately of any attachment of the Reserved Assets by any third party and will forward to SAP any documents (including, without limitation any attachment order) useful or necessary for a defense against the attachment. Distributor will immediately inform such attaching creditor about SAP's title, right or interest in the Reserved Assets.

分销商承担就任何第三方对保留资产的任何扣押行为为立即通知 SAP 的义务, 且应向 SAP 提交对就扣押行为进行抗辩有用或必要的任何文件 (包括但不限于任何扣押单)。分销商应立即通知此类行被扣押的债权人关于 SAP 对保留资产的所有权、权利或利益。

9. Distributor hereby assigns to SAP any existing as well as any future, contractual as well as non-contractual claim against any Open Ecosystem Partner or any other third party that arises or will arise in connection with the distribution of the Reserved Assets ("Assigned Claims") and SAP accepts such assignment. Distributor will be entitled to collect the Assigned Claims and to exercise any ancillary rights and claims in connection with these in the ordinary course of business (but will by doing so act with the care of a prudent merchant). Such entitlement to collect the Assigned Claims and to exercise ancillary rights and claims in connection with these is immediately terminated if SAP gives notice to the contrary which SAP

is entitled to do if Distributor is in breach of his contractual obligations under any part of this Agreement affecting the applicable SAP Distribution Model, in particular if Distributor's payment of any or all of the Secured Claims is delayed.

分销商特此向 SAP 转让因分销保留资产或与之相关而导致或将导致的对任何开放生态系统合作伙伴或任何其他第三方提出现有的、未来的、合同以及非合同索赔的权利（以下简称“**转让索赔权**”），且 SAP 接受该转让。分销商有权在正常的业务经营过程中主张转让索赔权，并行使与之有关的任何附属权利和索赔权（但应以商人应有的谨慎态度为之）。若分销商违反其在本协议之任何部分下对适用的 SAP 分销模式有影响的合同义务，尤其是分销商未及时付清任何或所有有担保的索赔时，SAP 有权经通知分销商立即终止其主张转让索赔权和行使与之相关的附属权利和索赔权的此类权利。

10. If Distributor is in breach of his contractual obligations under any part of this Agreement affecting the applicable SAP Distribution Model, in particular if Distributor's payment of any or all of the Secured Claims is delayed, SAP is entitled at Distributor's expense to rescind from any order for SAP Products concerning the affected SAP Distribution Model and to demand return of any or all of the Reserved Assets granted or delivered under or in connection with the affected SAP Distribution Model.

若分销商违反其在本协议之任何部分下对适用的 SAP 分销模式有影响的合同义务，尤其是分销商未及时付清任何或所有有担保的索赔时，SAP 有权取消与受影响的 SAP 分销模式有关的任何 SAP 产品订单，并要求返还还在受影响的 SAP 分销模式下或因与之相关而授予或交付的任何或所有保留资产，由此产生的费用由分销商承担。

11. SAP will notify the Distributor of its intention to rescind from any order for SAP Products and to demand return of any or all of the Reserved Assets by giving one week's prior written notice. Such notice period is not necessary, if (i) Distributor has generally ceased to make payments, (ii) Distributor is Insolvent or is subject to Insolvency Proceedings or (iii) there is reason to believe that observance of such notice period would adversely affect the retention of title, right or interest constituted with regard any or all the Reserved Assets.

SAP 将提前一周书面通知分销商其取消任何 SAP 产品订单和要求返还任何或所有保留资产的意图。此类通知期间在以下情况下可以不必遵守：(i) 分销商已经全面停止支付，(ii) 分销商已经破产或进入破产程序，或 (iii) 有理由认为遵守该通知期间将严重影响对任何或所有保留资产产生的所有权、权利或利益的保留。

12. Even prior to the full and final satisfaction and discharge of the Secured Claims, SAP is obliged to release, upon Distributor's request, all or part of the Reserved Assets insofar as the realizable value of the Reserved Assets exceeds, not only temporarily, the Secured Claims by more than 10 per cent. SAP may, at its discretion, determine which part of the Reserved Assets will be released.

