

## GENERAL TERMS AND CONDITIONS FOR SAP DIGITAL INTERCONNECT SERVICES ("GTC")

### 1. DEFINITIONS

- 1.1 "Affiliate"** means SAP SE or any legal entity in which Customer or SAP SE, directly or indirectly, holds more than fifty percent (50%) of the entity's shares or voting rights. Any legal entity will be considered an Affiliate as long as that interest is maintained.
- 1.2 "Agreement"** means an Order Form and documents incorporated into an Order Form.
- 1.3 "Confidential Information"** means
- (a) with respect to Customer: (i) Customer marketing and business requirements, (ii) Customer implementation plans, and/or (iii) Customer financial information, and
  - (a) with respect to SAP: (i) the Digital Interconnect Service, Documentation, and analyses under Section 3.6, and (ii) information regarding SAP research and development, product offerings, pricing and availability.
  - (b) 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.
  - (c) Confidential Information does not include Customer Data which will solely be subject to SAP's obligations in Section 3.3 of the GTC.
- 1.4 "Customer Data"** means any content, messages, data and/or information that Customer delivers or uploads to the SAP Network or to a Digital Interconnect Service or provides via a Digital Interconnect Service. Customer Data will not include SAP's Confidential Information nor any usage data that arises or SAP generates in the supply of the Digital Interconnect Service.
- 1.5 "Data Protection Law"** means the applicable legislation protecting the fundamental rights and freedoms of persons and their right to privacy with regard to the processing of Personal Data under the Agreement, which may include, but is not limited to, the EU Directive 2002/58/EC (E-Privacy Directive) and Regulation (EU) 2016/679 (EU General Data Protection Regulation).
- "Digital Interconnect Service"** means any distinct communication and/or messaging services and associated services agreed in an SAP Order Form referencing these GTC, including any support associated with such service or services.
- 1.6 "Documentation"** means SAP's then-current technical and functional documentation as well as any roles and responsibilities descriptions, if applicable, for the Digital Interconnect Service which is made available to Customer with the Digital Interconnect Service.
- 1.7 "Excluded Event(s)"** means any of the following: (i) a fault in, or any other problem associated with, systems not operated or managed by SAP; (iii) any breach of the Agreement by the Customer or a third-party within the Customer's direct control or any third party supplier to the Customer; (iv) any act by the Customer which interferes with or impedes the supply and support of the Digital Interconnect Service; (v) any suspension of the Digital Interconnect Service in accordance with the terms of the Agreement; or (vi) any other circumstances caused by events for which SAP is not liable in accordance with the terms of the Agreement.
- 1.8 "Indemnity"** means any section within an Order Form, Supplement or GTC identified as an indemnity either by its wording or its heading.
- 1.9 "Order Form"** means the ordering document for a Digital Interconnect Service that references the GTC.
- 1.10 "Personal Data"** means any information relating to an identified or identifiable natural person, as defined by Data Protection Law, and which is protected under Data Protection Law.
- 1.11 "SAP SE"** means SAP SE, the parent company of SAP.
- 1.12 "SAP Policies"** means the operational guidelines and policies applied by SAP to provide and support the Digital Interconnect Service as incorporated in an Order Form.
- 1.13 "SAP Network"** means the digital networks (wireless or otherwise), server(s), hardware, software and/or any other equipment that SAP uses, in its sole discretion, in connection with the

supply of the Digital Interconnect Service and whether owned by SAP or any outsourced service provider and including any extranet access provided by SAP in connection with the supply of the Digital Interconnect Service.

**1.14 "Term"** means the term identified in the applicable Order Form, including all renewals.

**1.15 "Supplement"** means the Digital Interconnect Supplemental Terms and Conditions that apply to the Digital Interconnect Service and that are incorporated in an Order Form.

## **2. SUPPLY OF DIGITAL INTERCONNECT SERVICE AND RESTRICTIONS**

### **2.1 Supply of Digital Interconnect Service.**

Subject to the terms of the Agreement, SAP will make the Digital Interconnect Service available on an 'as is' and 'as available' basis to Customer. Neither SAP 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. SAP points out that Customer should not rely on delivery of future functionality, public comments or advertising of SAP or product roadmaps in entering into the Agreement. The Digital Interconnect Service has not been specifically designed to meet its and/or any of its customer's or end-user's individual requirements; and the Digital Interconnect Service will not be error-free, uninterrupted, free from unauthorized access (including third party hackers or denial of service attacks).

