



GENERAL TERMS AND CONDITIONS SAP DEUTSCHLAND SE & CO KG FOR SOFTWARE LICENSE AND SUPPORT (“GTC”)

APPLICABILITY

Except as otherwise agreed, in any contractual relationship in which SAP Deutschland SE & Co. KG (herein “SAP”) provides or supports SAP Software to another company or public-law entity or special fund (herein: “Customer”), only these GTC and the provisions of SAP’s List of Prices and Conditions SAP Software and SAP Support in the version valid at the time the contract is concluded (“LPC”) apply.

They apply to pre-contractual relations accordingly. The following terms and conditions of these GTC relative to “SAP Software” apply to SAP-provided Third Party Software accordingly, except as otherwise stated in the Software Agreement, herein, or in the LPC.

1. DEFINITIONS

- 1.1. “**Add-on**” means any development that adds new and independent functionality, but is not a Modification (defined below) and uses APIs.
- 1.2. “**Affiliate**” means any legal entity that is affiliated with SAP and/or SAP SE or the Customer within the meaning of the German Stock Corporation Act (AktG), section 15. Any legal entity will only be considered an Affiliate as long as that requirement is fulfilled.
- 1.3. “**API**” means application programming interfaces or other code, that allow other software products to communicate with or call on SAP Software (for example, SAP Enterprise Services, BAPIs, IDocs, RFCs, and ABAP calls or other user exits).
- 1.4. “**Business Partner**” means a natural person or legal entity that requires access to SAP Software 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 of its Affiliates.
- 1.5. “**Confidential Information**” means all information which the disclosing party protects against unrestricted disclosure to others that is designated as confidential and/or 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.
 - a) In any case, the following information is considered to be Confidential Information of Customer: Customer’s marketing and business plans and/or financial information;
 - b) In any case, the following information is considered to be Confidential Information of SAP: information regarding SAP research and development, product offerings, pricing and availability of SAP products and SAP Software, the Documentation, SAP Support, programs, tools, data, and other material that SAP provides to Customer before or on the basis of the Software Agreement, as well as the Software Agreement itself.
- 1.6. “**Contractual**” means provided to Customer in performance of the Software Agreement.
- 1.7. “**Documentation**” means SAP’s then current technical and/or functional documentation pertaining to the Contractual SAP Software which is located at <https://help.sap.com> or made available to the Customer with the Contractual SAP Software.
- 1.8. “**Export Laws**” means all applicable import, export control and sanctions including, but without limitation, the laws of the United States, the EU, and Germany.
- 1.9. “**IP Rights**” (“**Intellectual Property Rights**”) means patents of any type or other title to or right in an invention, copyright, right of authorship, mark, design or other industrial right, and all rights to exploit or use it.
- 1.10. “**Modification**” means any development that (i) changes the delivered source code or metadata; or (ii) uses APIs but does not add new and independent functionality and only customizes, enhances, or changes existing functionality of the Contractual SAP Software. For clarification: customizing and parametrization of Contractual SAP Software is not considered a Modification but allowed within the contractually agreed use.

- 1.11. **“Order Form”** or **“Software Agreement”** means a contract between SAP and Customer for licenses and/or SAP Support for SAP Software and/or Third Party Software that references these GTC.
- 1.12. **“SAP SE”** means SAP SE, a parent company of SAP.
- 1.13. **“SAP Support”** means the support offering provided for Contractual SAP Software and agreed in the Software Agreement.
- 1.14. **“SAP Software”** means
- a) any and all software products (as well as relevant Documentation) all as developed by or for SAP or any of its affiliated companies;
 - b) any new versions (especially without being limited to releases, updates, patches, corrections) thereof and
 - c) any complete or partial copies of any of the foregoing.
- 1.15. **“Third Party Software”** means
- a) any and all software products (as well as relevant Documentation and content) licensed to Customer under the Software Agreement identified as a third party product in the Order Form;
 - b) any new versions (especially without being limited to: releases, updates, patches, corrections) thereof made available; and
 - c) any complete or partial copies of any of the foregoing.
- 1.16. **“Working Days”** means weekdays from Monday to Friday (8 a.m. to 6 p.m. CET) except statutory holidays in the German federal state of Baden-Württemberg and December 24 and 31.

