

**GENERAL TERMS AND CONDITIONS FOR SAP CLOUD SERVICES (for indirect sales)  
("CLOUD EULA")**

**1. DEFINITIONS**

Capitalized terms used in this document are defined in the Glossary.

**2. USAGE RIGHTS AND RESTRICTIONS**

**2.1 Grant of Rights**

Subject to all fees paid by the Partner to SAP, SAP grants to Customer on behalf of Partner a non-exclusive, non-transferable and world-wide right to use the Cloud Service (including its implementation and configuration), Cloud Materials and Documentation solely for Customer's and its Affiliates' internal business operations. Permitted uses and restrictions of the Cloud Service also apply to Cloud Materials and Documentation.

**2.2 Authorized Users**

Customer may permit Authorized Users to use the Cloud Service. Usage is limited to the Usage Metrics and volumes stated in the Cloud EULA Acceptance Form. Access credentials for the Cloud Service may not be used by more than one individual, but may be transferred from one individual to another if the original user is no longer permitted to use the Cloud Service. Customer is responsible for breaches of the Agreement caused by Authorized Users.

**2.3 Acceptable Use Policy**

With respect to the Cloud Service, Customer will not:

- a) disassemble, decompile, reverse-engineer, copy, translate or make derivative works,
- b) transmit any content or data that is unlawful or infringes any intellectual property rights, or
- c) circumvent or endanger its operation or security.

**2.4 Verification of Use**

Customer will monitor its own use of the Cloud Service and report any use in excess of the Usage Metrics and volume to Partner. SAP may monitor use to verify compliance with Usage Metrics, volume and the Agreement. SAP will be permitted to forward any data regarding use in excess of the Usage Metrics, volume and the Agreement by the Customer to Partner.

**2.5 Suspension of Cloud Service**

SAP may suspend use of the Cloud Service if continued use may result in material harm to the Cloud Service or its users. SAP will promptly notify Customer of the suspension. SAP will limit the suspension in time and scope as reasonably possible under the circumstances.

**2.6 Third Party Web Services**

The Cloud Service may include integrations with web services made available by third parties (other than SAP SE or its Affiliates) that are accessed through the Cloud Service and subject to terms and conditions with those third parties. These third party web services are not part of the Cloud Service and the Agreement does not apply to them.

**2.7 Mobile Access to Cloud Service**

Authorized Users may access certain Cloud Services through mobile applications obtained from third-party websites such as Android or Apple app store. The use of mobile applications may be governed by the terms and conditions presented upon download/access to the mobile application and not by the terms of the Agreement.

**3. SAP RESPONSIBILITIES**

**3.1 Provisioning**

SAP provides access to the Cloud Service as described in the Agreement.

**3.2 Support**

SAP provides support for the Cloud Service as referenced in the Cloud EULA Acceptance Form.

**3.3 Security**

SAP will implement and maintain appropriate technical and organizational measures to protect the personal data processed by SAP as part of the Cloud Service as described in the Data Processing Agreement in accordance with applicable data protection law.

**3.4 Modifications**

As the Cloud Service evolves, the Cloud Service and SAP Policies may be modified by SAP at any time. Modifications may include optional new features for the Cloud Service, which Customer may use subject to the then-current Supplement and Documentation.

### **3.5 Analyses**

SAP, SAP SE or SAP Affiliates may create analyses utilizing, in part, Customer Data and information derived from Customer's use of the Cloud Service and Services. Analyses will anonymize and aggregate information and will be treated as Cloud Materials. Examples of how analyses may be used include: optimizing resources and support; research and development; automated processes that enable continuous improvement, performance optimization and development of new SAP products and services; verification of security and data integrity; internal demand planning; and data products such as industry trends and developments, indices and anonymous benchmarking.

## **4. CUSTOMER AND PERSONAL DATA**

### **4.1 Customer Data**

Customer is responsible for the Customer Data and entering it into the Cloud Service. Customer grants to SAP (including SAP SE, its Affiliates and subcontractors) a non-exclusive right to process Customer Data solely to provide and support the Cloud Service.

### **4.2 Personal Data**

Customer will collect and maintain all personal data contained in the Customer Data in compliance with applicable data privacy and protection laws.

