GENERAL TERMS AND CONDITIONS FOR CLOUD SERVICES ("GTC")

云服务的一般条款和条件（以下简称"GTC"）

1. DEFINITIONS

定义

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. Any legal entity will be considered an Affiliate as long as that interest is maintained.

"**关联企业**"是指 SAP SE 或客户直接或间接持有百分之五十（50%）以上股份或表决权的任何法人实体。前述权益存续期间，该法人实体被视为关联企业。

1.2. "**Agreement**" means the agreement as defined in the applicable Order Form.

"**协议**"是指适用订购单中定义的协议。

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 Customer, Customer's Affiliates, or Customer's and Customer's Affiliates' Business Partners.

"**授权用户**"是指客户向其授予使用云服务的访问权限的任何个人，此类个人可以是客户、客户关联企业或客户及其关联企业的业务合作伙伴的员工、代理、承包商或代表。

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 and its Affiliates.

"**业务合作伙伴**"是指使用与云服务用于客户及其关联企业的内部业务运营有关的云服务的法人实体。其中可能包括客户及其关联企业的客户、分销商、服务提供商和/或供应商。

1.5. "**Cloud Service**" means any distinct, subscription-based, hosted, supported and operated on-demand solution provided by SAP under an Order Form which does not require telecommunication licenses or permits according to laws of the People's Republic of China (for purpose of the Agreement only, excluding Hong Kong, Taiwan and Macau, "China").

"**云服务**"是指 SAP 根据订购单提供的任何独有的、按需订阅的、托管式支持和运营的按需解决方案，其根据中华人民共和国（仅为本协议之目的，不包括香港、台湾和澳门，以下简称"中国"）法律规定不需要电信业务经营牌照或者许可证。

1.6. "**Confidential Information**" means all information which the disclosing party protects against unrestricted disclosure to others that the disclosing party or its representatives designates as confidential, internal and/or proprietary at the time of disclosure, should reasonably be understood to be confidential at the time of disclosure given the nature of the information and the circumstances surrounding its disclosure.

"**保密信息**"是指披露方防止不受限制披露给他人的所有信息，其中包括：披露方或其代表在披露时规定为具有保密性，内部和/或专有的信息，根据信息的性质或披露时的情形理应被视为具有保密性的信息。

1.7. "**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.

"**客户数据**"是指授权用户向云服务生产系统中输入的任何内容、材料、数据和信息，或者客户从使用云服务的过程中获得的以及存储在云服务中的任何内容、材料、数据和信息（例如，客户特定报告）。客户数据及其衍生物均不包括 SAP 的保密信息。

1.8. "**Documentation**" means SAP's then-current technical and functional documentation, including any roles and responsibilities descriptions relating to the Cloud Services which SAP makes available to Customer under the Agreement.

"**文档**"是指 SAP 依据协议提供给客户的与云服务有关的届时最新的技术性和功能性文档，包括任何角色和责任的说明。

1.9. "**Export Laws**" means all applicable import, export control and sanctions laws, including without limitation, the laws of China, the United States, the EU, and Germany.

"**出口法律**"是指所有适用的进口、出口管制和制裁法律，包括但不限于中国、美国、欧盟和德国的法律。

1.10. "**Feedback**" means input, comments or suggestions regarding SAP's business and technology direction, and the possible creation, modification, correction, improvement or enhancement of the Cloud Service.

"**反馈**"是指与 SAP 的业务和技术方向以及云服务可能进行的创建、修改、更正、改进或增强有关的看法、意见或建议。

1.11. "**Intellectual Property Rights**" means patents of any type, design rights, utility models or other similar invention rights, copyrights and related rights, trade secret, know-how or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, whether registered or unregistered, including applications (or rights to apply) and registrations for any of the foregoing, in any country/region, 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、著作权及相关权利、商业秘密、专有技术或保密权、商标、商号和服务标识以及任何其他无形财产权（无论注册与否），包括在任何国家/地区对前述任何一项权利的申请（或申请权）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。

1.12. "**Order Form**" means the ordering document for a Cloud Service that references the GTC.

"**订购单**"是指用于订购云服务并在其中引述了 GTC 的文件。

1.13. "**Professional Services**" means implementation services, consulting services or other related services provided under an Order Form and may also be referred to in the Agreement as "Consulting Services".

"**专业服务**"是指依据订购单提供的实施服务、咨询服务或其他相关服务，在协议中也称为"咨询服务"。

1.14. "**Representatives**" means a party's Affiliates, employees, contractors, sub-contractors, legal representatives, accountants, or other professional advisors.

"**代表**"是指一方的关联企业、员工、承包商、分包商、法律代表、会计或其他专业顾问。

1.15. "**SAP Materials**" means any materials (including statistical reports) provided, developed or made available by SAP (independently or with Customer's cooperation) in the course of performance under the Agreement, including in the delivery of any support or Professional Services to Customer. SAP Materials do not include the Customer Data, Customer Confidential Information or the Cloud Service. SAP Materials may also be referred to in the Agreement as "Cloud Materials".

"**SAP 材料**"是指在履行协议过程中（包括在向客户交付任何支持或专业服务的过程中）由 SAP（独立或与客户合作）提供或开发的任何材料（包括统计报告）。SAP 材料不包括客户数据、客户保密信息或云服务。SAP 材料在协议中也称为"云材料"。

1.16. "**SAP SE**" means SAP SE, the parent company of SAP.