SAP warrants its current and continuing compliance with all laws and regulations applicable to it in connection with the operation of SAP's business as it relates to the Digital Interconnect Service.

### **2.2 Good Industry Practices.**

SAP warrants that it will provide the Digital Interconnect Service in substantial conformance with the Documentation and 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 Digital Interconnect Service.

### **2.3 Grant of Rights.**

SAP grants to Customer a non-exclusive and non-transferable right to use the Digital Interconnect Service and Documentation as permitted under the Agreement solely for the Customer's internal business operations.

### **2.4 Acceptable Use Policy.**

With respect to the Digital Interconnect Service, Customer shall 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.

### **2.5 Monitoring.**

SAP may, but is under no obligation to, monitor use of the Digital Interconnect Service:

- (a) to comply with applicable law, regulation, or other governmental request or order including disclosing Customer Data in accordance with such law, regulation, request or order;
- (b) to verify Customer's compliance with the Agreement;
- (c) to protect the integrity of its systems and networks and those of its suppliers;
- (d) as necessary to resolve support incidents related to Customer's use of the Digital Interconnect Service and for traffic balancing purposes; or
- (e) as otherwise approved or requested by Customer.

### **2.6 Compliance.** Customer shall promptly provide any information as SAP may request relating to Customer Data or Customer's use of the Digital Interconnect Service:

- (a) to determine Customer's compliance with the Agreement, and

- (b) in response to any request made by any regulatory or governmental, legal or statutory body.

**2.7 Operating Instructions.** Customer shall comply and use the Digital Interconnect Service in accordance with the operating guidelines and policies as SAP may provide to Customer from time to time, or as otherwise set out in the Agreement.

**2.8 Suspension of Digital Interconnect Service.**

SAP may suspend use of the Digital Interconnect Service as reasonably required:

- (a) to comply with applicable law or regulation;
- (b) to perform maintenance (whether planned or emergency) or repair to the SAP Network;
- (c) if the use poses a threat to the integrity or continued operation of the SAP Network or any part of it;
- (d) if the use is in breach of the Agreement or otherwise exposes SAP to legal liability; or
- (e) if SAP is unable to provide the Digital Interconnect Service due to a termination or alteration not caused by SAP of SAP's relationship with any third party or the termination or suspension of any license or authorization necessary to provide the Digital Interconnect Service.

SAP will promptly notify (email permitted) Customer of the suspension. SAP will resume the Digital Interconnect Service once the cause of the suspension has been remedied, provided that if a suspension is due to Customer's actions or inactions, SAP will resume the Digital Interconnect Service once Customer has remedied the cause of the suspension and Customer will pay any applicable reconnection charge or, if no charge is specified, Customer shall reimburse SAP for all reasonable costs and expenses incurred by SAP in resuming the Digital Interconnect Service and further provided that SAP may terminate the Agreement if Customer does not remedy the cause of the suspension within thirty (30) days.

**2.9 Third Party Web Services.**

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

**2.10 Mobile Access to Digital Interconnect Service.**

Customer may access certain Digital Interconnect 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 Digital Interconnect Service as described in the Agreement.

**3.2 Support.**

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

**3.3 Security.**

SAP uses reasonable security technologies in providing the Digital Interconnect Service and will adhere to the provisions of the Austrian Telecommunications Act (TKG2003).

**3.4 Modifications.**

- (a) The Digital Interconnect Service and SAP Policies may be enhanced or adapted by SAP to reflect technical advances or changes and to allow for the Digital Interconnect Service's continuing compliance with applicable mandatory law. SAP will inform Customer of modifications by email, the support portal, release notes, Documentation or the Digital Interconnect Service. The information will be delivered by email if the modification is not solely an enhancement. Modifications may include optional new features for the Digital

Interconnect Service, which Customer may use subject to the then-current Supplement and Documentation.

