SAP Extended Payment Supplemental Terms and Conditions

SAP 延伸付款補充條款

("EP SUPPLEMENT")

(以下稱「EP 補充條款」)

This EP Supplement is annexed to, and a part of, the Order Form into which it is incorporated by reference.

本 EP 補充條款作爲訂購單之附錄，將通過援引的方式，成爲訂購單之一部分。

1. DEFINITIONS.

名詞定義

Capitalized terms used herein and not otherwise defined have the meaning given to such terms in the Agreement (as defined in the Order Form). Certain terms are defined in the last section hereof.

此處使用之大寫詞彙未於他處定義者，均依（訂購單中定義之）合約中所賦予的含义爲準，特定詞彙之定義將載於本 EP 補充條款最末條。

2. EXTENDED PAYMENTS.

延伸付款

In accordance with the terms of the Order Form, SAP agrees that Customer may pay certain amounts due under the Agreement as Extended Payments, each of which are due on the Due Date(s) referred to therein. If Customer fails to pay an Extended Payment in full on or before its Due Date, Customer shall, without prejudice to any other right or remedy available to Payee, pay to Payee interest on such unpaid Extended Payment, or unpaid amount thereof, at the maximum legal rate under applicable law, which shall accrue from the Due Date through the date Payee receives the Extended Payment and such interest in full.

依照訂購單之規定，SAP 同意視客戶依合約所訂立之付款計劃所支付之特定金額為延伸付款。每一延伸付款將在所載付款到期日到期。若客戶未於付款到期日前或當日付清延伸付款之全部款項，客戶應在不影響收款人之任何其他權利或救濟方式之情形下，皆應向收款人支付該等未付延伸付款或未付金額之利息費用，並以適用法規所允許之最高費率付款，該等利息費用計算期間將從付款到期日開始起算，累計至收款人收到該等延伸付款及利息費用爲止。

Customer's obligation to pay each Extended Payment in full to the Payee is non-cancellable, absolute and unconditional and shall not be subject to, and Customer shall not and may not assert against Payee, any abatement, set off, claim, counterclaim, deferment, adjustment, reduction, or defense of any kind with respect to any Extended Payment.

客戶於此負擔對收款人支付每筆延伸付款之義務，且此義務係不可取消，絕對且無條件負擔，並不受其他事由拘束，客戶不應且不得對收款人主張任何減額、扣抵、請求、反請求、延遲、調整、扣除、或與任何延伸付款相關之任何種類的辯護。

3. DEFAULT/DEFAULT REMEDIES.

違約/違約救濟

3.1. Defaults**.**
違約。

Each of the following constitutes a material breach and default by Customer under the Agreement:

下列各項事由均構成客戶對合約之實質性違約或不履行：

(a) Customer fails to pay in full

客戶未能於：

(i) any Extended Payment within thirty days following its Due Date or

付款到期日届滿三十(30)個日曆日內全額支付任何延伸付款或；

(ii) any accrued interest or other amount due from Customer under the Agreement other than Extended Payments within thirty calendar days following the day such amount is due; or

付款到期日届滿三十(30) 個日曆日內全額付清除應付延伸付款外其他「合約」規定之任何累積利息費用或其他款項；或者

(b) Customer's license or other right to use any component of the SAP Products under the Agreement is canceled, terminated (except pursuant to a specifically authorized right contained in the Agreement), suspended or materially restricted or limited; or

合約所授予客戶使用任何 SAP 產品元件之授權許可或其他使用權利已被取消、終止 (但依合約規範，為特定授權交換權利者，不在此限)、暫停或在重大方面被限制或受限；或者

(c) Customer becomes insolvent or makes an arrangement for the benefit of creditors, or a trustee or receiver is appointed for Customer or for a substantial part of its assets, or bankruptcy, reorganization or insolvency proceedings shall be instituted by or against Customer.

客戶無清償能力或為債權人安排有利事項，或客戶或其絕大部份資產已指定有受託人或收款人，或有由客戶啟動或對客戶啟動之破產、重組或破產程序。

3.2. Default Remedies.

違約救濟。

If any material breach or default by Customer under the Agreement exists, Payee shall have, and may exercise at any time, any or all of the following remedies:

若存在關於合約的實質性違約或合約之不履行，付款人應享有下列救濟方式且得隨時行使其部分或全部救濟權利：

a) Payee may declare (as liquidated damages and not a penalty) past due Extended Payment, accrued interest and any other amount then past due under the Agreement to be, and such sums shall thereupon be, immediately due and payable in full without presentment, demand, protest or other notice of any kind;