### **4.3 Security**

Customer will maintain reasonable security standards for its Authorized Users' use of the Cloud Service.

### **4.4 Access to Customer Data**

- a) During the Subscription Term, Customer can access its Customer Data at any time. Customer may export and retrieve its Customer Data in a standard format. Export and retrieval may be subject to technical limitations, in which case SAP and Customer will find a reasonable method to allow Customer access to Customer Data.
- b) Before the Subscription Term expires, Customer may use SAP's self-service export tools (as available) to perform a final export of Customer Data from the Cloud Service.
- c) At the end of the Agreement, SAP will delete the Customer Data remaining on servers hosting the Cloud Service unless applicable law requires retention. Retained data is subject to the confidentiality provisions of the Agreement.
- d) In the event of third party legal proceedings relating to the Customer Data, SAP will cooperate with Customer and comply with applicable law (both at Customer's expense) with respect to handling of the Customer Data.

## **5. PARTNER RELATIONSHIP**

### **5.1 Non-Payment by Partner**

SAP may at its sole discretion suspend Customer's use of the Cloud Service and/or terminate the Agreement if Partner fails to pay any fee or other amount payable by it on its due date.

### **5.2 Termination of partner relationship or orders relating to Customer**

If (i) Partner terminates all orders relating to the Customer or (ii) SAP terminates any of Partner's orders relating to the Customer for good cause or (iii) the partnership between SAP and Partner relating to the sale of subscription for the Cloud Services is terminated, SAP may (depending on Customer's choice):

- a) directly provide the affected Cloud Service to the Customer pursuant to SAP's then-current General Terms and Conditions for SAP Cloud Services for mutually agreed subscription fees; or
- b) recommend to Customer other partners or third parties for the provision of the affected Cloud Service.

### **5.3 Independence of Partner**

Partner is not an agent of SAP. It is an independent entity with no authority to bind SAP or to make representations or warranties on SAP's behalf. SAP will not be liable for reasonably relying on the accuracy and reliability of written information provided by Partner in making any decision that would give SAP ground to suspend the Cloud Service or terminate the Agreement.

### **5.4 No representations or warranties**

SAP makes no representations or warranties as to such authorized distributor or reseller, or any other third party, related to the performance of the products or services of such entities, and fully disclaims any such warranties in accordance with Section 7.

## **6. TERM AND TERMINATION**

### **6.1 Term**

The initial Subscription Term is as stated in the Cloud EULA Acceptance Form.

### **6.2 Termination**

- a) A party may terminate the Agreement:
  - (i) upon thirty days written notice of the other party's material breach (including without limitation Customer's failure to pay Partner any fees due for the Cloud Service) unless the breach is remedied during that thirty day period,
  - (ii) immediately, if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or otherwise materially breaches Sections 11 or 12.6.
- b) SAP may terminate the Agreement if the relevant Cloud Services that this Agreement pertains to were terminated between SAP and Partner.

The parties agree there is no requirement to obtain a court order to exercise the rights of termination.

### **6.3 Effect of Expiration or Termination**

Upon the effective date of expiration or termination of the Agreement:

- a) Customer's right to use the Cloud Service and all SAP Confidential Information will end,
- b) Confidential Information of the disclosing party will be returned or destroyed as required by the Agreement, and
- c) termination or expiration of the Agreement does not affect other agreements between the parties.

### **6.4 Survival**

Sections 6.3, 6.4, 8, 9, 10, 11, and 12 will survive the expiration or termination of the Agreement.

## **7. WARRANTIES**

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.

### **7.1 Compliance with Law**

Customer warrants its current and continuing compliance with all laws and regulations applicable to it in connection with the Customer Data and Customer's use of the Cloud Service.

### **7.2 Good Industry Practices**

SAP warrants that:

- a) the Cloud Service will substantially conform to the specifications contained in the Documentation during the Subscription Term for the Cloud Services.
- b) the Service will materially conform to the specifications contained in the Documentation, Cloud EULA Acceptance Form, statement of work, deployment description or other documentation containing the scope and service description for the relevant Service in all cases agreed to by SAP at the point in time the relevant Service is performed by SAP and it will perform any Service in a workmanlike and professional manner using resources with the skills reasonably required to perform such Services.