"**SAP SE**"是指 SAP 的母公司 SAP SE。

1.17. "**Subscription Term**" means the initial subscription term and if applicable any renewal subscription term of a Cloud Service identified in the Order Form.

"**订阅期限**"是指适用订购单中规定的云服务的初始订阅期限和续约订阅期限（如适用）。

1.18. "**Taxes**" means all transactional taxes, levies and similar charges (and any related interest and penalties) such as federal, state or local sales tax, value added tax, goods and services tax, use tax, property tax, excise tax, service tax or similar taxes.

"**税费**"是指所有交易税、征税和类似费用（以及任何相关的利息和罚款），如联邦、州或地方销售税、增值税、商品与服务税、使用税、财产税、消费税、服务税或类似税款。

1.19. "**Usage Metric**" means the standard of measurement for determining the permitted use and calculating the fees due for a Cloud Service as set forth in an Order Form.

"**使用指标**"是指用于确定对订购单中规定的云服务所进行的许可使用并据其计算应付费用的衡量标准。

2. **USAGE RIGHTS AND RESTRICTIONS**

使用权利和限制

2.1. Grant of Rights

权利的授予

SAP grants to Customer a non-exclusive and non-transferable right to use the Cloud Service (including its implementation and configuration), SAP Materials and Documentation solely for Customer's and its Affiliates' internal business operations. Customer may use the Cloud Service world-wide, except Customer shall not use the Cloud Service from countries/regions where such use is prohibited by Export Laws. Permitted uses and restrictions of the Cloud Service also apply to SAP Materials and Documentation.

SAP 授予客户非独占的、不可转让的权利，允许其出于自身及其关联企业的内部业务运营之唯一目的使用云服务（包括云服务的实施和配置）、SAP 材料和文档。客户可以在全球范围内使用云服务，但客户不得在出口法律禁止此类使用的国家/地区使用云服务。云服务的许可使用和限制条款同样适用于 SAP 材料和文档。

2.2. Authorized Users

授权用户

Customer may permit Authorized Users to use the Cloud Service. Usage is limited to the Usage Metrics and volumes stated in the Order 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.

客户有权允许授权用户使用云服务。使用范围仅限于订购单中规定的使用指标和使用量。云服务的访问凭据仅限一位用户使用，但若原用户被禁止使用云服务，则可将其访问凭据转让给他人。客户应对授权用户违反协议的行为承担责任。

2.3. Verification of Use

验证使用情况

Customer will monitor its own use of the Cloud Service and report any use in excess of the Usage Metrics and volume. SAP may monitor use to verify compliance with Usage Metrics, volume and the Agreement.

客户应监控自身使用云服务的情况，并报告任何超出使用指标和使用量的情形。SAP 也可监控客户的使用情况，验证其使用是否遵守使用指标、使用量和协议的规定。

2.4. Suspension of Cloud Service

暂停云服务

SAP may suspend or limit 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 or limitation. SAP will limit a suspension or limitation in time and scope as reasonably possible under the circumstances.

若继续使用会对云服务或其用户造成严重损害，SAP 可暂停或限制对云服务的使用。SAP 应就此类暂停或限制及时告知客户。SAP 应视情况限定合理可行的暂停或限制时间和范围。

2.5. Third Party Web Services

第三方 Web 服务

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. SAP is not responsible for the content of these third party web services.

云服务可能包括与第三方（SAP SE 或其关联企业以外的其他各方）提供的 Web 服务的集成，此类 Web 服务可通过云服务进行访问，但受此类第三方的条款和条件的制约。此类第三方 Web 服务不属于云服务的一部分，因此本协议对其不予适用。SAP 不对这些第三方 Web 服务的内容负责。

2.6. Mobile Access to Cloud Service

移动访问云服务

Authorized Users may access certain Cloud Services through mobile applications obtained from third-party websites such as Android or Apple app stores. 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.

授权用户可以通过其经由安卓或苹果应用商店等第三方网站获取的移动应用程序访问某些云服务。对移动应用程序的使用可能受到在下载/访问该移动应用程序时出现的条款和条件的约束，而不受本协议条款的约束。

2.7. On-Premise Components

企业预置型组件

The Cloud Service may include on-premise components that can be downloaded and installed (including updates) by Customer. The System Availability SLA does not apply to these components. Customer may only use the on-premise components during the Subscription Term.

云服务可能包括客户可下载和安装的本地组件（包括更新）。系统可用性 SLA 不适用于这些组件。客户只可在订阅期限内使用这些企业预置型组件。

3. SAP RESPONSIBILITIES

SAP 的责任

3.1. Provisioning

配置

SAP provides access to the Cloud Service as described in the Agreement. SAP makes the Cloud Service available and is responsible for its operation.

SAP 应根据协议规定提供对云服务的访问权限。SAP 提供云服务并负责其运行。

3.2. Support

支持

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

SAP 应为订购单中所述的云服务提供支持。

3.3. Security

安全性

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 incorporated into the Order Form in compliance with applicable data protection law.

SAP 将根据纳入订购单的 SAP 云服务的数据处理协议所述，依据适用的数据保护法，实施和维护相应的技术措施和组织措施，确保在提供云服务过程中处理的个人数据的安全。

3.4. Modifications

修改

3.4.1. Scope

范围

3.4.1.1. As the Cloud Service evolves, SAP may improve or modify the Cloud Service (including support services, Maintenance Windows and Major Upgrade Windows). This includes the option to remove functionality from the Cloud Service where SAP either provides a functional equivalent or where this does not materially reduce key functionality of the Cloud Service. Functionality beyond the initial scope of the Cloud Service may be subject to additional terms and Customer's use of such additional functionality shall be subject to those terms.