- (b) If Customer establishes that a modification by SAP causes a materially adverse impact on Customer's use of the Digital Interconnect Service and is not reasonably acceptable to Customer for legitimate business reasons, Customer may terminate its access to the affected Digital Interconnect Service by providing written notice to SAP within thirty (30) days of such modification.

### **3.5 Excluded Events.**

Notwithstanding any provision to the contrary in the Agreement, SAP shall not be liable for any failure to perform or any delay in performing an obligation under the Agreement if such failure or delay arises as a result of or in connection with the occurrence of an Excluded Event.

### **3.6 Analyses.**

SAP or its Affiliates may use anonymous information relating to use of the Digital Interconnect Service to prepare analyses. Analyses do not contain Customer's Confidential Information or Customer Data. Examples of analyses include: optimizing resources and support; research and development; verification of security and data integrity; and internal demand planning.

## **4. CUSTOMER RESPONSIBILITIES AND CUSTOMER DATA**

### **4.1 Customer Obligations.**

Customer shall:

- (a) comply with all laws and regulations applicable to it in connection with the Customer Data and Customer's use of the Digital Interconnect Service.
- (b) continue to obtain all necessary permits, consents, rights, authorizations, or certifications for its use of the Digital Interconnect Service, including, but not limited to, any Customer Data transmitted as part of that use; and
- (c) immediately comply with such directions and/or orders as may be issued from time to time by a governmental or regulatory authority in relation to the Customer Data or its use of the Digital Interconnect Service and shall fully cooperate with SAP's request for assistance in conforming the Digital Interconnect Service to any new requirements or determinations.

### **4.2 Customer Data.**

Customer is solely responsible for all Customer Data. Neither SAP, its Affiliates, nor their respective suppliers exercise any control over Customer Data, and act as a mere or passive conduit in transmitting and handling Customer Data.

### **4.3 Personal Data.**

Customer will collect and maintain all Personal Data necessary to utilize the Digital Interconnect Service, and all required consents associated with such Personal Data, in compliance with applicable Data Protection Laws.

### **4.4 Co-operation**

The Customer shall reasonably co-operate with SAP in SAP's supply of a Digital Interconnect Service, including any diagnostic or other maintenance or upgrade activities.

### **4.5 Security.**

Customer will maintain reasonable security standards to protect the SAP Network from unauthorized access, including, but not limited to, protecting Customer's passwords from being disclosed to or accessed by third parties. Customer shall immediately inform SAP if the Customer becomes aware of any possible or actual unauthorized use, misuse or access of the Digital Interconnect Service.

### **4.6 Disaster Recovery.**

Customer is solely responsible for all disaster recovery, business continuity and back up arrangements in respect of its own equipment and all of its Customer Data.

## **5. FEES AND TAXES**

### **5.1 Fees and Payment.**

Customer will pay fees as stated in the Order Form. For nonpayment, SAP may, after prior written notice, suspend Customer's use of the Digital Interconnect Service until payment is made. Customer cannot withhold, reduce or set-off fees owed during the Term.

### **5.2 Taxes.**

All fees are subject to applicable statutory value-added tax (VAT).

### **5.3 Set-off.**

SAP may, without notice to the Customer, set-off any sums owed by the Customer under this Agreement and/or any other agreement with SAP against any sums owed by SAP to Customer regardless of the place of payment or currency of such obligations.

## **6. TERM AND TERMINATION**

### **6.1 Term.**

The Term is as stated in the Order Form.

### **6.2 Termination by Either Party.**

A party may terminate the Agreement:

- (a) after a thirty (30) days remedy period granted by the terminating party by written notice for material breach to the other party has expired without the material breach having been remedied;
- (b) as permitted under Sections 3.4(b), 7.3(b), or 8.1(c) (with termination effective thirty (30) days after receipt of notice in each of these cases); or
- (c) immediately if the other party threatens to file for bankruptcy, become insolvent, or make an assignment for the benefit of creditors, or otherwise materially breaches Sections 11 or 13.6.