2. DELIVERY, MATTER TO BE DELIVERED, LICENSE GRANT, IP RIGHTS

2.1. Delivery, Matter to be delivered

- 2.1.1. SAP will deliver the Contractual SAP Software in accordance with the product description in the Documentation and with the LPC. The product description in the Documentation conclusively defines the functional qualities of the Contractual SAP Software. SAP does not owe any duty with regard to any further quality. In particular, Customer can imply no such duty from any other published SAP description or advertisement for SAP Software except to the extent SAP has expressly confirmed that other quality in writing. Guarantees are effective only if expressly confirmed in writing by SAP’s management.
- 2.1.2. Unless otherwise agreed, Customer will be provided with one (1) copy of the relevant version of the Contractual SAP Software current at the time of shipment, latest within one month after conclusion of the Software Agreement.
- 2.1.3. SAP will deliver, at its election, by supplying to Customer the Contractual SAP Software on disc or other data media to the agreed delivery address (**Physical Shipment**) or by making it available for download at the SAP Software Center at <https://support.sap.com> (**Electronic Delivery**). For the purpose of ascertaining whether delivery is timely, delivery of a Physical Shipment is deemed effected at the time SAP passes the discs or other data media to the forwarding agent, and an Electronic Delivery is deemed effected at the time SAP makes the Contractual SAP Software available for download and informs Customer accordingly, and risk passes at the time of such Physical Shipment or Electronic Delivery.

2.2. SAP’s Rights; Customer’s Licensed Use

As between Customer and SAP, all rights in SAP Software – especially without being limited to all copyright and other IP Rights – shall be the sole and exclusive property of SAP, SAP SE or their licensors, including without limitation SAP Software created to address a requirement of or in collaboration with Customer. Customer’s only rights in respect of Contractual SAP Software are the following nonexclusive rights. Sentences 1 and 2 apply likewise to all other SAP Software, goods, works and information provided to Customer pre-contractually or in performance of contract, including without limitation those provided in performance of warranty or SAP Support.

- 2.2.1. Customer may use the Contractual SAP Software only in the contractually defined scope. The license is limited to the Contractual SAP Software, even if it is also technically possible for Customer to access other SAP Software components. Where Customer purchases (as distinct from rents) the Contractual SAP Software, its

license is perpetual; where Customer rents the Contractual SAP Software, the license term is as contractually agreed. Customer may use the Contractual SAP Software world-wide, except where such use is prohibited by Export Laws.

Customer's right to develop and use Modifications and Customer's use of the Contractual SAP Software to develop Add-Ons as well as the use of the Contractual SAP Software together with Add-Ons is stipulated in section 2.3

Customer receives only those rights in Contractual Third Party Software that are necessary to use it in association with the Contractual SAP Software, in particular no rights under section 2.3. Details of the license for Third Party Software are set out in the Software Agreement and/or the LPC.

- 2.2.2. Customer may use the Contractual SAP Software only to run Customer's and its Affiliates' internal business operations. Customer is granted the right to copy the Contractual SAP Software only for the purposes of such licensed use. All other rights, notably the right to distribute SAP Software, including without limitation the rights of rental, translation, elaboration and arrangement, and the right to make SAP Software available to the public are retained exclusively by SAP. Customer may not use Contractual SAP Software to provide business process outsourcing or service bureau applications other than to its Affiliates or use Contractual SAP Software to provide trainings to any person who is not Customer's employee or the employee of a Customer Affiliate. The related terms and detail in the LPC also apply.

Use of the Contractual SAP Software may occur by way of an interface delivered with or as a part of SAP Software, a Customer or third-party interface, or another intermediary system.

In particular, Customer must hold the required licenses as stated in the LPC for any individuals that use the Contractual SAP Software (directly or indirectly). Business Partners may use Contractual SAP Software only through screen access and solely in conjunction with Customer's use and may not use it to run any of Business Partners' business operations.

Where SAP Software is provided for test purposes, the sole purpose of Customer's use of Contractual SAP Software must be to ascertain its properties and assess its suitability for Customer's business. Notably, Customer must not create Modifications or Add-Ons (section 2.3), decompile (section 2.2.5) the Contractual SAP Software or use it or prepare to use it for live operation.

