SAP Learning PlusPackage Terms and Conditions
SAP Polska sp. z o.o.

APPLICABILITY

Except as otherwise agreed, these SAP Learning PlusPackage Terms and Conditions apply when referenced by an Agreement between SAP Polska sp. z o.o. (hereinafter "**SAP**") and another company or public-law entity. They apply to precontractual relations accordingly.

1. DEFINITIONS

1.1. "**Affiliate** means "any legal entity in which SAP and/or SAP SE or Customer, holds, directly or indirectly, at least 50 per cent of votes at the shareholders' meeting or the general meeting, also in the capacity of a pledgee or usufructary, or under agreements with other persons, or which directly holds at least 50 per cent of shares in another company. Any legal entity will be considered an Affiliate as long as that requirement is fulfilled.

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 and / or its Affiliates.

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 is designated 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/or 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, personal data and information from Authorized 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. "**SAP SE**" means SAP SE, the parent company of SAP.

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

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

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

1.19. "Authorized **User**" means any individual to whom Customer grants access authorization to use a SAP training course or 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 SAP training courses and 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 SAP training courses and services shall be used solely by Authorized 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 SAP training courses and 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 SAP training courses and 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 SAP training courses and services. By making reservation requests or by using any of the SAP training courses and services, Customer agrees to those additional terms and conditions with respect to each SAP training courses and services. In the event of conflict between the terms and conditions for the SAP training courses and 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 SAP training courses and services. SAP training courses and 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 SAP training courses and 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. With respect to any Confidential Information of the disclosing party obtained prior to and in the course of the performance of the Agreement, the receiving party shall

a) maintain forever all Confidential Information in confidence, taking steps to protect the 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;

b) disclose or reveal any Confidential Information to any third party only to the extent this is necessary to enable the receiving party to exercise its rights or perform its obligations under the Agreement, and who is under obligations of confidentiality substantially similar to those in section 6;

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

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

6.2. The receiving party may disclose the disclosing party's Confidential Information to the extent legally required; 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 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. 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) 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. 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, unless applicable law requires its retention. In this case, the Confidential Information shall continue to be subject to section 6.

7. PUBLICITY

Neither party shall use the name of the other party in publicity, advertising or similar activities without the prior written consent of the other. SAP may share information on Customer with SAP SE and its Affiliates for marketing and other business purposes. Insofar as this includes the provision and use of contact information of Customer's contact persons, Customer will secure the appropriate permissions where necessary.

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. 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 (Zobowiązanie główne) 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 in cases under Section 9.1 (b) for all events (or series of connected events) arising in the Contract Term is limited to EUR 25,000 per case of damage, and in total to a maximum of EUR 50,000 under the associated contract.

9.3. Contributory fault may be claimed. The limits of liability in Section 9.1 do not apply to personal injury liability.

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 specified in the Polish Civil Code, section 120. The foregoing provisions in this section notwithstanding, the time bar comes into effect not later than three years after the claim arises. The provisions in sentences 1 to 3 in this section do not apply to liability for intent or gross negligence, liability for personal injury.

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 SAP training courses and 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 SAP training courses and 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 courses and services or Training Materials or Confidential Information. Customer shall take all reasonable steps to stop such unauthorized access.

11. THIRD-PARTY CLAIMS

11.1. If a third party claims that Customer´s use of the SAP training courses and services or Training Materials 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 SAP training courses and services or Training Materials to mitigate loss or for other just 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, the Authorized Users, or third-party provider access.

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.

12.2. Electronic Signature

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

12.3. Export Laws/ Trade Compliance

SAP and Customer shall comply with Export Laws in the performance of the Agreement. All SAP training courses and services and Training Materials are subject to Export Laws. Customer, its Affiliates and Authorized Users shall not use, directly or indirectly export, re-export, release, or transfer the SAP training courses and services, or SAP Training Materials in violation of Export Laws. Customer may not permit the use of the SAP training courses and 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 SAP training courses and 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 SAP training courses and 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 SAP training courses and 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.

12.4. 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.

12.5. 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.

12.6. Governing Law

The Agreement and any claims (including any non-contractual claims) arising out of or in connection with this Agreement will be governed by the laws of Poland. The United Nations Convention on Contracts for the International Sale of Good and any conflicts of law principles will not apply.

12.7. Jurisdiction

If Customer is a merchant, a legal entity under public law, or separate fund under public law, the sole place of jurisdiction for all differences arising out of or in connection with the Agreement shall be Warsaw, Poland.

12.8. 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.

12.9. Agreement

The Agreement may be modified solely in writing or electronically 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.