随着云服务的不断发展，SAP 可能会改进或修改云服务（包括支持服务、维护窗口和重大升级窗口）。这包括从云服务中删除功能，前提是 SAP 提供同等功能或者这不会实质性减少云服务的关键功能。超出云服务初始范围的功能可能受附加条款的约束，客户使用此类附加功能时应受这些条款的约束。

3.4.2. Modification Notices

修改通知

3.4.2.1. SAP shall inform Customer of modifications to the Cloud Service with an adequate period in advance. SAP shall provide Customer 1 month's advance notice before changing its Maintenance and Major Upgrade Windows (unless such change is a reduction in the duration of the applicable Maintenance or Major Upgrade Windows) and support services.

SAP 应提前足够的时间通知客户云服务的修改。在更改其维护窗口和重大升级窗口及支持服务之前，SAP 应提前一（1）个月通知客户， 除非此更改会缩短维护窗口和重大升级窗口的期限。

3.4.2.2. Where in justified cases, SAP removes functionality from the Cloud Service without providing a functional equivalent, SAP shall provide Customer 6 months' advance notice.

如在合理情况下，SAP 从云服务中删除功能但未提供与之同等的功能，SAP 应提前六（6）个月通知客户。

3.4.3. Customer Termination

客户终止

If a modification materially degrades the overall functionality of the affected Cloud Service, Customer may terminate its subscription to the affected Cloud Service by providing written notice to SAP within 1 month of SAP's applicable notice. If SAP does not receive timely notice, Customer is deemed to have accepted the modification.

如修改严重降低了受影响云服务的整体功能，客户可在 SAP 发出适用通知后一（1）个月内向 CDC 发送书面通知，终止其对受影响云服务的订阅。如 SAP 未及时收到通知，则视为客户已接受修改。

4. CUSTOMER AND PERSONAL DATA

客户和个人数据

4.1. Customer Ownership

客户所有权

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.

客户保留与客户数据相关的全部权利。SAP 仅可出于提供和支持云服务之目的使用客户提供的商标。

4.2. Customer Data

客户数据

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 and use Customer Data to provide and support the Cloud Service and as set out in the Agreement.

客户负责提供客户数据并将其输入到云服务中。客户授予 SAP（包括 SAP SE、其关联企业和分包商）非独占的权利，允许其按照协议所述出于提供和支持云服务之目的处理和使用客户数据。

4.3. Personal Data

个人数据

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

客户应依据适用数据隐私和保护法的规定，收集和维护客户数据中包含的所有个人数据。

4.4. Security

安全性

Customer will maintain reasonable security standards for its Authorized Users' use of the Cloud Service. Customer will not conduct or authorize penetration tests of the Cloud Service without advance approval from SAP.

客户应就其授权用户对云服务的使用制定合理的安全标准。未经 SAP 事先批准，客户不得进行或授权对云服务进行渗透测试。

4.5. Access to Customer Data

对客户数据的访问

4.5.1. 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.

在订阅期限内，客户能够随时访问其客户数据。客户可以标准格式导出和检索其客户数据。导出和检索可能会受技术限制，在此情形下，SAP 与客户应共同找到一种合理的方法以使客户能够访问客户数据。

4.5.2. 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.

在订阅期限届满之前，客户可以使用 SAP 的自助服务导出工具（视提供情况而定）执行客户数据从云服务中的最终导出操作。

4.5.3. 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.

协议有效期结束时，SAP 会删除托管云服务的服务器上保留的客户数据，除非适用法律要求保留这些数据。保留的数据受协议保密条款的约束。

4.5.4. 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.

如第三方就客户数据提起法律诉讼，SAP 应配合客户并遵守适用于客户数据处理的相关法律（费用均由客户承担）。

5. FEES AND TAXES

费用和税费

5.1. Fees and Payment

费用和付款

Customer shall pay fees as stated in the Order Form. If Customer does not pay fees in accordance with the terms of the Agreement then, in addition to any other available remedies, SAP may suspend Customer's use of the applicable Cloud Service until payment is made. SAP shall provide Customer with prior written notice before any such suspension. Any fees not paid when due shall accrue interest at the maximum legal rate. Purchase orders are for administrative convenience only. SAP may issue an invoice and collect payment without a corresponding purchase order. Customer may not withhold, reduce or set-off fees owed. Customer may not reduce Usage Metrics during the Subscription Term. All Order Forms are non-cancellable. All fees are non-refundable except per Sections 6.3 or 7.4.2.

客户应支付订购单中所规定的费用。如客户未依据协议条款支付费用，除任何其他可用的补救措施外，SAP 可以暂停客户对适用云服务的使用，直到客户完成付款。SAP 应在任何此类暂停前向客户提供事先书面通知。到期未付的所有费用应按最高法定利率计收利息。客户采购订单仅为方便管理。SAP 可以在不具备相应采购订单的情况下开具发票并收取款项。客户不得预扣、减少或抵销所欠费用。客户不得在订阅期限内减少使用指标。所有订购单均不可撤销。除第 6.3 节或第 7.4.2 节的规定外，所有费用概不退还。

5.2. Taxes

税费

All fees and other charges are subject to applicable Taxes, which will be charged in addition to fees under the Agreement.

所有费用和其他收费均需缴纳适用的税费，这些税费将在本协议项下的费用之外收取。

6. TERM AND TERMINATION

期限和终止

6.1. Term

期限

The Subscription Term is as stated in the Order Form.