### **7.3 Remedy**

- a) Provided Customer (and/or Partner on Customer's behalf) notifies SAP in writing with a specific description of the Cloud Service's or the Service's nonconformance with the warranty in Section 7.2 within the warranty period without undue delay and SAP validates the existence of such nonconformance, SAP will, at its option:
  - (i) with regard to the Cloud Services:
    - (α) correct or replace the nonconforming Cloud Service, or
    - (β) if SAP fails to correct the nonconformance after using reasonable commercial efforts, terminate the access to the nonconforming Cloud Service.
  - (ii) with regard to the Services, re-perform the nonconforming Service.
- b) This does not apply to trivial or non-material cases of nonconformance and is Customer's sole and exclusive remedy under the warranty in Section 7.2. The written notification of any nonconformance by Customer (and/or Partner on Customer's behalf) must include sufficient detail for SAP to analyse the alleged nonconformance. Customer must provide commercially reasonable assistance to SAP in analysing and remediating any nonconformance of the Cloud Service and Service.
- c) For clarification purposes, SAP will
  - (i) with regard to the Cloud Services: in all cases; and
  - (ii) with regard to the Services: if SAP fails to correct the nonconformance of the Service after using reasonable commercial effort, consult with Partner to define a reasonable amount (α) by which Partner may reduce the subscription fees or the fees for the nonconforming Service, in case Partner

has not already paid them, or (b) if Partner has already paid the subscription fees or the fees for the nonconforming Service, which SAP will refund to Partner to reflect the nonconformance.

- d) SAP may fulfill its warranty obligations vis-à-vis Partner or Customer. To the extent that SAP fulfills its warranty obligations vis-à-vis Partner, Customer will not have any claim against SAP for a breach of the warranty in Section 7.2.

#### **7.4 System Availability**

- a) SAP warrants to maintain an average monthly system availability for the production system of the Cloud Service as defined in the SLA or Supplement.
- b) Customer's sole and exclusive remedy for SAP's breach of the SLA is the issuance of a credit as described in the SLA, whereby the service level credit will be calculated based on the non-discounted subscription fee set out in the order form agreed between SAP and Partner. Customer must notify Partner in writing (email permitted) within twenty-one business days after each calendar month in that SAP does not meet the SLAs, so that Partner can follow SAP's posted credit claim procedure. When the validity of the service credit is confirmed by SAP in writing (email permitted) to Partner, SAP will issue such credit to the Partner who should then forward the credit to Customer.

#### **7.5 Warranty Exclusions**

The warranties in Sections 7.2 and 7.4 will not apply if:

- a) the Cloud Service is not used in accordance with the Agreement or Documentation,
- b) the nonconformance is caused by Partner, Customer, another third party, or by any product, database, content or service not provided by SAP, or
- c) the Cloud Service was provided for no fee or is a trial license of the Cloud Service or both.

#### **7.6 Disclaimer**

Except for the warranties, terms, conditions, representations or statements expressly set out in this Agreement, all other warranties, terms, conditions, representations or statements which might have effect between the parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law, custom or otherwise, are hereby excluded to the fullest extent permitted by law, including any implied conditions, warranties or other terms as to quality or fitness for purpose or non-infringement of any third party's rights or that the operation of any products or services will be secure, uninterrupted or error free. Customer agrees that it is not relying on delivery of future functionality, public comments or advertising of SAP or product roadmaps in obtaining subscriptions for any Cloud Service.

### **8. THIRD PARTY CLAIMS**

#### **8.1 Claims Brought Against Customer**

- a) SAP will defend Customer against claims brought against Customer and its Affiliates by any third party alleging that Customer's and its Affiliates' use of the Cloud Service infringes or misappropriates a patent claim, copyright or trade secret right. SAP will indemnify Customer against all damages finally awarded against Customer (or the amount of any settlement SAP enters into) with respect to these claims.
- b) SAP's obligations under Section 8.1 will not apply if the claim results from (i) Customer's breach of Section 2, (ii) use of the Cloud Service in conjunction with any product or service not provided by SAP, or (iii) use of the Cloud Service provided for no fee.
- c) In the event a claim is made or likely to be made, SAP may (i) procure for Customer the right to continue using the Cloud Service under the terms of the Agreement, or (ii) replace or modify the Cloud Service to be non-infringing without a material decrease in functionality. If these options are not reasonably available, SAP may terminate Customer's subscription to the affected Cloud Service upon written notice.

