

SAP Learning PlusPackage Terms and Conditions
ESPAÑA, Sistemas, Aplicaciones y Productos en la Informática, S.A.,
C/ Torrelaguna, 77. Madrid 28046
("SAP")

1. DEFINITIONS

- 1.1. **"Affiliate"** of a party means any legal entity in which a party, 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 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:
- a) with respect to Customer:
 - i. the Customer Data,
 - ii. Customer marketing and business requirements,
 - iii. Customer implementation plans, and/or
 - iv. Customer financial information, and
 - b) with respect to SAP:
 - i. the Learning Hub and SAP Learning System Access products as well as the SAP training services, and
 - ii. information regarding SAP research and development, product offerings, pricing and availability.
 - c) Confidential Information of either SAP or Customer also includes information which the disclosing party protects against unrestricted disclosure to others that:
 - i. the disclosing party or its representatives designates as confidential at the time of disclosure, or
 - ii. should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure.
- 1.6. **"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. **"SAP"** means the SAP entity that has entered into this Agreement, as well as its Affiliates.
- 1.16. **"SAP SE"** means SAP SE, the parent company of SAP.
- 1.17. **"SAP Training Catalogue"** means the catalogue published by SAP containing details of SAP training courses and services.
- 1.18. **"Section"** means a specified section of the Agreement.
- 1.19. **"Training Site"** means <https://www.sap.com/training-certification.html>.
- 1.20. **"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) Single e-learnings;
- b) E-Academies;

- c) Certification;
- d) Classroom training;
- e) On Premise live learning;
- f) Virtual live learning; and
- g) 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) SAP Learning System Access or bundles including SAP 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 will protect all Confidential Information of the disclosing party as strictly confidential to the same extent it protects its own Confidential Information, and not less than a reasonable standard of care. Receiving party will not disclose any Confidential Information of the disclosing party to any person other than its personnel, representatives or Users whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under obligations of confidentiality substantially similar to those in this Section. Customer will not disclose the Agreement or the pricing to any third party.

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

6.1.3. 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.

6.2. 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.

6.3. 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.

7. DATA PROTECTION

Information as to how SAP is using personal data where it 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://training.sap.com/about/legal/privacy>.

8. LIMITATION OF LIABILITY

8.1. Unlimited Liability

Neither party will exclude or limit its liability for damages resulting from:

- a) unauthorized use or disclosure of Confidential Information,
- b) either party's breach of its data protection and security obligations that result in an unauthorized use or disclosure of personal data,
- c) death or bodily injury arising from either party's gross negligence or willful misconduct, or
- d) any failure by Customer to pay any fees due under the Agreement.

8.2. Liability Cap

Subject to the Sections titled 'Unlimited Liability' and 'Exclusion of Damages', the maximum aggregate liability of either party (or its respective Affiliates or SAP's subcontractors) to the other or any other person or entity for all events (or series of connected events) 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.

8.3. Exclusion of Damages

Subject to the Section titled 'Unlimited Liability':

- a) neither party (nor its respective Affiliates or SAP's subcontractors) will 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 will not be liable for any damages caused by any training service provided for no fee.

8.4. 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.

9. MISCELLANEOUS

9.1. 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.

9.2. No Waiver

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

9.3. Electronic Signature

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

9.4. Regulatory Matters

SAP Confidential Information is subject to export control laws of various countries, including the laws of the United States and Germany. 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.

9.5. 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 SAP Learning PlusPackage may be in the form of an electronic notice to Customer's authorizing manager identified in the Order Form.

9.6. Survival

Sections 1 (Definitions), 3 (Duration), 5 (Price and Payment), 6 (Confidentiality), 8 (Limitation of Liability), and 9 (Miscellaneous) will survive the expiration or termination of the Agreement.

9.7. Governing Law

The Agreement and any claims relating to its subject matter will be governed by and construed under the laws of Spain, without reference to its conflicts of law principles. All disputes will be subject to the exclusive jurisdiction of the courts located in Madrid, Spain. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (where enacted) 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 calendar year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

9.8. 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.