收款人可（以作為違約賠償金，而非罰款爲由）要求客戶支付每筆逾期延伸付款、利息費用與或其他任何因應「合約」而產生的費用，並要求根據「合約」規定而即將到期的延伸款項立刻到期且要求客戶支付全部費用。縱未以票據提示、要求、保護或其他任何方式通知；

b) Payee may demand, and immediately upon such demand Customer shall pay to Payee, all reasonable costs and expenses incurred by Payee to collect any amount described in clause (a) above, including reasonable attorneys' fees and expenses;

收款人因收取上述(a)項所述費用所有產生之合理費用與支出，包含合理律師費與支出，收款人皆得要求客戶付款，且客戶應於收款人要求付款後立即支付上述費用；

c) (i) If SAP is the Payee, SAP may terminate or cancel the Agreement as set forth therein and

若 SAP 為收款人，則 SAP 得依上文所載方式終止或取消合約；

(ii) if an Assignee is the Payee, the Assignee may demand and cause SAP to terminate or cancel the Agreement and all or any part of the SAP Products, including but not limited to any licenses of, subscriptions to, or right to use and/or access, any software or services thereunder, or rights to receive support with respect to that software and/or consulting services in relation to the foregoing (and Customer hereby covenants and agrees that it will hold SAP and Assignee harmless from any such termination or cancelation); and

若受讓人即收款人，則受讓人得要求並促成 SAP 終止或取消「合約」與全部或任何部分之 SAP 產品，包含但不限於任何「合約」所載之軟體或服務之授權、訂閱或使用權及/或存取權，或接受該軟體及/或與上述項目相關之諮詢服務之相關支援（且客戶於此承諾並同意，其將避免 SAP 和受讓人因任何該等終止或取消而受有不利）；且

d) Payee may exercise any other remedy available to it under applicable law or in equity.

根據適用法規或衡平法，收款人所具有之任何其他救濟權利，其皆得行使之。

Without prejudice to any other right or remedy available to Payee, upon Payee's termination described in clause (c) above, Customer shall:

針對前述(c)項所描述的收款人終止的情況，客戶應在不影響收款人之任何其他權利或救濟方式之情形下：

(x) immediately cease using any or all SAP Products related to any past due Extended Payment or other amount, and

立即停止使用與延伸付款或其他費用相關之任何或全部 SAP 產品；且

(y) within 30 calendar days de-install and delete all copies of SAP Products related to any past due Extended Payment or other amount from any computer systems owned or controlled by Customer or used for Customer's benefit, and irretrievably destroy all Documentation in any way related thereto or, upon Payee's request, deliver to SAP all copies of the SAP Products in every form, except to the extent it is required by applicable law to keep it for a longer period in which case such return or destruction shall occur at the end of such period. Payee's rights and remedies hereunder and under the Agreement shall be cumulative and non-exclusive, may be exercised concurrently or successively, shall not be deemed waived due to any failure or delay to exercise such right or remedy and may be specifically enforced. Neither SAP nor Assignee shall be required to license, lease, transfer, or use any SAP Products, or take or not take any other action, in mitigation of any damages resulting from any such material breach and default by Customer under the Agreement.

於 30 個日曆日內，自任何由客戶擁有或控制之電腦系統，或為客戶利益使用之電腦系統，解除安裝並刪除與延伸付款或其他費用相關之所有 SAP 產品的副本，並以不可恢復方式銷毀所有相關紀錄文件，或應收款人請求，將任何形式之所有 SAP 產品副本皆交付給 SAP，但適用法律要求將上述項目保存較長期間，於該期間終了時始得返回或銷毀者，不在此限；收款人基於本 EP 補充條款與「合約」所享有之權利和救濟應得累積且不具專屬性，得同時或連續行使，縱收款人未能或延遲行使任何本文所載之權利或救濟方式，亦不構成權利放棄，並得就特定部分執行。若客戶存在對「合約」的實質性違約或不履行合約時，不得要求 SAP 或受讓人授權、租賃、移轉或使用任何 SAP 產品，或要求其採取或不採取任何其他行為，以減輕任何因該違約行爲所致生之損害。

4. ASSIGNMENT.

轉讓。

SAP may assign any or all of its EPA Rights to an Assignee without the consent of or notice to Customer. In making any such assignment, SAP:

SAP 得將其具有之任何或全部 EPA 權利移轉給受讓人，且不須取得客戶事前同意，亦不須對客戶為事前通知。SAP 於進行任何該等轉讓時，將：

(a) will not assign or otherwise delegate, transfer, or convey to, Assignee any obligation to perform any of SAP's duties or obligations under the Agreement and

不會轉讓或以其他方式指派、移轉或讓渡給受讓人任何 SAP 為履行因合約所負之責任或義務所負之義務，且

(b) will not amend, modify, or otherwise purport to affect any of SAP's other rights under the Agreement.