#### **8.2 Claims Brought Against SAP**

Customer will defend SAP against claims brought against SAP, SAP SE, its Affiliates and subcontractors by any third party related to Customer Data.

Customer will indemnify SAP against all damages finally awarded against SAP, SAP SE, its Affiliates and subcontractors (or the amount of any settlement Customer enters into) with respect to these claims.

#### **8.3 Third Party Claim Procedure**

- a) The party against whom a third party claim is brought will timely notify the other party in writing of any claim, reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the party providing the defense.
- b) The party that is obligated to defend a claim will have the right to fully control the defense.
- c) Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought.

#### **8.4 Exclusive Remedy**

The provisions of Section 8 state the sole, exclusive, and entire liability of the parties, their Affiliates, Business Partners and subcontractors to the other party, and is the other party's sole remedy, with respect to covered third party claims and to the infringement or misappropriation of third party intellectual property rights.

### **9. LIMITATION OF LIABILITY**

#### **9.1 Unlimited liability**

Neither party's liability is capped for damages resulting from:

- a) the parties' obligations under Section 8.1.a and 8.2 (excluding SAP's obligation under Section 8.1.1 where the third party claim(s) relates to Cloud Services not developed by SAP);
- b) death or personal injury arising from either party's negligence;
- c) Customer's unauthorized use of any Cloud Service and / or any failure by Customer to pay any fees due under the Agreement;
- d) fraud or fraudulent misrepresentation; and / or
- e) any liability that cannot be excluded or limited by applicable law.

#### **9.2 Liability Cap**

Except as set forth in Section 9.1.b,9.1.c, 9.1.d and 9.3 under no circumstances and regardless of the nature of claim (whether arising out of breach of contract, tort (including but not limited to negligence), misrepresentation, breach of statutory duty, breach of warranty, claims by third parties from any breach (however minor) of this Agreement, from willful misconduct or otherwise) shall the maximum aggregate liability of either party (or its respective Affiliates or SAP's subcontractors) arising under of in relation to this Agreement to the other or any other person or entity for all events (or series of connected events) exceed an amount in excess of the subscription fees paid by Customer to Partner in the twelve months period immediately preceding the events giving rise to the claim for the Cloud Services directly causing the damages.

#### **9.3 Exclusion of Damages**

Except as set forth in Section 9.1:

- a) Regardless of the nature of the claim (whether arising out of breach of contract, tort (including but not limited to negligence), misrepresentation, breach of statutory duty, breach of warranty, claims by third parties from any breach (however minor) of this Agreement, from willful misconduct or otherwise), under no circumstances shall either party (or their respective Affiliates or SAP's subcontractors) be liable to the other or any other person or entity for any loss or damage arising under or in relation to this Agreement (whether or not the other party had been advised of the possibility of such loss or damage) in any amount, to the extent that such loss or damage is:
  - (A) (i) loss of profits, (ii) loss of business, (iii) loss of business opportunity, (iv) loss of contracts, (v) loss of revenue, (vi) loss of goodwill, (vii) loss resulting from work stoppage, (ix) loss of anticipated savings, (x) lost or wasted management time or time of other employees or contractors, or (xi) loss resulting from wasted expenditure (regardless of whether these types of loss or damage listed in this sub-clause a. are direct, indirect, special or consequential); or
  - (B) incidental, consequential, indirect, exemplary, special or punitive, and
- b) Under no circumstances will SAP and its licensors be liable for any damages caused by any Cloud Service provided for no fee or damages arising from inherently dangerous use of any of the Cloud Services provided under on in connection with the Agreement.

#### **9.3 Risk Allocation**

This Agreement allocates the risks between SAP and Customer. The subscription fees paid by Customer reflect this allocation of risk and limitations of liability. 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.

#### **9.4 Extension to group members**

Any limitations to the liability and obligations of SAP according to this Section 9 will also apply for the benefit of SAP SE and any of its Affiliates and their respective licensors.