订阅期限详见订购单。

6.2. Termination

终止

A party may terminate the Agreement:

任何一方均可在以下情况下终止本协议：

a)　　　for cause upon 30 days' prior written notice of the other party's material breach of any provision of the Agreement (including Customer's failure to pay any money due hereunder within 30 days of the payment due date) unless the breaching party has cured the breach during such 30 day period;

提前三十（30）天书面通知另一方严重违反协议任何条款（包括客户未能在付款到期日后三十（30）天内支付协议项下任何到期款项），除非违约方已在该等三十（30）天期间内纠正违约行为；

b)　　　as permitted under Sections 3.4.3, 7.3.b), 7.4.3, 8.1.4, or 13.4 (with termination effective thirty days after receipt of notice in each of these cases); or

符合第 3.4.3、7.3.b)、7.4.3、8.1.4 或 13.4 节的规定（在上述各个情况下，终止自收到通知后的三十（30）天生效）；或

c) 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 13.6.

如另一方进入破产申请程序、无力偿还债务或者为债权人利益进行转让，或实质违反了第 11 节或第 13.6 节的规定，则可立即予以终止。

6.3. Refund and Payments

退款和付款

For termination by Customer or termination under Sections 8.1.4 or 13.4 Customer will be entitled to:

对于客户提起的终止或第 8.1.4 或 13.4 节中所述的终止情形，客户应有权：

a) a pro-rata refund in the amount of the unused portion of prepaid fees for the terminated subscription calculated as of the effective date of termination (unless such refund is prohibited by Export Laws); and

获得按比例退还的针对终止订阅已预付但尚未使用的部分的费用，该费用自终止生效之日起开始计算（除非出口法律禁止此类退款），且

b) a release from the obligation to pay fees due for periods after the effective date of termination.

免除支付终止生效后的期间内的应付费用的义务。

6.4. Effect of Expiration or Termination

有效期届满或终止的效力

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

协议有效期届满或终止生效后：

a) Customer's right to use the Cloud Service and all SAP Confidential Information will end;

客户对云服务及所有 SAP 保密信息的使用权利均将终止；

b) Confidential Information of the disclosing party will be retained, returned, or destroyed as required by the Agreement or applicable law; and

披露方的保密信息将按协议或适用法律的要求保留、退还或销毁；且

c) termination or expiration of the Agreement does not affect other agreements between the parties.

协议的终止或有效期届满不会影响双方之间的其他协议。

6.5. Survival

存续

Sections 1, 5, 6.3, 6.4, 6.5, 8, 9, 10, 11, 12 and 13 will survive the expiration or termination of the Agreement.

第 1、5、6.3、6.4、6.5、8、9、10、11、12 和 13 节的规定在协议有效期届满或终止后继续有效。

7. **WARRANTIES**

保证

7.1. Compliance with Law

法律合规

Each party warrants its current and continuing compliance with all laws and regulations applicable to it in connection with:

各方保证，将遵守在以下方面对其适用的所有法律法规：

a) in the case of SAP, the operation of SAP's business as it relates to the Cloud Service; and

对 SAP 而言，与云服务相关的 SAP 业务运营；且

b)	in the case of Customer, the Customer Data and Customer's use of the Cloud Service.

对客户而言，客户数据及客户对云服务的使用。

## 7.2.	Good Industry Practices

良好的行业实践

SAP warrants that it will provide the Cloud Service:

SAP 保证，其将按以下标准提供云服务：

a)	in substantial conformance with the Documentation; and

实质性符合文档所述；且

b)	with the degree of skill and care reasonably expected from a skilled and experienced global supplier of services substantially similar to the nature and complexity of the Cloud Service.

达到对技术熟练、经验丰富且所提供的服务与云服务的性质和复杂性大致相近的全球供应商合理期望的技术水准和服务水平。

## 7.3.	Remedy

补救措施

Customer's sole and exclusive remedies and SAP's entire liability for breach of the warranty under Section 7.2 will be:

对于违反第 7.2 节中所规定的保证义务的行为，客户可获得的唯一排他补救措施及 SAP 应承担的全部责任为：

a)	correction of the deficient Cloud Service; and

纠正不达标准的云服务；且

b)	if SAP fails to correct the deficient Cloud Service, Customer may terminate its subscription for the affected Cloud Service. Any termination must occur within 3 months of SAP's failure to correct the deficient Cloud Service.

若 SAP 未纠正不达标的云服务，客户可终止其对相关云服务的订阅。任何终止均须在 SAP 未能纠正后的三（3）个月内实施。

## 7.4.	System Availability

系统可用性

7.4.1.	SAP warrants to maintain an average monthly system availability for the production system of the Cloud Service as defined in the applicable Service Level Agreement or Supplement ("SLA").

SAP 保证依照适用服务水平协议或补充（"SLA"）的规定，维持云服务生产系统的月平均系统可用性。

7.4.2.	Customer's sole and exclusive remedy for SAP's breach of the SLA is the issuance of a credit in the amount described in the SLA. Customer will follow SAP's posted credit claim procedure. When the validity of the service credit is confirmed by SAP in writing (email permitted), Customer may apply the credit to a future invoice for the Cloud Service or request a refund for the amount of the credit if no future invoice is due.