If Customer has an Affiliate with a separate license or support agreement for SAP Software with SAP, any SAP Affiliate or any other authorized SAP distributor, the following shall apply unless otherwise expressly agreed between Customer and SAP: The Contractual SAP Software shall not be used to run such Customer Affiliate's business operations and such Customer Affiliate shall not receive any SAP Support services provided to Customer under the Software Agreement, even if such separate support agreement has expired or is terminated.

- 2.2.3. The Contractual SAP Software may only be copied temporarily or permanently in whole or in part on information technology devices (e.g. hard disks or central processing units) which must be located at Customer's or its Affiliates' facilities or are in Customer's or its Affiliates' direct possession. Where Customer wishes to outsource the Contractual SAP Software, that is to say run the Contractual SAP Software or have the Contractual SAP Software run for running Customer's internal business operations on information technology devices that are located at the facilities and in direct possession of a third party, Customer must first obtain SAP written consent, which SAP will give, provided that its proper business interests are upheld, notably that the third party respects the agreed conditions concerning the license for the Contractual SAP Software.
- 2.2.4. Customer is permitted to back up data in accordance with good information technology practice and for this purpose to create the necessary backup copies of the Contractual SAP Software. Backup copies on transportable discs or other data media must be marked as backup copies and bear the same copyright and authorship notice as the original discs or other data media, unless this would be technically infeasible. Customer must not change or remove SAP's copyright and authorship notices.
- 2.2.5. Prior to decompiling the Contractual SAP Software, Customer must give written notice requiring SAP within a reasonable period of time to provide the information and documentation necessary to produce interoperability. Customer is entitled to decompile the Contractual SAP Software to the extent permitted in the German

Copyright and Related Intellectual Property Rights Act (UrhG) section 69e only after SAP has failed to comply with such notice within the limited time period. Before involving a third party (e.g. pursuant to the UrhG section 69e (1) No.1 or (2) No.2), Customer must obtain for SAP's direct benefit the third party's written undertaking to comply with the provisions in section 2.

2.2.6. If, for example by way of defect remedy or SAP Support, Customer receives from SAP copies of new versions of the Contractual SAP Software that replace a previously provided SAP Software version, Customer has only the right to use the most recent version obtained. Customer's license to use the previous version ends when Customer implements the new version on live systems. Customer is however permitted for a period of three months to use the new version on a test system while also still using the previous version live. Section 5 governs the replaced version.

2.3. Modifications / Add-Ons

2.3.1. Customer may use any API or tools contained in the Contractual SAP Software or otherwise obtained from SAP in order to develop or use Modifications or Add-Ons, subject to Customer's fulfilling its obligations set forth in this section 2.3 in relation to Modifications and/or Add-Ons. For clarification: Any Modifications or Add-Ons developed by SAP or any of the SAP Affiliates on behalf of Customer or as a product are exclusively subject to the provisions of the respective agreement and not subject to the provisions of this section 2.3 below.

2.3.2. Except as otherwise agreed and except as expressly required by law, Customer may only create and/or use any Modifications and Add-Ons to the Contractual SAP Software as set forth in this section 2.3. Modifications may only be made in relation to Contractual SAP Software delivered by SAP in source code.

2.3.3. Customer is responsible for any deficiencies in the running, security or performance of the Contractual SAP Software and other programs, and in communications between the Contractual SAP Software and other programs ("**Deficiencies**") caused by Modifications or Add-Ons to the Contractual SAP Software. SAP points out that Add-Ons to and even minor Modifications to the Contractual SAP Software may lead to possibly unpredictable and significant Deficiencies. Such Deficiencies may also arise because an Add-On or Modification not being compatible with later versions of Contractual SAP Software. In particular, SAP is entitled to change the SAP Software, APIs, or both, without care for the compatibility of any Modification or Add-On that Customer uses with any later version of the SAP Software.