### **6.3 Termination by SAP.**

In addition to the termination rights set out in Section 6.2, SAP may also terminate the Agreement or any Digital Interconnect Service at any time:

- (a) upon any termination of a network operator, third-party subcontractor, supplier, or interconnected carrier relationship with SAP or its Affiliates or the discontinuance of support for equipment or a component of service necessary for SAP to provide the Digital Interconnect Service;
- (b) upon any legal, regulatory or governmental prohibition or limitation affecting the Digital Interconnect Service; or
- (c) upon the termination or expiry of any license necessary to provide the Digital Interconnect Service.

### **6.4 Effect of Expiration or Termination.**

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

- (a) Customer's right to use the Digital Interconnect Service and all SAP Confidential Information will end;
- (b) SAP will cease providing the applicable Digital Interconnect Service;
- (c) Confidential Information of the disclosing party will be returned or destroyed as required by the disclosing party;
- (d) Customer shall promptly pay to SAP all outstanding amounts due under the Agreement; and
- (e) termination or expiration of the Agreement does not affect other agreements between the parties.

### **6.5 Survival.**

Sections 1, 2.4, 2.5, 5, 6.4, 6.5, 8, 9, 10, 11 and 13 will survive the expiration or termination of the Agreement.

## **7. BREACHES AND REMEDIES**

SAP warrants that it will provide the Digital Interconnect Service as contractually agreed. Customer must give notice of every breach to SAP in writing without delay and with a detailed description of the reason.

In case of SAP's failure to remedy the breach, Customer's sole and exclusive remedies and SAP's entire liability for breach of the warranty under Section 7.2 will be:

- (a) the re-performance of the deficient Digital Interconnect Service, and
- (b) if SAP fails to re-perform, Customer may terminate the affected Digital Interconnect Service. Any termination must occur within three (3) months of SAP's failure to re-perform. Damages may be claimed subject to Section 9.

## **8. THIRD PARTY CLAIMS**

**8.1** If a third party claims that Customer's use of the Digital interconnect Service in accordance with the terms and conditions of the Agreement infringes its intellectual property rights, Customer must fully inform SAP in writing without delay. If Customer ceases to use the Digital Interconnect Service to mitigate loss or for any other reason, Customer must notify the third party that such cessation does not imply any recognition of the claimed infringement. Customer shall conduct court proceedings with the third party only with SAP's agreement or shall authorize SAP to assume sole conduct of the dispute. This applies mutatis mutandis in cases where a third party makes claims against SAP that are due to acts by Customer or third-party provider access.

## **9. LIMITATION OF LIABILITY**

**9.1** SAP is liable in contract, tort, or otherwise for loss or wasted expenditure subject always as follows:

- (a) In cases of intent, SAP's liability extends to the full loss; in cases of gross negligence, liability is limited to the amount of foreseeable loss that would have been prevented through the exercise of due care; in cases of absence of a guaranteed quality, liability is limited to the amount of foreseeable loss that would have been prevented by the presence of the guaranteed quality.
- (b) In other cases, SAP is not liable except for breach of a major obligation (Kardinalpflicht) and only up to the limits in the following subsection. A breach of a major obligation in the meaning of this Section 9.1 (b) is assumed where the duty itself is a necessary prerequisite for the contractual performance, or where the breach of the relevant duty jeopardizes the purpose of the contract and where Customer could legitimately rely upon its fulfillment.

### **9.2 Liability Cap.**

Liability in cases under Section 9.1 (b) is limited to EUR 50.000,00 per incident, and to a total per contract year of the fee that was paid in the contract year for the Digital Interconnect Service concerned, but at least EUR 100.000,00.

**9.3** Contributory fault (including without limitation breach of obligations detailed in Section 4) may be claimed. The limits of liability in Section 9.1 do not apply to personal injury liability or liability under the Austrian Product Liability Act (Produkthaftungsgesetz).

**9.4** All claims against SAP in contract, tort, or otherwise for loss or wasted anticipatory expenditure are barred after a period of one year. That period begins at the point in time specified in the Austrian Civil Code, Section 1489. The provisions in sentences 1 to 3 in this subsection 9.4 do not apply to liability for personal injury, or liability under the Austrian Product Liability Act.