如 SAP 违反 SLA，客户能获得的唯一排他补救措施是提供 SLA 中所述额度的抵免。客户应遵循 SAP 发布的抵免申请程序。服务抵免的有效性一经 SAP 书面确认（可以电子邮件的形式），客户即可将该抵免用于以后针对云服务开具的发票中，或者如果没有未来到期的发票，则可请求退还该抵免金额。

7.4.3.	In the event SAP fails to meet the SLA (i) for 4 consecutive months, or (ii) for 5 or more months during any 12 month period, or (iii) at a system availability level of at least 95% for 1 calendar month, Customer may terminate its subscriptions for the affected Cloud Service by providing SAP with written notice within 30 days after the failure.

若 SAP 未能达到 SLA 的情形(i) 持续四个月，或 (ii) 在任何十二（12）个月期间内的五（5）个月或更多月份，或 (iii) 在某个日历月的系统可用性等级为最低 95%，则客户可在未达到 SLA 之后的三十（30）天内，通过向 SAP 发送书面通知的形式终止其对相关云服务的订阅。

7.5.   Warranty Exclusions

保证排除条款

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

第 7.2 和 7.4 节中的保证规定不适用于以下情况：

a)   the Cloud Service is not used in accordance with the Agreement or Documentation;

云服务的使用不符合协议或文档的规定；

b)   any non-conformity is caused by Customer, or by any product or service not provided by SAP; or

不符合情形是因客户或非 SAP 提供的任何产品或服务所引起；或者

c)   the Cloud Service was provided for no fee.

云服务是免费提供的。

7.6.   Disclaimer

免责声明

Except as expressly provided in the Agreement, neither SAP nor its subcontractors make any representation or warranties, express or implied, statutory or otherwise, regarding any matter, including the merchantability, suitability, originality, or fitness for a particular use or purpose, non-infringement or results to be derived from the use of or integration with any products or services provided under the Agreement, 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.

除非协议明确规定，否则 SAP 及其分包商不以法定形式或其他方式，就任何事宜，包括适销性、适用性、独创性或适合特定用途或目的，通过使用和集成依据协议提供的任何产品或服务衍生出的不侵权或结果，或任何产品或服务的操作安全、不会出现中断或错误，做任何明示或暗示的陈述或担保。客户同意，其在获得任何云服务订阅时未依赖 SAP 未来的功能交付、公共评论或广告或者产品路线图。

8.   THIRD PARTY CLAIMS

第三方索赔

8.1.   Claims Brought Against Customer

对客户提出的索赔

8.1.1.   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.

对于任何第三方声称客户及其关联企业对云服务的使用侵犯或盗用专利权、版权或商业秘密权而提起的诉讼，SAP 应为客户及其关联企业提供抗辩。SAP 将承担就此类索赔对客户最终裁定的赔偿金（或 SAP 达成的任何和解金额）。

8.1.2.   SAP's obligations under Section 8.1 will not apply if the claim results from:

第 8.1 节中规定的 SAP 应承担的义务不适用于因以下情况导致的索赔：

a)   use of the Cloud Service in conjunction with any product or service not provided by SAP;

将云服务与非 SAP 提供的任何产品或服务一起使用；

b)   use of the Cloud Service provided for no fee;

使用免费提供的云服务；

c)   Customer's failure to timely notify SAP in writing of any such claim if SAP is prejudiced by Customer's failure to provide or delay in providing such notice; or

客户未能及时以书面形式通知 SAP 任何此类索赔，而 SAP 因客户未能提供或延迟提供此类通知而受到损害；或

d)　　　any use of the Cloud Service not permitted under the Agreement.

对云服务的使用违反本协议规定。

8.1.3.　If a third party makes a claim or in SAP's reasonable opinion is likely to make such a claim, SAP may at its sole option and expense:

如第三方提出索赔或 SAP 合理认为其可能会提出此类索赔，SAP 可自行选择并承担费用：

a)　　　procure for Customer the right to continue using the Cloud Service under the terms of the Agreement; or

为客户取得依据协议条款继续使用云服务的权利；或

b)　　　replace or modify the Cloud Service to be non-infringing without a material decrease in functionality.

在不实质性减少功能的情况下更换或修改云服务，做到不侵权。

8.1.4.　If these options are not reasonably available, SAP or Customer may terminate Customer's subscription to the affected Cloud Service upon written notice to the other.

若无法合理提供上述选项，则 SAP 或客户可在书面通知对方之后终止客户对相关云服务的订阅。

8.1.5.　SAP expressly reserves the right to cease such defense of any claim(s) if the applicable Cloud Service is no longer alleged to infringe or misappropriate the third party's rights.

适用云服务不再存在侵犯或盗用第三方权利嫌疑的，SAP 明确保留停止对任何索赔的前述抗辩的权利。

8.2.　Claims Brought Against SAP

对 SAP 提出的索赔

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.

对于任何第三方就客户数据对 SAP、SAP SE、其关联企业和分包商提起的索赔，客户应为 SAP 提供抗辩。客户应承担就此类索赔对 SAP、SAP SE、其关联企业和分包商最终裁定的赔偿金（或客户达成的任何和解金额）。

8.3.　Third Party Claim Procedure

第三方索赔程序

All third party claims under Section 8 shall be conducted as follows:

第 8 节项下的所有第三方索赔均应按以下方式执行：

a)　　　The party against whom a third party claim is brought (the "**Named Party**") will timely notify the other party (the "**Defending Party**") in writing of any claim. The Named Party shall reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the Defending Party subject to Section 8.3b).

第三方索赔所针对的一方（"**指定方**"）应及时书面通知另一方（"**抗辩方**"）任何索赔。指定方应在抗辩过程中予以合理配合，并可（自费）聘请抗辩方合理接受的律师提供抗辩并受第 8.3 b)的约束。

b)　　　The Defending Party will have the right to fully control the defense.