不會修改、修訂或以其他方式意圖影響任何 SAP 因合約取得之其他權利。

Customer covenants and agrees that with respect to an assignment by SAP to an Assignee hereunder:

客戶承諾並同意，就本文所載 SAP 對受讓人之轉讓：

(i) the Assignee shall have no liability to Customer under the Agreement or otherwise with respect to any SAP Products;

任何 SAP 為履行因合約所負之責任或義務所負之義務，SAP 均不會轉讓或以其他方式指派、移轉或讓渡給受讓人；

(ii) Customer shall have no, and hereby waives any and all, rights to assert, pursue or otherwise make any claim, defense, counterclaim, setoff, or other cause of action against Assignee for any loss or damage under the Agreement or with respect to any SAP Products or for breach of any warranty, express or implied, as to any matter whatsoever, including but not limited to any SAP Products and service performance, functionality, features, merchantability or fitness for a particular purpose, or any indirect, incidental, special, or consequential damages or loss of business, loss of data or loss of profits;

對於任何合約所載之損失或損害，或與任何 SAP 產品有關之損失或損害，或違反任何保證，不論以明示或暗示，就任何事由之任何與所有主張、尋求或以其他方式請求、辯護、反請求、扣抵或採取其他方式對抗受讓人之權利，客戶均不具備且全數拋棄，且此包含但不限於任何 SAP 產品與服務效能、性能、功能、適售性或對特定目的之合適性，或任何間接、意外、特殊或連續性損害或業務損失、資料損失或利潤損失；

(iii) Customer shall timely pay each assigned Extended Payment to Assignee and not in any way at any time assert against Assignee any claim, defense, counterclaim, setoff, or other cause of action that Customer may have against SAP; and

客戶應按時支付每筆延伸付款給受讓人，且任何時刻皆不得對受讓人主張任何請求、辯護、反請求、扣抵或採取其他客戶得對 SAP 採取之行動；且

(iv) Customer shall solely assert or otherwise pursue against SAP any claim, defense, counterclaim, setoff, or other cause of action under the Agreement or with respect to any SAP Products. So long as no material breach or default under the Agreement has occurred, Payee shall not interfere with Customer's quiet enjoyment or use of any SAP Products under and in accordance with the Agreement.

客戶應單獨對 SAP 主張或以其他方式尋求任何請求、反請求、扣抵，或以合約事由或與任何 SAP 產品有關之事由，對 SAP 採取其他行動。若沒有發生對合約之實質性違約情事或不履行，且客戶以遵守合約之方式使用任何 SAP 產品，則收款人皆不得干涉其使用。

5. DEFINED TERMS.

名詞定義。

As used herein and in each Order Form that incorporates the terms hereof, each of the following terms have the meaning set forth below:

凡於本文與每一訂購單使用之詞彙，其定義如下：

a) "Assignee" means any person to whom SAP assigns all or any of its EPA Rights;
「受讓人」係指任何由 SAP 轉讓取得所有或任何 EPA 權利者；

b) "Due Date" means each respective date an Extended Payment is due;
「付款到期日」係指每一個別延伸付款到期之日期；

c) "EPA Rights" means all of the rights and interests of the payee under the Order Form to be paid by Customer the Extended Payments and all rights and remedies relating thereto and the enforcement thereof, whether arising under the Order Form or any other part of the Agreement or at law or in equity;
「EPA 權利」係指收款人因訂購單取得之所有權利與利益，得主張客戶支付延伸付款者，以及所有與之相關之權利與救濟，及該權利據訂購單還是「合約」或衡平法所為之執行；

d) "Payee" means, with respect to the related EPA Rights, SAP or, if an assignment of the EPA Rights has occurred, the respective Assignee; and
「收款人」，就相關 EPA 權利而言， 係指 SAP ，或出現 EPA 權利轉讓情形時之相關受讓人；

e) "SAP Products" means any software, services and consulting provided under the Order Form and Documentation related thereto, together with all support then provided by SAP with respect thereto.
「SAP 產品」係指任何根據訂購單提供之軟體、服務與諮詢，以及與之相關的紀錄文件，兩者皆由 SAP 提供全部支援。