SAP Learning PlusPackage Terms and Conditions
SAP Portugal

1. DEFINITIONS

1.1. "**Affiliate**" means any legal entity in which SAP SE or Customer, directly or indirectly, holds more than 50% of the entity's share or voting rights. Any legal entity will be considered an Affiliate as long as that interest is maintained.

1.2. "**Agreement**" means these SAP Learning PlusPackage Terms and Conditions and the Order Form signed and agreed between the Parties.

1.3. "**Business Partner**" means a legal entity that requires use of a training service in connection with Customer's and its Affiliates' internal business operations. These may include customers, distributors, service providers and/or suppliers of Customer.

1.4. "**Commitment Value**" is a Customer commitment to a minimum value of expenditure with SAP over the Contract Term, as specified in the 'Commitment Value' Section of the Order Form.

1.5. "**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; or should reasonably be understood to be confidential at the time of disclosure given the nature of the information and the circumstances surrounding its disclosure.

1.6. "**Contract Term**" means the fixed term period in which the SAP Learning PlusPackage is valid, as specified in the 'Contract Term' Section of the Order Form.

1.7. "**Customer**" means the party other than SAP that has entered into this Agreement.

1.8. "**Customer Data**" means any content, materials, data and information from Users. Customer Data and its derivatives will not include SAP's Confidential Information.

1.9. "**Delta Payment**" means as it is described in this Agreement.

1.10. "**Discount**": the discount percentage specified in the 'Discount' Section of the Order Form.

1.11. "**Eligible Services**" means only those services detailed in the sub-section titled Eligible Services.

1.12. "**Individual Orders**" means Customer (or Customer entity) orders for Eligible Services from SAP, where the Customer (or Customer entity) has provided SAP with the identification number of the PlusPackage (CDA number) and intends for the order to be counted in the calculation of the Commitment Value.

1.13. "**Order Form**" means the document provided by SAP entitled 'SAP PlusPackage Order Form' agreed and signed by the parties, under which the Customer has entered into the SAP Learning PlusPackage with SAP.

1.14. "**PlusPackage Fee**" is the Commitment Value plus applicable taxes.

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

1.16. "**SAP**" means the SAP entity that has entered into this Agreement, as well as its Affiliates.

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

1.18. "**SAP Training Catalogue**" means the catalogue published by SAP containing details of SAP training courses and services.

1.19. "**Section**" means a specified section of the Agreement.

1.20. "**Training Site**" means https://www.sap.com/training-certification.html

1.21. "**User**" means any individual to whom Customer grants access credentials to use a training service that is an employee, agent, contractor or Representative of:

(a) Customer,

(b) Customer's Affiliates, and/or

(c) Customer's and Customer's Affiliates' Business Partners.

2. PLUSPACKAGE

2.1. Arrangement

Details of the SAP Learning PlusPackage arrangement agreed between SAP and the Customer are contained in the Order Form.

2.2. Commitment Value

Customer must make at least the minimum expenditure on training services through Individual Orders with SAP ("**Commitment Value**") during the Contract Term. The Commitment Value is specified in the 'Commitment Value' section of the Order Form.

2.3. Discount

Customer will receive the Discount specified in the 'Discount' section of the Order Form against Individual Orders for Eligible Services.

3. DURATION

3.1. Fixed Term

This Agreement is concluded for a fixed term specified in the 'Contract Term' section of the Order Form. Neither Party can terminate this Agreement for convenience, however any rights of termination for cause remain unaffected.

3.2. Expiration

After expiration of the Contract Term the SAP Learning PlusPackage arrangement will cease to be valid. Specifically, Customer will not be entitled to any Discount after expiration of the Contract Term and any Individual Orders placed after the Contract Term will not be counted towards calculation of the Commitment Value.

4. PLUSPACKAGE SCOPE AND APPLICATION

4.1. Eligible Services

Subject to the sub-section titled 'Restrictions', only the following items provided by SAP (and/or SAP entities listed under "SAP entities in scope" in the Order Form) can be ordered by the Customer (and/or Customer entities listed under "Customer entities in scope" in the Order Form) and counted in the calculation of expenditure against the Commitment Value:

(a) Certification;

(b) Classroom training;

(c) On Premise live learning;

(d) Virtual live learning; and

(e) Customer Specific Training.

Services must be ordered via Individual Orders.

4.2. Excluded Services

Orders for the following services will not count towards calculation of expenditure against the Commitment Value:

(a) consulting services;

(b) software licenses;

(c) Learning Hub or bundles including Learning Hub; and

(d) Learning System Access or bundles including Learning System Access.

4.3. SAP Customer ID

The parties agree that services ordered through Individual Orders shall be applied exclusively to the SAP customer IDs specified in the Order Form and the training services shall be used solely by Users.

4.4. Contract Term

The Customer shall be entitled to the benefits of the SAP Learning PlusPackage for the Contract Term defined in the Order Form, which shall begin on the later of:

(a) the date upon which SAP countersigns a Customer-signed Order Form; or

(b) the start date listed in the Order Form.