抗辩方将拥有抗辩的全权控制权。

c)　　　Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by the Named Party.

索赔的任何和解结果均不应包括指定方的经济赔偿或特定履行义务，或指定方对其责任的承认。

8.4. Exclusive Remedy

排他补救措施

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.

第 8 节规定了协议双方及其关联企业、业务合作伙伴和分包商就本协议项下涉及的第三方索赔及侵犯或盗用第三方知识产权对另一方唯一的、排他性的和全部的责任以及唯一的补救措施。

9. LIMITATION OF LIABILITY

责任限制

9.1. No Cap on Liability

无限额责任

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

就以下各项引起的损害，任何一方所应承担的责任均不受限额限制：

a) the parties' obligations under Section 8.1.1 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);

双方在第 8.1.1 和 8.2 节项下的义务（如果第三方索赔与非 SAP 开发的云服务相关，SAP 在第 8.1.1 节下的义务将被排除）；

b) death or bodily injury arising from either party's gross negligence or willful misconduct; and / or

因任一方的重大过失或有意过错而引起的死亡或人身伤害，和/或

c) Customer's unauthorized use of any Cloud Service and / or any failure by Customer to pay any fees due under the Agreement.

客户未经授权使用任何云服务和/或未能支付协议项下的任何应付费用。

9.2. Liability Cap

责任限额

Except as set forth in Section 9.1, the maximum aggregate liability of either party (or its respective Affiliates or SAP's subcontractors) to the other or to any other person or entity for all events (or series of connected events) arising in any 12 month period will not exceed the annual subscription fees paid for the applicable Cloud Service associated with the damages for that 12 month period. Any "12 month period" commences on the Subscription Term start date or any of its yearly anniversaries.

除了第 9.1 节规定的情况以外，对于在任何十二（12）个月期间内发生的所有事件（或一系列相关事件），任何一方（或其相关关联企业或 SAP 的分包商）对另一方或对任何其他个人或实体承担的最大责任总额均不得超过针对该十二（12）月期间内与损害有关的相关云服务所支付的年度订阅费用。"十二（12）个月期间"自订阅期限开始日期或其任一年度周年日开始。

9.3. Exclusion of Damages

损害排除

In no case will:

任何情况下：

a) either party (or its respective Affiliates or SAP's subcontractors) be liable to the other party for any special, incidental, consequential, or indirect damages, loss of goodwill or business profits, work stoppage or for exemplary or punitive damages; and

任何一方（或其各自的关联企业或者 SAP 的分包商）均不就任何特殊的、偶发的、衍生的或间接的损害、商誉或利润损失、停工、惩戒性的或惩罚性的损失对另一方承担责任；

b)   SAP be liable for any damages caused by any Cloud Service provided for no fee.

SAP 不就因任何免费提供的云服务而引起的损害承担责任。

10.   INTELLECTUAL PROPERTY RIGHTS

知识产权

10.1.   SAP Ownership

SAP 所有权

10.1.1.   Except for any rights expressly granted to Customer under the Agreement, SAP, SAP SE, their Affiliates or licensors own all Intellectual Property Rights in and derivative works of:

除协议项下明确授予客户的任何权利外，SAP、SAP SE 及其关联企业或许可方拥有以下各项及其衍生作品的所有知识产权：

a)   the Cloud Service;

云服务；

b)   SAP Materials;

SAP 材料；

c)   Documentation; and

文档；以及

d)   any Professional Services, design contributions, related knowledge or processes, whether or not developed for Customer.

任何专业服务、设计贡献、相关知识或流程，无论是否是为客户开发的。

10.1.2.   Customer shall execute such documentation and take such other steps as is reasonably necessary to secure SAP's or SAP SE's title over such rights.

客户应签署此类文档，并采取合理必要的其他措施，确保 SAP 或 SAP SE 对此类权利的权益。

10.2.   Acceptable Use Policy

可接受的使用政策

10.2.1.   With respect to the Cloud Service, Customer will not:

就云服务而言，客户不得：

a)   copy, translate, disassemble, decompile, make derivative works, or reverse engineer the Cloud Service or SAP Materials (or attempt any of the foregoing);

复制、翻译、反汇编、反编译、制作衍生作品或反向工程云服务或 SAP 材料（或尝试上述任何一种）；

b)   enter, store, or transfer any content or data on or via the Cloud Service that is unlawful or infringes any Intellectual Property Rights;

在云服务上或通过云服务输入、存储或传输非法或侵犯任何知识产权的任何内容或数据；

c)   circumvent or endanger the operation or security of the Cloud Service; or

危害或危及云服务的运营或安全；或者

d)   remove SAP's copyright and authorship notices.

删除 SAP 的版权和著作权声明。

11. CONFIDENTIALITY

保密

11.1. Use of Confidential Information

保密信息的使用

11.1.1. The receiving party shall:

接收方应：

a)　　maintain all Confidential Information of the disclosing party in strict confidence, taking steps to protect the disclosing party's Confidential Information substantially similar to those steps that the receiving party takes to protect its own Confidential Information, which shall not be less than a reasonable standard of care;

对披露方的所有保密信息严格保密，采取与接收方保护其自身的机密信息所采取的措施大致相同的措施保护披露方的保密信息，且不得低于合理注意标准；

b)　　not disclose or reveal any Confidential Information of the disclosing party to any person other than its Representatives 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;

除了向为行使协议项下的权利或履行协议项下的义务而需要获取保密信息，并承担与第 11 节规定的条款大体类似的保密义务的代表，不得向任何人员披露或透露披露方的任何保密信息。

c)　　not use or reproduce any Confidential Information of the disclosing party for any purpose outside the scope of the Agreement; and

不得出于协议范围之外的任何目的使用或复制披露方的任何保密信息；以及

d)　　retain any and all confidential, internal, or proprietary notices or legends which appear on the original and on any reproductions.