2.3.4. In addition, SAP is neither responsible for Deficiencies caused by Modifications or Add-Ons to the Contractual SAP Software nor obliged to provide remedies under warranty or other obligations in relation to Deficiencies caused by Modifications or Add-Ons to the Contractual SAP Software. SAP is not obliged to provide any contractually agreed SAP Support services if and to the extent the provision of such SAP Support is aggravated because of Modifications or Add-Ons to the Contractual SAP Software. SAP recommends that Customer registers via SAP's registration procedure at <http://support.sap.com/sscr> such Modifications or Add-Ons in order to help SAP to identify the reason for possible support issues.

2.3.5. These Modifications and Add-Ons must be used only together with the Contractual SAP Software and only in accordance with the license to use the Contractual SAP Software granted in the Software Agreement. SAP retains the right to develop its own Modifications or Add-ons to the SAP Software but SAP is not entitled to copy Customer's software code. Modifications or Add-Ons must not (and subject to other limitations set forth herein): enable the bypassing or circumventing of any of the restrictions set forth in the Software Agreement and/or provide Customer with access to the SAP Software in excess of Customer's use rights duly obtained nor render or provide any information concerning the SAP Software.

2.3.6. Customer covenants not to assert against SAP or any SAP Affiliate any rights in any (i) Modifications or Add-Ons, or (ii) other functionality of the SAP Software accessed by such Modifications or Add-Ons.

2.4. Transferring SAP Software

2.4.1. Customer may transfer to one third party all of the SAP Software it has acquired from SAP by license purchase (including any SAP Software obtained by way of additional purchase or SAP Support) as one unit only. Any temporary transfer in part or in whole or transfer to multiple third parties constitutes a breach. The restrictions in sentences 1 and 2 in this section 2.4.1 also apply to reorganizations and successors, e.g. in the meaning of the German Reorganization Act (Umwandlungsgesetz).

- 2.4.2. The following provisions apply where Customer transfers SAP Software as one unit to one third party (“**Transferee**”) in accordance with and as permitted in section 2.4.1:
- a) Customer must entirely cease and desist from its own use of SAP Software and must pass all copies to Transferee or make them unusable.
 - b) Customer must make available to Transferee the license terms in the Software Agreement that apply to the transferred SAP Software.
 - c) Customer must without delay notify SAP in writing of the transfer and of the name and address of Transferee.
- 2.4.3. Customer must not transfer to a third party any SAP Software that Customer acquired by any means other than under a license purchase contract.

3. VERIFICATION, SYSTEM AUDIT, ADDITIONAL LICENSE

- 3.1. Customer must give SAP prior written notice of any use of the Contractual SAP Software outside the contractually permitted use. It requires its own contract with SAP with regard to the additional license required (“**Additional License**”). The Additional License is subject to the provisions of the LPC in force at the time of the execution of the Additional License.
- 3.2. SAP is permitted to audit the usage of the Contractual SAP Software (ordinarily once a year) in accordance with SAP standard procedures (described in the LPC) by system measurement. Audits take place regularly in the form of self-reports using the measurement tools provided by SAP.

SAP is permitted to conduct the audit remotely if Customer refuses to conduct the measurement itself, or if the measurement does not produce meaningful results and / or there are reasonable grounds to suspect a breach or infringement by Customer. In exceptional cases, SAP is permitted to conduct the audit at Customer’s installations if Customer refuses to allow the remote audit or if the remote audit does not produce meaningful results and / or there are reasonable grounds to suspect a breach or infringement by Customer.

Customer must cooperate reasonably with SAP in the conduct of such audits in particular by granting SAP insight into its systems to the required extent during remote audits and during audits at Customer’s installations. SAP will give Customer reasonable prior notice of an audit to be conducted at Customer’s installation. SAP will have reasonable regard to the interests of Customer’s confidentiality and to the protection of Customer’s business operations from compromise. If an audit reveals any breach by Customer, Customer must bear the reasonable expense to SAP of conducting the audit.

- 3.3. If it becomes apparent in an audit or otherwise that Customer has used the Contractual SAP Software outside the Software Agreement, SAP and Customer will execute an Additional License. In those circumstances, SAP reserves the right not to give any agreed discount except the quantity discount in the LPC. Section 3.1, sentences 2 and 3, apply. SAP reserves the right to claim damages and to claim late payment interest in accordance with section 4.1.5.