4.5. Decision Making

Customer shall designate, in the 'Administration details' section of the Order Form, a contact person with appropriate standing and qualifications to be available to SAP to provide necessary information relating to the Agreement and who is authorized by the Customer to make necessary decisions on behalf of the Customer.

4.6. Reservations

Customer must make express reference in writing to the SAP Learning PlusPackage Order Form and provide the identification number of the PlusPackage (CDA number) when making reservation requests for training services to SAP. Reservations are not effective until confirmed by SAP. The SAP Learning PlusPackage does not guarantee Customer participation in any specific course or event on any specific date, nor does it provide Customer with priority booking status for any specific course or event on any specific date. Reservation requests will be handled in the order that they are received by SAP and will be booked according to the availability of the respective subscriber spaces. Confirmation of some courses is dependent on the number of signed up participants for that course and SAP reserves the right when, and if, to confirm and run a course. If a course is not run, the Individual Order for that course will not be counted in the calculation of the Commitment Value.

4.7. Cancellations

If a classroom event is cancelled, the value of that cancelled classroom event within the Individual Order for that classroom event will not be counted in the calculation of the Commitment Value. In the event the Customer cancels, any cancellation fees charged to the Customer will not be counted in the calculation of the Commitment Value.

4.8. Additional Terms and Conditions

Each of the training services procured pursuant to the SAP Learning PlusPackage are subject to their own separate respective terms and conditions, copies of which are available from SAP when ordering the training services. By making reservation requests or by using any of the training services, Customer agrees to those additional terms and conditions with respect to each training service. In the event of conflict between the terms and conditions for the training services and the terms detailed within this Agreement, the terms of this Agreement shall take precedence.

5. PRICE AND PAYMENT

5.1. Payment

Payments for services are due according to the terms of each Individual Order.

5.2. Restrictions

5.2.1. No Credits

Nothing in this Agreement will affect any previous orders made by Customer with SAP for training services. Training services ordered or delivered prior to the start of the Contract Term or after expiration of the Contract Term, regardless of whether the same or similar training services are included in the scope of the SAP Learning PlusPackage arrangement, shall not be counted in the calculation of the Commitment Value.

5.2.2. No Carry-Over

The Commitment Value must be achieved within the Contract Term. The Commitment Value cannot be carried over after the Contract Term has expired. The Commitment Value cannot be transferred to another SAP Learning PlusPackage arrangement.

5.2.3. No Extension or Top-up

Customer shall be entitled to enter into additional separate SAP Learning PlusPackage Order Form; however, Customer is not allowed to extend or top-up individual SAP Learning PlusPackage arrangements.

5.3. CDA Number

The Customer must state the identification number (CDA number) of the respective SAP Learning PlusPackage in each Individual Order.

5.4. Delta Payment

5.4.1. If the Commitment Value is not achieved by expiration of the Contract Term, a final invoice will be issued by SAP to Customer in which the difference between the sum of the Eligible Services already invoiced by SAP and the Commitment Value is invoiced ("**Delta Payment**").

5.4.2. Payment terms for the Delta Payment are detailed in the Order Form.

5.4.3. Upon expiration of the Contract Term, Customer agrees to provide SAP with a purchase order for the Delta Payment.

6. CONFIDENTIALITY

6.1. Use of Confidential Information

6.1.1. The receiving party shall:

(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 similar Confidential Information, which shall not be less than a reasonable standard of care;

(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 this Section 6;

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

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

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

6.1.3. Confidential Information of either party disclosed prior to execution of the Agreement will be subject to this Section 6.

6.2. Compelled Disclosure

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.

6.3. Exceptions

6.3.1. 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 use or reference to the disclosing party's Confidential Information;

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

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

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

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

6.4. Destruction and Return of Confidential Information

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:

(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;

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

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

(d) to Training Material provided by SAP to Customer, unless the Agreement is terminated by SAP for cause, in accordance with Section 3 above. In cases where SAP terminates the Agreement in accordance with Section 12.4 the Customer shall automatically be required to destroy the Training Material without further notice from SAP.

7. 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.

8. DATA PROTECTION

Information as to how SAP is using personal data where its acts as a data controller (e.g. of the Customer's Representative who executes the order) can be found in the SAP Learning Privacy Statement at https://learninghub.sap.com/about/legal/privacy

9. LIMITATION OF LIABILITY

9.1. No Cap on Liability

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

(a) death or bodily injury arising from either party's gross negligence or wilful misconduct, or

(b) any failure by Customer to pay any fees due under the Agreement.

9.2. Liability Cap

Except as set forth in Section 9.1, the maximum aggregate liability of either party (or its respective Affiliates or SAP's subcontractors) arising in the Contract Term will not exceed the fees paid for Individual Orders during the Contract Term up until the date upon which the incident occurred whereby liability arose.

9.3. Exclusion of Damages

In no case will

(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 good will or business profits, work stoppage or for exemplary or punitive damages, and

(b) SAP be liable for any damages caused by any training service provided for no fee.