保留原件和任何复制品上出现的任何及所有保密、内部或专有声明或图例。

11.1.2. Customer shall not disclose any information about the Agreement, its terms and conditions, the pricing or any other related facts to any third party.

客户不得向任何第三方披露有关协议、其条款和条件、定价或任何其他相关事实的任何信息。

11.1.3. Confidential Information of either party disclosed prior to execution of the Agreement will be subject to Section 11.

任何一方在签署本协议之前披露的保密信息均受到第 11 节规定的约束。

11.2. Compelled Disclosure

强制性披露

The receiving party may disclose the disclosing party's Confidential Information to the extent required by law, regulation, court order or regulatory agency; provided, that the receiving party required to make such a disclosure uses reasonable efforts to give the disclosing party reasonable prior notice of such required disclosure (to the extent legally permitted) and provides reasonable assistance in contesting the required disclosure, at the request and cost of the disclosing party. The receiving party and its Representatives shall use commercially reasonable efforts to disclose only that portion of the Confidential Information which is legally requested to be disclosed and shall request that all Confidential Information that is so disclosed is accorded confidential treatment.

依照法律、法规、法院指令或监管机构的要求，接收方可以披露披露方的保密信息，但前提是，被要求进行此类披露的接收方应尽合理努力就此类披露事宜事先向披露方发出合理的通知（在法律允许的范围内），并在披露方要求和承担相关费用的情况下，就对此类披露要求进行抗辩提供合理的协助。接收方及其代表应尽商业上合理的努力，仅披露法律要求披露的部分保密信息，并应要求对就此披露的所有保密信息给予保密处理。

11.3.   Exceptions
例外情形

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

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 the receiving party without reference to the disclosing party's Confidential Information;

在未使用披露方的保密信息的情况下，由接收方独立开发的信息；

b)   has become generally known or available to the public through no act or omission by the receiving party;

非因接收方的不作为或疏忽而已为公众所知或已普遍公开的信息；

c)   at the time of disclosure, was known to the receiving party free of confidentiality restrictions;

在披露之时已为接收方所知且不受保密限制的保密信息；

d)   is lawfully acquired free of restriction by the receiving party from a third party having the right to furnish such Confidential Information; or

接收方从有权提供该等保密信息的第三方处合法获得且不受任何限制的信息；或

e)   the disclosing party agrees in writing is free of confidentiality restrictions.

披露方书面同意免除保密限制的信息。

11.4.   Destruction and Return of Confidential Information

保密信息的销毁和归还

Upon the disclosing party's request, the receiving party shall promptly destroy or return the disclosing party's Confidential Information, including copies and reproductions of it. The obligation to destroy or return Confidential Information shall not apply:

应披露方要求，接收方应立即将包含披露方保密信息的副本和复制品销毁或归还。销毁或归还保密信息的义务不适用于以下情形：

a)   if legal proceedings related to the Confidential Information prohibit its return or destruction, until the proceedings are settled, or a final judgment is rendered;

与保密信息有关的法律诉讼程序禁止归还或销毁，直到诉讼得到解决或作出最终判决；

b)   to Confidential Information held in archive or back-up systems under general systems archiving or backup policies; or

根据一般系统归档或备份政策，保密信息已保存在归档或备份系统中；或

c)   to Confidential Information the receiving party is legally entitled or required to retain.

接收方依法有权或被要求保留保密信息。

12.   FEEDBACK

反馈

Customer may at its sole discretion and option provide SAP with Feedback. In such instance, SAP, SAP SE and its Affiliates may in their sole discretion retain and freely use, incorporate or otherwise exploit such Feedback without restriction, compensation or attribution to the source of the Feedback.

客户可自行决定向 SAP 提供反馈。在此类情况下，SAP、SAP SE 及其关联企业可自行决定保留和自由使用、合并或以其他方式利用此类反馈，而不受限制、无需补偿或注明反馈来源。

13. MISCELLANEOUS

其他条款

13.1. Severability

可分割性

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

如协议的任何条款被裁定为全部或部分无效或不可执行，则该无效或不可执行不会影响协议的其他条款。

13.2. No Waiver

无弃权

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

对任何违反协议规定的行为放弃追究的权利不应视为对任何其他违约行为放弃追究的权利。

13.3. Counterparts

协议副本

The Agreement may be signed in counterparts, each of which is an original and together constitute one Agreement.

协议可签署多份副本，每份均为正本，共同构成一份协议。

13.4. Trade Compliance

贸易合规性

13.4.1. SAP and Customer shall comply with Export Laws in the performance of this Agreement. SAP Confidential Information is subject to Export Laws. Customer, its Affiliates, and Authorized Users shall not directly or indirectly export, re-export, release, or transfer Confidential Information in violation of Export Laws. Customer is solely responsible for compliance with Export Laws related to Customer Data, including obtaining any required export authorizations for Customer Data. Customer shall not use the Cloud Service from Crimea/Sevastopol, Cuba, Iran, the Democratic People's Republic of Korea (North Korea) or Syria.