4. PRICE; PAYMENT; TAXES; RETENTION OF RIGHTS

4.1. Fees

- 4.1.1. Customer shall pay to SAP license fees for the Contractual SAP Software and fees for SAP Support on the terms in the Software Agreement. Fees for SAP Software delivery include costs of delivery and packaging for Physical Shipment. In cases of Electronic Delivery, SAP makes the Contractual SAP Software available for download from a network at its own cost. Customer is responsible for the cost of downloading the SAP Software. No cash discount is granted.
- 4.1.2. SAP may require full or part payment in advance if there is no prior business relationship with Customer, if delivery is to be made outside Germany, if Customer’s registered office is outside Germany or if there are any grounds to doubt that Customer will render payment punctually.
- 4.1.3. Customer may offset only claims or claim rights of retention that are uncontested or have been finally determined by the court. Subject to the provisions of the German Commercial Code (HGB), section 354a, Customer cannot assign its claims to a third party.

- 4.1.4. SAP retains all rights in the Contractual SAP Software, especially versions of the SAP Software that have been provided under the SAP Support agreement, until full satisfaction of its claims under the Software Agreement. Customer must immediately notify SAP in writing if any third party gains access to the SAP Software in which SAP retains title or rights and must also inform the third party of SAP's rights.
- 4.1.5. Invoicing; Due Date
- a) Payments are due 14 calendar days from the date of the invoice. Any fees not paid when due shall accrue interest at the applicable statutory interest rate.
 - b) Under Software purchase contracts, the invoice shall be presented after delivery of the Contractual SAP Software.
 - c) Under SAP Support contracts, the duty to pay shall begin with Effective Date of the SAP Support contract. The fee will be billed quarterly in advance.
 - d) Payment terms for rental contracts shall be included in the relevant rental contract. Except as provided otherwise, the fee will be billed quarterly in advance and the duty to pay shall start with the execution of the rental contract.
 - e) SAP may provide invoices in electronic format.
- 4.1.6. By giving Customer a written two months' notice effective from January 01 of the following calendar year (email sufficient), SAP is entitled to amend the remuneration for SAP Support and / or software rental at its discretion subject to the following guidelines:
- a) The change applied to the fee must not be greater than the change in the index defined in b) below ("**Discretionary Applicable Change**"). For the first fee adjustment under the contract, the Discretionary Applicable Change is the change from the index published at the date of the execution of the contract to the index that has most recently been published when the fee adjustment notice is given. If the fee has already been adjusted in the past, the Discretionary Applicable Change is the change from the index that had been most recently published when the previous fee adjustment notice was given to the index that has most recently been published when the new fee adjustment notice is given.
 - b) The index used to determine the Discretionary Applicable Change is the index of gross monthly salaries of full-time employees in Germany in the information technology services sector (currently published quarterly by the German Federal Statistics Office in the GENESIS online database with the key 62361-0016: Index der durchschnittlichen Bruttomonatsverdienste (Quartale) and the code WZ08-62 Dienstleistungen der Informationstechnologie). If that index is discontinued, the applicable index will be the index published that most closely reflects changes in average gross monthly earnings in that sector.
 - c) The fee adjustment is deemed to be agreed by the parties unless Customer, by giving notice within two weeks from receipt of the fee adjustment, terminates the SAP Support or rental agreement with effect from the end of the calendar year (extraordinary termination right). SAP will draw attention to this in the fee adjustment notice. The provisions in section 10.6, sentences 3 to 5 apply accordingly.

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

5. END OF LICENSE

- 5.1. Upon any termination of the license hereunder (e. g. by rescission, end of agreed license term or termination), Customer shall immediately cease use of all Contractual SAP Software and Confidential Information.
- 5.2. Within one (1) month after any termination of the license, Customer shall irretrievably destroy or upon SAP's request deliver to SAP all copies of Contractual SAP Software and Confidential Information in every form, except to the extent it is legally required to keep it for a longer period in which case such return or destruction shall occur at the end of such period. Customer must certify to SAP in writing that it and its Affiliates have satisfied the obligations under this section 5.