9.4. Risk Allocation

This Agreement allocates the risks between SAP and Customer in relation to the SAP Learning PlusPackage. The PlusPackage Fee reflects this allocation of risk and limitations of liability.

10. INTELLECTUAL PROPERTY RIGHTS

10.1. SAP Ownership

10.1.1. All materials, content, documentation, presentations, videos, digital tools, and any other resources provided by SAP in connection with the training services ("**Training Materials**") are and shall remain the sole property of SAP or its licensors.

10.1.2. The Customer and its participants are granted a non-exclusive, non-transferable, non-sublicensable license to use the Training Materials solely for internal educational purposes. Any reproduction, distribution, public display, modification, or other use beyond the scope of this license is strictly prohibited without the prior written consent of SAP.

10.1.3. Except for any rights expressly granted to Customer under the Agreement, Customer shall not remove SAP's copyright and authorship notices.

10.1.4. Customer agrees not to record, reproduce, share, or otherwise disseminate the Training Materials or any sessions (live or recorded), unless expressly authorized in writing.

10.1.5. 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.

10.1.6. Any training services or Training Materials provided by SAP to Customer prior to the execution of an applicable Order Form are the sole property and Confidential Information of SAP and shall be governed by the terms of this Agreement. If no Individual Order is completed, all Training Materials must be returned or deleted and must not be used.

10.2. Customer must immediately notify SAP in writing if any third party gains unauthorized access to SAP Training Materials or Confidential Information. Customer shall take all reasonable steps to stop such unauthorized access.

11. THIRD-PARTY CLAIMS AND INDEMNIFICATION

11.1. Some Training Materials may contain references to, or incorporate, content, tools, or examples provided by third parties. SAP represents that it has the right to use such third-party materials for training purposes but does not warrant that the Customer's use of such materials beyond the scope of the training will not infringe third-party rights.

11.2. The Customer agrees to indemnify and hold harmless SAP, its affiliates, and personnel from and against any third-party claims, damages, or liabilities arising out of:

(a) the Customer's or its participants' misuse of the Training Materials;

(b) unauthorized reproduction or redistribution of content; or

(c) any breach of intellectual property rights caused by the Customer's use of the materials beyond what is contractually permitted.

12. MISCELLANEOUS

12.1. Severability

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. The invalid or unenforceable provision will be replaced by a valid and enforceable provision which approximates as closely as possible the intent of the invalid or unenforceable provision. This will also apply in cases of contractual gaps.

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. Trade Compliance

All Training Services and SAP Training Materials are subject to Export Laws. SAP and Customer shall comply with Export Laws in the performance of the Agreement. Customer, its Affiliates and Authorized Users shall not use, directly or indirectly export, re-export, release, or transfer the Training Services, or SAP Training Materials in violation of Export Laws. Customer may not permit the use of the Training Services or SAP Training Materials to any end user with whom transactions are prohibited by Export Laws. Customer, its Affiliates and Authorized Users shall not use the Training Services and/or SAP Training Materials in or from any country or region in which SAP products and services are not available for use, direct or indirect export, re-export, release or transfer, as listed on https://www.sap.com/about/agreements/export-statements.html.

Upon SAP's request, Customer shall provide information and documents necessary to support SAP in obtaining an export authorization for the provisioning of the Training Services, and/or SAP Training Materials. Upon written notice to Customer, SAP may terminate the affected services if Export Laws prohibit SAP from providing the Training Services, and/or SAP Training Materials to Customer. Customer is solely responsible for compliance with Export Laws related to Customer Data, including obtaining any required export authorizations for Customer Data.

12.5. Notices

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 from the Customer's authorized Representative or administrator.

12.6. Survival

Sections 1 (Definitions), 3 (Duration), 5 (Price and Payment), 6 (Confidentiality), 9 (Limitation of Liability), 10 (Intellectual Property),11 (Third Party Claims) and 12 (Miscellaneous) will survive the expiration or termination of the Agreement.

12.7. Force Majeure

Neither party shall be held responsible (other than for the payment of amounts due hereunder) if the fulfilment of any terms or provisions of this Agreement are delayed or prevented by revolutions or other disorders, wars, acts of enemies, strikes, fires, floods, acts of God, or without limiting the foregoing, by any other cause not within the control of the party whose performance is interfered with, and which exercise of reasonable diligence, the party is unable to prevent, whether of the class of causes herein enumerated or not. In such event, the time for performance of the applicable terms or provisions will be extended for a period equal to the duration of the conditions preventing performance.

12.8. 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 Portugal. 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.

12.9. Jurisdiction and Mandatory Venue

The parties submit to the exclusive jurisdiction of the courts located in Lisbon. 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 Lisbon.

12.10. Assignment

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.

12.11. Agreement

The Agreement may be modified solely in writing signed by both parties. The 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. The components of the Agreement are the Order Form, this Terms and Conditions document and any documents referenced therein.