### **10. INTELLECTUAL PROPERTY RIGHTS**

#### **10.1 SAP Ownership**

SAP, SAP SE, their Affiliates or licensors own all intellectual property rights in and related to the Cloud Service, Cloud Materials, Documentation, Services, design contributions, related knowledge or processes, and any derivative works of them. All rights not expressly granted to Customer are reserved to SAP, SAP SE and its licensors.

## **10.2 Customer Ownership**

Customer retains all rights in and related to the Customer Data. SAP may use Customer provided trademarks solely to provide and support the Cloud Service.

## **10.3 Non-Assertion of Rights**

Customer covenants, on behalf of itself and its successors and assigns, not to assert against SAP, SAP SE, their Affiliates or licensors, any rights, or any claims of any rights, in any Cloud Service, Cloud Materials, Documentation, or Services.

## **11. CONFIDENTIALITY**

### **11.1 Use of Confidential Information**

- a) The receiving party will protect all Confidential Information of the disclosing party as strictly confidential to the same extent it protects its own Confidential Information, and not less than a reasonable standard of care. Receiving party will not disclose any Confidential Information of the disclosing party to any person other than its personnel, representatives or Authorized Users whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under obligations of confidentiality substantially similar to those in Section 11. Customer will not disclose the Agreement or the pricing to any third party.
- b) Confidential Information of either party disclosed prior to execution of the Agreement will be subject to Section 11.
- c) In the event of legal proceedings relating to the Confidential Information, the receiving party will cooperate with the disclosing party and comply with applicable law (all at disclosing party's expense) with respect to handling of the Confidential Information.

### **11.2 Exceptions**

The restrictions on use or disclosure of Confidential Information will not apply to any Confidential Information that:

- a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information,
- b) is generally available to the public without breach of the Agreement by the receiving party,
- c) at the time of disclosure, was known to the receiving party free of confidentiality restrictions, or
- d) the disclosing party agrees in writing is free of confidentiality restrictions.

### **11.3 Publicity**

Neither party will use the name of the other party in publicity activities without the prior written consent of the other, except that Customer agrees that SAP may use Customer's name in customer listings or quarterly calls with its investors or, at times mutually agreeable to the parties, as part of SAP's marketing efforts (including reference calls and stories, press testimonials, site visits, SAPPHIRE participation). Customer agrees that SAP may share information on Customer with its Affiliates for marketing and other business purposes and that it has secured appropriate authorizations to share Customer employee contact information with SAP.

## **12. MISCELLANEOUS**

### **12.1 Severability**

If any provision of the Agreement is held to be invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Agreement.

### **12.2 No Waiver**

A waiver of any breach of the Agreement is not deemed a waiver of any other breach.

### **12.3 Electronic Signature**

Electronic signatures that comply with applicable law are deemed original signatures.

### **12.4 Regulatory Matters**

- a) SAP Confidential Information is subject to export control laws of various countries, including the laws of the United States, EU, Ireland and Germany. Customer will not submit SAP Confidential Information or parts thereof to any government agency for licensing consideration or other regulatory approval, and will not export, re-export or import any SAP Confidential Information or parts thereof to countries, persons or entities if prohibited by export laws.
- b) Neither SAP SE nor any of its Affiliates assumes any responsibility or liability:
  - (i) for any delay caused in the delivery and/or granting of access to any or all SAP Confidential Information of parts thereof due to export or import authorizations or both having to be obtained from the competent authorities;

- (ii) if any required authorization, approval or other consent for the delivery of and/or granting of access to any or all SAP Confidential Information or parts thereof cannot be obtained from the competent authorities;
  - (iii) if the delivery of and/or granting of access to any or all SAP Confidential Information or parts thereof is prevented due to applicable Export Laws; and
  - (iv) if access to Cloud Services, Services or other services has to be limited, suspended or terminated due to applicable Export Law.
- c) SAP may terminate this Agreement with thirty days prior written notice if SAP SE or any of its Affiliates may not deliver or grant access to the SAP Confidential Information to Customer due to an embargo, trade sanction or other comparable restrictive measure, which is expected to be in place for six months or longer.

#### **12.5 Notices**

All notices will be in writing and given when delivered to the address set forth in an Cloud EULA Acceptance Form with copy to the legal department. Notices by SAP relating to the operation or support of the Cloud Service may be in the form of an electronic notice to Customer's authorized representative or administrator identified in the Cloud EULA Acceptance Form.