6. DUTY TO COLLABORATE; DUTY TO INSPECT AND GIVE NOTICE OF DEFECTS

- 6.1. Customer undertakes that it knows the essential functional characteristics of the Contractual SAP Software and its technical requirements (e. g. with regard to the database, operating system, hardware and data media). Customer bears the risk that the SAP Software does not meet its wishes and requirements. In case of doubt Customer should consult employees of SAP or third-party experts before concluding any contract.

Furthermore, SAP supplies notes on the technical prerequisites for the SAP Software and any changes thereto on its online information platform.

- 6.2. Customer must provide the operating environment (herein: "**IT Systems**") necessary for the SAP Software, in accordance with SAP's guidance where given. It is the responsibility of Customer to secure proper operation of the IT Systems by entering into maintenance contracts with third parties if necessary. In particular, Customer must comply with the specifications in the Documentation and the notes on SAP's online information platform.
- 6.3. Free of charge, Customer must provide all collaboration that SAP requires in connection with performance of the contract, including, for example, human resources, workspace, IT Systems, data, and telecommunications facilities. Customer must grant SAP direct and remote access to the Contractual SAP Software and the IT Systems.
- 6.4. Customer must nominate in writing a contact for SAP, with an address and e mail address at which the contact can be reached. The contact must be in a position to make necessary decisions for Customer or ensure that they are made without delay. Customer's contact must maintain effective cooperation with SAP's contact.
- 6.5. Before commencing live operation with the Contractual SAP Software, Customer must test it thoroughly for freedom from defects.
- 6.6. Customer must take appropriate precautions against the possibility that the Contractual SAP Software or any part thereof does not function properly (e.g. by performing data backups, error diagnosis and regular results monitoring). Except where otherwise expressly indicated in writing in individual cases, SAP employees are always entitled to act on the assumption that all data with which they come into contact is backed up.
- 6.7. Customer must inspect all goods, works, and services delivered or provided by SAP and give notice of all defects pursuant to the German Commercial Code (HGB), section 377. The notice must be in written form and contain a detailed description of the problem. Notice of a defect is effective only if given by the contact (section 6.4) or the certified Customer Center of Expertise in the meaning of the LPC.
- 6.8. Customer bears all consequences and costs resulting from breach of its duties.

7. DEFECTS AS TO QUALITY; DEFECTS IN TITLE; OTHER FAULTS

- 7.1. SAP warrants the agreed qualities of the Contractual SAP Software (section 2.1) in accordance with the law governing the sale of goods and warrants that the grant to Customer of the agreed rights (section 2) does not infringe any third-party right.
- 7.2. To discharge its liability for shown quality defects, SAP will remedy the defects either by providing to Customer a new software version that is free of defects or, at its election, by eliminating the defects. SAP may also eliminate a defect by indicating to Customer a reasonable way to avoid the effect of the defect. To discharge its liability for shown defects in title, SAP will remedy the defects either by procuring for Customer the legally incontestable right under license to use the Contractual SAP Software or, at SAP's election, providing equivalent replacement or altered SAP Software. Customer must accept a new software version that is functionally compliant unless it would be unreasonable to require Customer to do so.
- 7.3. If Customer sets a reasonable limited additional time period for SAP to remedy the defect and SAP finally fails to do so in that time, Customer has the right to rescind the contract or reduce the remuneration. The requirements in section 11.1 must be met with regard to fixing a reasonable limited additional time period. Subject to the exclusions and limitations in section 8, SAP undertakes to compensate for loss or wasted anticipatory expenditure caused by a defect.
- 7.4. The time bar for claims under sections 7.1 to 7.3 comes into effect one year after delivery of the Contractual SAP Software. This also applies to rights arising out of rescission or reduction of remuneration under section 7.3, sentence 1. The reduction in the time before the time bar comes into effect does not apply in cases of SAP's intent or gross negligence, of fraudulent concealment of a defect, of personal injury, or of defect in title to which the German Civil Code (BGB), section 438 (1) No.1 (a) applies.
- 7.5. The time bar for claims for defects in works or services to eliminate or avoid a defect provided in discharge of defect liability also comes into effect at the time specified in section 7.4. However, the time before the bar comes into effect is tolled while, with Customer's consent, SAP is checking the existence of a defect or is remedying a defect, until SAP informs Customer of the results of its check, gives notice that the remedy is

complete, or refuses to remedy the defect. The time bar comes into effect no earlier than three months after the end of the toll.