在最终完全满足解决和付清有担保索赔之前，SAP 仍有义务应分销商的请求授权所有或部分保留资产，但前提是保留资产的可变现价值超过有担保索赔的 10%，且该超出情况并非一时现象。SAP 可自行决定要授权的保留资产。

Article 5 Insurance

第 5 条 保险

1. While performing any work or providing products or services related to any part of this Agreement, Distributor must maintain, at its own expense, for Distributor and its personnel, insurance coverage in accordance with any applicable statutory requirements. In addition, Distributor must maintain the following insurance with financially stable insurance companies permitted to do business in the jurisdictions where the work, products or services will be provided:

在执行与本协议之任何部分有关的任何工作或提供产品或服务时，分销商应根据相关的法律规定，自担费用为分销商及其员工缴纳保险。此外，分销商必须向工作、产品或服务提供地的司法辖区内允许经营保险业务且财务状况稳定的保险公司投保下述保险：

a) commercial general liability with a limit of \$1,000,000 per occurrence and \$2,000,000 in general aggregate including, but not limited to, coverage for bodily injury, property damage, products and completed operations, premises/operations, and contractual liabilities; and

商业综合责任险，每事件的赔偿金额不超过 1,000,000 美元，且年赔偿总额不超过 2,000,000 美元，赔偿范围包括但不限于人身伤害、财产损失、产品和完成运营责任、经营场所/业务经营和合同责任；以及

b) professional liability (errors & omissions) with a limit of \$1,000,000* per claim and in the aggregate covering claims arising out of errors or omissions in connection with products or services provided by Distributor. The policy shall have a retroactive date on or before the Effective Date of the Master Distribution Agreement or the date of Distributor's first delivery of products or professional service, whichever is earlier. Distributor shall use commercially reasonable efforts to maintain such coverage for at least two years following final delivery of products or services.

职业责任险（错误和疏忽），每索赔的赔偿金额和年赔偿总额不超过 1,000,000*美元，赔偿范围包括与分销商提供的产品或服务有关的错误或疏忽导致的索赔。保单中应规定主分销协议生效日期或分销商首次交付产品或服务日期或之前的日期为追溯日期，以其中较早者为准。分销商应尽商业上合理的努力，将此类保险投保至最终交付产品或服务后至少 2 年。

*In the event that Distributor's gross annual revenues associated with the SAP partnership exceed \$1,000,000 (or equivalent in foreign currency), Distributor is required to increase its policy limits in the following way:

*分销商因与 SAP 的合作伙伴关系获得的年度总收入超过 1,000,000 美元（或等值外币）时，分销商需按下表提高保单限额：

Revenue 收入	Professional Liability Policy Limit 职业责任险限额
\$1,000,001 - \$5,000,000 1,000,001 美元至 5,000,000 美元	\$3,000,000 per claim 每单赔偿金额 3,000,000
\$5,000,001 - \$10,000,000 5,000,001 美元至 10,000,000 美元	\$6,000,000 per claim 每单赔偿金额 6,000,000 美元
\$10,000,001 and above 10,000,001 美元及以上	\$10,000,000 per claim 每单赔偿金额 10,000,000 美元

2. Upon request, Distributor must provide SAP with a properly executed certificate of insurance evidencing existence of required coverages and will notify SAP no less than thirty days in advance, of any reduction or cancellation. SAP's failure to monitor compliance or to object to noncompliance or unsatisfactory compliance with any terms of the aforementioned requirements does not modify or waive Distributor's obligations in any way. Policies specified above may be maintained with limits listed in other foreign currencies, as long as they are equivalent to the amounts required herein. SAP reserves the right to review the insurance requirements at any point in time and make changes in order to address additional exposures, which may exist as a result of Distributor's provision of products or services related to any part of this Agreement.

分销商必须根据要求向 SAP 提供有效签署的保险凭证证明已按要求投保，并在减少保额或撤销保险时需至少提前 30 天通知 SAP。SAP 不监督对上述任何条款要求的遵循或不对违反或不符合要求的遵循行为提出抗议，并不意味着是以任何方式修改或免除分销商的相关义务。上述保单的限额可以用其他外币表示，只要与此处要求的额度等值即可。SAP 保留随时检查保险要求并作出调整的权利，目的是应对分销商在提供与本协议之任何部分相关的产品或服务时可能存在的其他风险。

3. None of the requirements contained herein as to types or limits are intended to, and shall not in any manner, limit, qualify or quantify the liabilities and obligations assumed by Distributor under any part of this Agreement.

此处对类型或限额的要求并非旨在，也不应当以任何方式限制、限定或量化分销商在本协议之任何部分下承担的责任和义务。

Article 6 Payment Period

第 6 条 付款期限

Payment period means thirty days of SAP's invoice date ("**Payment Period**"), unless expressly otherwise agreed on between Distributor and SAP in an order form or other order document.

付款期限是指 SAP 发票日期的 30 日内（以下简称“**付款期限**”），分销商和 SAP 在订购单或其他订购文件中明确商定的除外。

Article 7 Currency

第 7 条 货币

All payments under this Agreement must be made in CNY unless expressly otherwise agreed on between Distributor and SAP in an order form or other order document.