#### **12.6 Assignment**

Without SAP's prior written consent, Customer may not assign or transfer the Agreement (or any of its rights or obligations) to any party. SAP may assign the Agreement to SAP SE or any of its Affiliates.

#### **12.7 Subcontracting**

SAP may subcontract parts of the Cloud Service or Services to SAP SE, any of its Affiliates and to third parties. SAP SE and any of its Affiliates may further subcontract parts of the Cloud Service or Services to third parties. SAP is responsible for breaches of the Agreement caused by its subcontractors.

#### **12.8 Relationship of the Parties**

The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created by the Agreement.

#### **12.9 Force Majeure**

Any delay in performance (other than for the payment of amounts due) caused by conditions beyond the reasonable control of the performing party is not a breach of the Agreement. The time for performance will be extended for a period equal to the duration of the conditions preventing performance.

#### **12.10 Governing Law**

The Agreement and any claims (including any non-contractual claims) arising out of or in connection with this Agreement and its subject matter will be governed by and construed under the laws of England and Wales. The United Nations Convention on Contracts for the International Sale of Goods and any conflicts of law principles and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement.

#### **12.11 Arbitration**

Except for the right of either Party to apply to a court of competent jurisdiction for injunctive, or other equitable relief, any dispute or claim arising out of or in relation to this Agreement, including, without limitation, any question regarding its existence, validity or termination shall be settled by arbitration in Dubai International Financial Center in United Arab Emirates in accordance with the rules of arbitration of the London Court of International Arbitration (LCIA) which rules are deemed to be incorporated by reference into this clause. The language to be used in the arbitration shall be English. Either party must initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within one year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

One or more arbitrators appointed in accordance with the following: (i) Arbitration by One Arbitrator: If the Parties agree to a one-arbitrator, the parties shall agree upon and appoint an arbitrator, after first ascertaining that the appointee consents to act, within thirty (30) days from the date on which written notice of referral to arbitration by one party is received by the other party (the "Notice Date") or (ii) Arbitration by Three Arbitrators: If the Parties are unable to agree on a one-arbitrator, or, having so agreed, are unable to agree on the arbitrator within thirty (30) days from the Notice Date, then the arbitration shall be conducted by and before three (3) arbitrators, who shall be appointed as follows. Each Party shall appoint one arbitrator, after first ascertaining that the appointee consents to act, and notify the other Party in writing of the appointment within sixty (60) days from the Notice Date. The appointed arbitrators shall agree upon and appoint the third arbitrator, who shall be the chairman, after first ascertaining that the appointee consents to act, and notify the Parties in writing of the appointment

within ninety (90) days from the Notice Date.

The chairman shall be a qualified lawyer, and the other arbitrators shall have a background or training in computer law, computer science, or marketing of computer 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 irrevocably agree to submit to arbitration and the Parties each agree that any award made by the arbitrators shall be enforceable in any country, without further inquiry into the disputed matters which are the subject of the award. The provisions of this section shall survive termination of this Agreement.

#### **12.12 Entire Agreement**

This Agreement constitutes the complete and exclusive statement of the agreement between the parties in connection with to the subject matter hereof and supersedes all prior agreements, communications, arrangements, promises, assurances, warranties, representations, discussions, collateral contracts and understandings (the "Statements") between the parties (both oral and written) relating to that subject matter and no Statements of any kind, oral or written, shall be binding upon the parties unless incorporated in this Agreement. Each party acknowledges and agrees that in entering into this Agreement it has not relied on and shall have no remedy in respect of any Statements (whether negligently or innocently made) except those expressly set out in this Agreement. Each party agrees that it shall have no rights or remedies which, but for this section, might otherwise be available to it in respect of any such Statements made innocently or negligently or otherwise. Nothing in this Agreement shall limit or exclude the liabilities or the rights or remedies of either party that cannot be limited or excluded by law.

This Agreement may be modified only by a writing signed by both parties, except as permitted under the Agreement. This Agreement shall prevail over any additional, conflicting, or inconsistent terms and conditions which may appear on any purchase order or other document furnished by Customer to SAP. This Agreement shall prevail over any additional, conflicting or inconsistent terms and conditions which may appear in any clickwrap end user agreement included in the Software. Signatures sent by electronic means (facsimile or scanned and sent via e-mail) shall be deemed original signatures. This Agreement does not create any partnership, joint venture or principal-and-agent relationship.