## **10. INTELLECTUAL PROPERTY RIGHTS**

### **10.1 SAP Ownership.**

SAP, its Affiliates or licensors own all intellectual property rights in and related to the Digital Interconnect Service, Documentation, design contributions, related knowledge or processes, and any derivative works of them. All rights not expressly granted to Customer are reserved to SAP, its Affiliates and its licensors, including without limitation if those created to address a requirement of or in collaboration with Customer.

### **10.2 Customer Ownership.**

Customer retains all rights in and related to the Customer Data as between Customer and SAP.

## **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 or representatives or those of its Affiliates 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. DATA PROTECTION**

### **12.1 Data Controller.**

In supplying those elements of the Digital Interconnect Service which qualify as electronic communications services, SAP, as a data controller, may need (i) to process Personal Data and other data covered by Data Protection Law (including, but not limited to, Customer contract data, traffic data and billing data), and (ii) to process such data outside the European Economic Area and/or disclose it to third parties. In handling such data, SAP will act in compliance with its privacy

policy (an *SAP Policy*) available at the location referenced in the Order Form or any other URL of which SAP notifies Customer from time to time (email permitted).

## **12.2 Data Processor.**

SAP may provide Customer with certain Digital Interconnect Services as to which SAP acts as Customer's data processor. Such Digital Interconnect Service shall be identified in the applicable Order Form with a reference to this Section 12.2 and such processing shall be governed by the Data Processing Agreement for SAP Cloud Services (*DPA*) available at the location referenced in the Order Form as amended as follows:

- (a) "Cloud Services" shall be deemed to be references to the relevant Digital Interconnect Service identified in the applicable Order Form where SAP acts as Customer's data processor;
- (b) "Authorized Users" shall be deemed to be a reference to Customer; and
- (c) "Subscription Term" shall be deemed to be a reference to Term as defined in these GTC.

## **13. MISCELLANEOUS**

### **13.1 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.

### **13.2 No Waiver.**

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

### **13.3 Electronic Signature.**

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

### **13.4 Regulatory Matters.**

SAP Confidential Information is subject to export control laws of various countries, including the laws of the United States, Germany and Austria. Customer will not submit SAP Confidential Information to any government agency for licensing consideration or other regulatory approval, and will not export SAP Confidential Information to countries, persons or entities if prohibited by export laws.

### **13.5 Notices.**

All notices will be in writing and given when delivered to the address set forth in an Order Form with copy to the legal department. Notices by SAP relating to the operation or support of the Digital Interconnect Service, and as otherwise permitted in the GTC or an Order Form (including, but not limited to, those under Sections 2.7 and 5.1 of this GTC) may be in the form of electronic mail to Customer's authorized representative or administrator, with such notice deemed to have been given upon dispatch from SAP's email server.

### **13.6 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 any of its Affiliates.

### **13.7 Subcontracting.**

SAP may subcontract parts of the Digital Interconnect Service to third parties. SAP is responsible for breaches of the Agreement caused by its subcontractors. Nothing shall prevent SAP from delegating the performance of any or all of its obligations under this Agreement to any Affiliate.

### **13.8 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.

**13.9 Rights of third parties.** Except as specifically provided for in this Agreement, this Agreement does not give rise to any third party being a third party beneficiary of this Agreement or being entitled to any rights whatsoever, including, but not limited to, the right to enforce any term of this Agreement. Under this Agreement, any liability, loss or damage incurred or suffered by an Affiliate of SAP in relation to the supply of the Digital Interconnect Service to, or use by, Customer pursuant to this Agreement shall be deemed to constitute a liability, loss or damage incurred or suffered by SAP.



**13.10 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.

**13.11 Governing Law.**

The Agreement and any claims relating to its subject matter will be governed by and construed under the laws of Austria, without reference to its conflicts of law principles. All disputes will be subject to the exclusive jurisdiction of the competent court having its jurisdiction in 1030 Vienna. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement. Either party must initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within one (1) year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

**13.12 Entire Agreement.**

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) are merged in and superseded by the Agreement and the parties disclaim any reliance on them. The Agreement may be modified solely in writing signed by both parties, except as permitted under Section 3.4. An Agreement will prevail over terms and conditions of any Customer-issued purchase order, which will have no force and effect, even if SAP accepts or does not otherwise reject the purchase order.