本协议项下的所有付款均采用人民币，分销商和 SAP 在订购单或其他订购文件中明确商定的除外。

Article 8 Default Interest Rate

第 8 条 逾期未付利率

The default rate of interest per year is 3% above the interest rate set by the People's Bank of China per annum but not exceed the maximum amount as allowed by law ("**Default Interest Rate**").

年度逾期未付利率为中国人民银行设定的利率上调 3% 的年利率，但不得超过法律允许的最高限额（以下简称“**逾期未付利率**”）。

Article 9 Index

第 9 条 指数

Index means the Resident Consumer Price Index for the applicable twelve (12) months period as published by the National Bureau of Statistics of China ("**Index**").

指数是指中国国家统计局公布的相关的十二（12）个月期间的消费物价指数（以下简称“**指数**”）。

Article 10 Other Mandatory Local Terms

第 10 条 其他强制性当地条款

Governing language. This Agreement may be executed in the English language alone or may be executed in both the Chinese and English languages. In the event that both the Chinese and English versions are executed, and there are different interpretations of the same provision or actual contradictions, the meanings of the English version shall prevail.

使用语言。本协议可以英文签署，或同时以中文和英文签署。本协议同时以中文和英文签署的，如果对中英文版本中同一条款的解释有所歧义或相互矛盾的，应以英文版本为准。

Article 11 Notices

第 11 条 通知

1. Notice in writing. Any notice or other communication under or in connection with any part of this Agreement must be made in writing and, unless otherwise explicitly stated, may be made by fax or letter and must be addressed as set out in Article 5 (Contact Details) of the Master Distribution Agreement (or to such other changed address, fax number or addressee as a Party may designate e.g. by changing the details in the partner relationship management system).

书面通知。根据本协议之任何部分作出的或与之有关的任何通知或其他通信必须采用书面形式（除非另有明确规定可以通过传真或信函发送），且必须按照主分销协议第 5 条（详细联系方式）中列明的地址（或一方通过在合作伙伴关系管理系统中变更详细信息等方式指定的此类其他变更后的地址、传真号或收件人）发送。

2. Delivery. Any notice or other communication made or delivered by one Party to another under or in connection with any part of this Agreement will only be effective when received in legible form.

送达。一方根据本协议之任何部分向另一方作出或发送的或与之有关的任何通知或其他通信仅当另一方收到清晰的内容时方可生效。

3. Change of address: Each Party must give the other prompt notice of any change of address, fax number or addressee.

地址变更：一方的地址、传真号或收件人有任何变更时，应立即以书面形式通知另一方。

4. Electronic communication. Any notice or other communication under or in connection with any part of this Agreement except for those notices and communications expressly mentioned in this Part 2 - Article 11 (Notices) no. 0 below may be made by email or other electronic means if and as long as the Parties:

电子通信。除第 2 部分第 11 条（通知）第 5 款明确规定的通知或通信外，根据本协议之任何部分作出的或与之相关的任何通知或其他通信均可采用电子邮件或其他电子方式，但前提是协议双方必须：

a) agree that this is to be an accepted form of communication;

一致同意接受该通信方式；

b) notify each other of their email address and/or any other information required to enable the sending and receipt of information by that means; and

互相告知电子邮件地址和/或使用该方式发送或接收信息所需的任何其他信息；

c) notify each other promptly of any change to their email address or any other required information supplied by them.