## Glossary

- 1.1 **“Affiliate”** means any legal entity in which SAP SE or Customer, directly or indirectly, holds more than 50% of the entity’s shares or voting rights or any legal entity which is Controlled by SAP SE or the Customer. Any such legal entity shall be considered an Affiliate for only such time as such interest or Control is maintained. "Control" means in reference to a legal entity is defined as the ability to solely direct the management of such legal entity and the right to appoint or remove the majority of the board of directors (where applicable).
- 1.2 **“Agreement”** is defined in the Cloud EULA Acceptance Form.
- 1.3 **“Authorized User”** means any individual to whom Customer grants access authorization to use the Cloud Service that is an employee, agent, contractor or representative of
1. Customer,
  2. Customer's Affiliates, and/or
  3. Customer's and Customer's Affiliates' Business Partners.
- 1.4 **“Business Partner”** means a legal entity that requires use of a Cloud Service in connection with Customer's and its Affiliates' internal business operations. These may include customers, distributors, service providers and/or suppliers of Customer.
- 1.5 **“Cloud EULA Acceptance Form”** means the “SAP Cloud Service Schedule (for indirect sales)” concluded between SAP and the Customer that references the CLOUD EULA.
- 1.6 **“Cloud Service”** means any subscription-based, SAP hosted, supported and operated on-demand solution provided by SAP on behalf of the Partner to the Customer under the Cloud EULA Acceptance Form.
- 1.7 **“Cloud Materials”** mean any materials provided or developed by SAP (independently or with Partner's and/or Customer's cooperation) in the course of performance under the Agreement, including in the delivery of any support or Services to Customer. Cloud Materials do not include the Customer Data, Customer Confidential Information or the Cloud Service.
- 1.8 **“Confidential Information”** means
1. with respect to Customer: (i) the Customer Data, (ii) Customer marketing and business requirements, (iii) Customer implementation plans, and/or (iv) Customer financial information, and
  2. with respect to SAP: (i) the Cloud Service, Documentation, Cloud Materials and analyses under Section 3.5, and (ii) information regarding SAP research and development, product offerings, pricing and availability.
  3. Confidential Information of either SAP or Customer also includes information which the disclosing party protects against unrestricted disclosure to others that (i) the disclosing party or its representatives designates as confidential at the time of disclosure, or (ii) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure.
- 1.9 **“Customer Data”** means any content, materials, data and information that Authorized Users enter into the production system of a Cloud Service or that Customer derives from its use of and stores in the Cloud Service (e.g. Customer-specific reports). Customer Data and its derivatives will not include SAP's Confidential Information.
- 1.10 **“Data Processing Agreement”** is defined in the Cloud EULA Acceptance Form.
- 1.11 **“Documentation”** means SAP's then-current technical and functional documentation as well as any roles and responsibilities descriptions, if applicable, for the Cloud Service which is made available to Customer with the Cloud Service.
- 1.12 **“Partner”** is defined in the Cloud EULA Acceptance Form.
- 1.13 **“SAP SE”** means SAP SE, the parent company of SAP.
- 1.14 **“SAP Policies”** means the operational guidelines and policies applied by SAP to provide and support the Cloud Service as incorporated in a Cloud EULA Acceptance Form.
- 1.15 **“Services”** means professional services related to a Cloud Service, such as implementation, configuration, custom development and training, performed by SAP's employees or subcontractors as described in the Cloud EULA Acceptance Form and which are governed by the Consulting Services Supplement or similar agreement for Services.
- 1.16 **“SLA”** is defined in the Cloud EULA Acceptance Form.
- 1.17 **“Subscription Term”** means the term of a Cloud Service subscription of which the initial term is identified in the applicable Cloud EULA Acceptance Form, including all renewals.
- 1.18 **“Supplement”** is defined in the Cloud EULA Acceptance Form.
- 1.19 **“Support Policy”** is defined in the Cloud EULA Acceptance Form.
- 1.20 **“Usage Metric”** means the standard of measurement for determining the permitted use for a Cloud Service as set forth in a Cloud EULA Acceptance Form.