- 7.6. If SAP provides defect identification or elimination works or services without being under obligation to do so, SAP is entitled to remuneration under section 11.7. This applies in particular to any reported quality defect that is not reproducible or not imputable to SAP or in cases where the Contractual SAP Software is not used in compliance with its Documentation. Without prejudice to the generality of the foregoing, SAP is entitled to remuneration for additional work it does to eliminate any defect that arises out of Customer's failure to properly discharge its duty to collaborate, inappropriate operation of the Contractual SAP Software, or failure to take the SAP services that SAP recommends.
- 7.7. If a third party claims that the exercise of the license granted under the Software Agreement infringes its rights, Customer must fully inform SAP in writing without delay. If Customer ceases to use the Contractual SAP Software 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 will conduct the dispute with the third party both in court and out of court only in consultation and agreement with SAP or authorize SAP to assume sole conduct of the dispute.
- 7.8. If SAP fails to properly perform any of its duties herein that is not within the ambit of defect liability, or is otherwise in breach, Customer must give written notice of the failure or breach to SAP and fix a limited additional time period during which SAP has the opportunity to properly perform its duty or otherwise rectify the situation. Section 11.1 applies. SAP will compensate for loss or wasted anticipatory expenditure subject to the exclusions and limitations in section 8.

8. LIABILITY

- 8.1. SAP's liability in contract, tort, and otherwise for loss including but not limited to wasted anticipatory expenditure, is subject to the following provisions:
 - 8.1.1. In cases of intent, SAP's liability extends to the full loss; in cases of gross negligence, SAP's 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, SAP's liability is limited to the amount of foreseeable loss that would have been prevented by the presence of the guaranteed quality.
 - 8.1.2. In other cases: SAP is not liable except for breach of a major obligation (Kardinalpflicht) and only up to the limits in the following section 8.1.3. A breach of a major obligation in the meaning of this section 8.1.2 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 Software Agreement and where Customer could legitimately rely upon its fulfillment.
 - 8.1.3. Liability in cases under section 8.1.2 is limited to € 200,000 per incident and limited in total to € 500,000 for all claims arising out of the Software Agreement.
- 8.2. Contributory fault (e. g. breach of section 6 duties) and contributory negligence may be claimed. The limits of liability in section 8.1 do not apply to personal injury liability or liability under the German Product Liability Act (Produkthaftungsgesetz).
- 8.3. For all claims against SAP in contract, tort, or otherwise for loss or wasted anticipatory expenditure the time bar comes into effect after a period of one year. That period begins at the point in time specified in the German Civil Code (BGB), section 199 (1). The foregoing provisions in this section notwithstanding, the time bar comes into effect not later than five years after the claim arises. The provisions in sentences 1 to 3 in this section 8.3 do not apply to liability for intent or gross negligence, liability for personal injury, or liability under the German Product Liability Act. The provisions in this section 8.3 do not affect the other time bar for claims arising out of defects as to quality and defects in title (sections 7.4 and 7.5).

9. CONFIDENTIALITY; DATA PROTECTION

- 9.1. With respect to any Confidential Information of the disclosing party obtained prior to and in the course of the performance of the Software 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 to perform or settle its obligations under the Software Agreement, and who is under obligations of confidentiality substantially similar to those in sections 9.1 to 9.5;
 - c) not use or reproduce any Confidential Information for any purpose outside the scope of the Software 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.
- 9.2. 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.
- 9.3. 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.
- 9.4. Upon the disclosing party's request or the end of license under section 5, 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 sections 9.1 to 9.3.
- 9.5. 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.
- 9.6. Data Protection. The parties' data protection obligations pertaining to possible commissioned data processing (especially in the context of providing SAP Support services or providing defect remedy in the context of the provision and license of the Contractual SAP Software) are set forth in the Personal Data Processing Agreement referenced in the Software Agreement.