在电子邮箱地址或所提供的任何其他必要信息发生任何变更时，立即通知另一方。

5. Exceptions to electronic communication. The following notices or communications may not be made by email or other electronic means:
不可采用电子通信方式的例外情况。下述通知或通信不得使用电子邮件或其他电子方式发送:
- a) any notice concerning termination of an order given due to (i) suspension of delivery as set out in Part 1 - Article 5 (SAP's obligation to deliver) no. 4 or (ii) Force Majeure as set out in Part 1 - Article 17 (Miscellaneous) no. 2;
任何因 (i) 第 1 部分第 5 条 (SAP 的交付义务) 第 4 款规定的暂停交付或 (ii) 第 1 部分第 17 条 (其他条款) 第 2 款规定的不可抗力导致终止订单的通知;
- b) any notice under or in connection with Part 1 - Article 9 (Termination for good cause) and any other notice of termination for convenience or termination for good cause under or in connection with any part of this Agreement;
根据第 1 部分第 9 条 (因正当理由终止) 或与之相关的任何通知, 以及根据本协议之任何部分或与之相关的任何其他任意终止通知或因正当理由终止的通知;
- c) any confirmation given regarding destruction of the SAP Products, other data and media, the SAP Logos as well as any other confirmation under or in connection with Part 1 - Article 10 (Effect of Termination);
关于销毁 SAP 产品、其他数据和媒介、SAP 标识的任何确认书, 以及根据第 1 部分第 10 条 (终止的效力) 作出的或与之相关的任何其他确认书;
- d) any notice by which Distributor notifies SAP of a claim brought against Distributor as set out in Part 2 - Article 2 (Third Party Claims) no. 1c);
分销商通知 SAP 关于其如第 2 部分第 2 条 (第三方索赔) 第 1c) 款所述被提起索赔的任何通知;
- e) any notice concerning the nonconformance of the Software as set out in with Part 2 - Article 3 (Performance Warranty) no. 1b)0; and
关于如第 2 部分第 3 条 (性能保证) 第 1b) 款所述的软件不符合要求的任何通知; 以及
- f) Any other notice that may not or should not, according to the laws, be given via email or any other electronic form.
根据法律要求不得使用电子邮件或任何其他电子方式发送的任何其他通知。
6. Use of websites. Except with regard to those notices and communications expressly mentioned in Part 2 - Article 11 (Notices) no. 5 above, SAP may satisfy its obligation under any part of this Agreement to deliver any information to the Distributor who herewith accepts this method of communication by posting this information onto an electronic partner-dedicated website (e.g. the SAP PartnerEdge Portal). SAP will supply Distributor with the address of and any relevant password for the partner-dedicated website.
网站使用。除上述第 2 部分第 11 条 (通知) 第 5 款明确规定的通知和通信外, SAP 可通过在面向合作伙伴的电子网站 (如 SAP PartnerEdge Portal) 上发布信息履行其在本协议之任何部分下的义务, 且分销商在此同意接受该通信方式。SAP 将为分销商提供面向合作伙伴的网站的网址和相关密码。
7. Language. Any notice given in connection with the Agreement must be in English.
语言。与本协议有关的任何通知均需使用英语。

Article 12 Governing Law and Jurisdiction

第 12 条 管辖法律和司法辖区

1. This Agreement and any claims (including any non-contractual claims) arising out of or in connection with this Agreement and its subject matter are governed by the laws of the People's Republic of China to the exclusion of the international law of conflicts and the United Nations Convention on Contracts for the International Sale of Goods.

本协议以及因本协议和其主旨引起或与之相关的任何索赔 (包括任何非合同索赔) 均应受中华人民共和国法律的管辖, 国际冲突法和《联合国国际货物销售合同公约》不予适用。

2. The exclusive place of jurisdiction for all disputes arising out of or in connection with this Agreement (including any dispute regarding the existence, validity or termination of this Agreement) ("Dispute") is the People's Republic of China. Any Dispute shall be settled by China International Economic and Trade Arbitration Commission in Beijing, in accordance with its rules and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Arbitration shall be conducted in the English language by a panel of three (3) members, one member selected by SAP, one member selected by Distributor and the third member, who shall be chairman, selected by agreement between the other two (2) members. The chairman shall be a solicitor, and the other arbitrators shall have a background or training in computer law, computer science, or marketing of computer industry products. The arbitrators shall have the authority to grant injunctive relief in a form substantially similar to that which would otherwise be granted by a court of law. The parties agree that the arbitration proceedings and the outcome shall be kept strictly confidential and that obligations under this Article 12 shall survive termination or expiration of this Agreement.

因本协议引起或与本协议相关的所有争议 (包括关于本协议的存续、效力或终止的任何争议) (以下简称“争议”) 的专属管辖地为中华人民共和国。任何争议均应通过位于北京的中国国际经济贸易仲裁委员会根据其规则解决, 且有管辖权的法院可就仲裁员的裁决作出的判决。仲裁以英语进行, 仲裁庭由三 (3) 名仲裁员组成, 一名仲裁员由 SAP 指定, 一名仲裁员由分销商指定, 第三名仲裁员为首席仲裁员, 由另两 (2) 名仲裁员共同确定。首席仲裁员应为律师, 其余两名仲裁员应具备计算机法律、计算机科学或计算机行业产品营销的背景或受过该等培训。仲裁员应有权以法院会授予的禁令救济在实质上相似的形式授予禁令救济。双方同意对仲裁程序和结果予以严格保密, 且本第 12 条中规定的义务在本协议终止或有效期届满后继续有效。