SAP 和客户在履行本协议时应遵守出口法律。SAP 保密信息受出口法律的约束。客户、其关联企业和授权用户不得在违反出口法律的情况下直接或间接出口、再出口、发布或转让保密信息。客户全权负责遵守与客户数据相关的出口法律，包括针对客户数据获得任何必要的出口授权。客户不得使用源于克里米亚/塞瓦斯托波尔、古巴、伊朗、朝鲜民主主义人民共和国（北朝鲜）或叙利亚的云服务。

13.4.2. Upon SAP's request, Customer shall provide information and documents to support obtaining an export authorization. Upon written notice to Customer SAP may immediately terminate Customer's subscription to the affected Cloud Service if:

应 SAP 的要求，客户应提供信息和文档来支持获得出口授权。在向客户发出书面通知后，在以下情况下，SAP 可立即终止客户对受影响云服务的订阅：

a)   the competent authority does not grant such export authorization within 18 months; or

主管部门在十八（18）个月内未授予此类出口授权，或

b)   Export Laws prohibit SAP from providing the Cloud Service or Professional Services to Customer.

出口法律禁止 SAP 向客户提供云服务或专业服务。

13.5. Notices

通知

All notices will be in writing and given when delivered to the address set forth in an Order Form. Notices from SAP to Customer may be in the form of an electronic notice to Customer's authorized representative or administrator. SAP

may provide notice of modifications to the Cloud Service under Section 3.4.2 via Documentation, release notes or publication. System notifications and information from SAP relating to the operation, hosting or support of the Cloud Service can also be provided within the Cloud Service, or made available via the SAP Support Portal.

所有通知均在以书面形式递送至订购单中规定的地址时视为送达。SAP 向客户发出的通知可以采用电子通知的形式发送给客户的授权代表或管理员。SAP 可以通过文档、发行说明或出版物提供第 3.4.2 节中云服务的修改通知。SAP 提供的与云服务运营、托管或支持有关的系统通知和信息也可以在云服务中提供，或通过 SAP 支持门户提供。

13.6. Assignment

转让

Without SAP's prior written consent, Customer may not assign, delegate or otherwise 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.

未经 SAP 事先书面同意，客户不得将协议（或其任何权利或义务）让与、委托或以其他方式转让给任何一方。SAP 可将协议转让给 SAP SE 或其任一关联企业。

13.7. Subcontracting

分包

SAP may subcontract parts of the Cloud Service to third parties. SAP is responsible for breaches of the Agreement caused by its subcontractors.

SAP 可将部分云服务分包给第三方。SAP 应对其分包商违反协议的行为承担责任。

13.8. Relationship of the Parties

双方关系

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

协议双方为独立的签约方，且协议不构成协议双方间任何的合作伙伴、特许、合资、代理、信托或雇佣关系。

13.9. Force Majeure

不可抗力

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.

因超出履行协议一方合理控制原因而造成对本协议的迟延履行的（到期款项之支付义务除外），不应构成对本协议的违约。这种情况下，应延长协议的履行期限，延长时间应等于妨碍履约的情形的存续时间。

13.10. Governing Law

适用法律

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 China. 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.

协议以及因本协议及其主旨产生或与本协议有关的任何索赔（包括任何非合同索赔）均应受中国法律的管辖并据此做出解释。《联合国国际货物销售合同公约》及任何冲突法原则和《统一计算机信息交易法案》（若实施）不适用于协议。

13.11. Jurisdiction and Mandatory Venue

管辖和审判法院

The parties submit to the exclusive jurisdiction of the courts where SAP is located. The parties waive any objections to the venue or jurisdictions identified in this provision. The mandatory, sole and exclusive venue, place or forum for any disputes arising from the Agreement (including any dispute regarding the existence, validity or termination of the Agreement) shall be courts where SAP is located.

双方同意接受 SAP 住所地有管辖权的法院管辖。双方放弃就本条款所规定的管辖和审判法院提出异议的权利。因本协议所产生的纠纷（包括关于协议的成立、生效或者终止）将受到 SAP 住所地有管辖权的法院的强制性、唯一性和排他性管辖。

13.12. Entire Agreement

完整协议

The Agreement constitutes the complete and exclusive statement of the agreement between SAP and Customer in connection with the parties' business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements, tender and bidding documents) are merged in and superseded by the Agreement and the parties disclaim any reliance on them. The Agreement may be modified solely in writing chopped or chopped and signed by both parties, except as permitted under the Agreement. Terms and conditions of any Customer-issued purchase order or any document(s) signed by personnel (except by legal representative(s)) of either party, shall have no force and effect, even if SAP or Customer accepts or does not otherwise reject the purchase order or the other document(s).

本协议构成 SAP 与客户就协议主旨所达成的有关双方商业关系的协议的完整且唯一的声明。之前的一切陈述、磋商与文书（包括任何保密协议、招投标文件）均已并入本协议并由本协议替代，且双方声明前述任何此类陈述、磋商与文书不再具有约束力。除非协议允许，本协议惟经双方书面盖章或盖章及签字方式签署方可进行修改。客户签发的任何采购订单、任何一方除法定代表人外的其他工作人员签署的任何文件中的条款和条件不具备任何效力，即使 SAP 或客户接受或未以其他形式拒绝该采购订单或其他文件，也是如此。

13.13. Governing Language

准据语言

This Agreement is prepared in English and Chinese languages. In the case of any conflict or inconsistency, the Chinese language version shall prevail.

本协议以中英文书就。两种文本如有抵触或不一致之处，以中文文本为准。