10. SAP SUPPORT AND RENTAL: ADDITIONAL PROVISIONS

- 10.1. Under rental contracts, SAP Support is part of the rental service offered and can only be ended by terminating the rental contract. In respect of SAP Software that is acquired under a purchase contract, SAP provides SAP Support on the basis of a discrete support contract.
- 10.2. SAP Support services for the contractually agreed support model are provided as specified in the LPC valid from time to time.
- 10.3. SAP may adapt the scope of the SAP Support services to reflect the continuing development of the SAP Software and technical advances. In the event that a change may negatively affect the justified interests of Customer, SAP will inform Customer in writing or by electronic means, at least three (3) months before the change is scheduled to take effect, drawing attention to the termination option as described below and to the

- consequences of non-termination. In this case, Customer is entitled to early termination of the SAP Support contract / the rental contract as may be applicable, with effect from the time the change takes effect by giving two months' prior notice (extraordinary termination right). Section 10.6 sentences 3 to 5 apply accordingly. In the event Customer does not opt for early termination, the contract will be continued with the changed scope of services.
- 10.4. Subject to the Life Cycle of the SAP Software and in accordance with the SAP release strategy posted on SAP's online information platform, SAP provides SAP Support for the most recent Contractual SAP Software currently being shipped and – where applicable – for older SAP Software. SAP's provision of SAP Support for Third Party Software can require the use of support services provided by the vendor in question. If the vendor does not provide the support services required by SAP, SAP has the right to give reasonable notice of at least three months effective at the end of a calendar quarter of extraordinary and partial termination on the contractual relationship for maintenance for the Third Party Software concerned.
 - 10.5. The provisions in section 7 apply analogously to defects as to quality and defects in title in the SAP Software delivered in performance of support duties. The right to terminate the support or rental contract for just cause replaces the right to rescind the contract. Any right to reduction of remuneration applies to remuneration under the support or rental contract. For rental contracts, the no-fault liability as provided in the German Civil Code (BGB) section 536a (a) for defects that existed at the time of contract execution is excluded.
 - 10.6. The initial term of SAP Support agreement is the remainder of the current calendar year and the next full calendar year (except in cases where the SAP Support agreement starts on January 1st of a respective calendar year, in which case the initial term will run until December 31st of the respective calendar year) ("**Initial Term**"). Thereupon the SAP Support agreement is automatically extended from calendar year to calendar year ("**Extension**"). So far as SAP offers SAP Support for it, all of Customer's SAP Software must be covered by the support. Customer must always have all of its installations of the SAP Software for which SAP offers SAP Support (including respective subsequent additionally licensed SAP Software and SAP Software provided within SAP Support) fully covered by SAP Support or terminate the SAP Support completely. This provision also includes SAP Software provided to Customer by third parties, for which SAP offers SAP Support. For any additional SAP Software license contracts Customer shall extend the SAP Support on the basis of discrete support contracts with SAP.
 - 10.7. Either party can effect regular termination of the SAP Support agreement by giving three (3) months' written notice that takes effect at the end of a calendar year, subject however, to the Initial Term. Either party can effect regular termination of a rental contract by giving three (3) months' written notice that takes effect at the end of a calendar quarter, subject however, to the Initial Term. Section 10.6 sentences 3 to 5 apply accordingly to rental contracts. Extraordinary termination rights and the right to termination for just cause remain unaffected.
 - 10.8. Notice of termination for just cause is effective only if given in written form. The provisions in section 11.1 concerning notices setting limited extra time also apply. SAP reserves the right to terminate for just cause where Customer is repeatedly or seriously in breach of major contractual obligations (e.g. those in sections 2, 3, 6 and 9). Such termination is without prejudice to SAP's entitlement to remuneration outstanding at the time of termination, and SAP is entitled to claim liquidated damages due immediately in the amount of 60 % of the remuneration that would otherwise have become due up to the earliest time at which Customer could have effected termination with regular notice. Customer retains the right to show that SAP's actual loss is less.
 - 10.9. Note: In cases where SAP Support does not start with delivery of the SAP Software, but later, Customer must, to obtain the current release, pay all past support fees that it would have had to pay had it agreed to take SAP Support from the time of delivery of the SAP Software. Such payment falls due immediately and in full. These provisions also apply if Customer takes up the SAP Support again after a termination. The options to switch an SAP Support model are detailed in the LPC valid from time to time.
 - 10.10. These GTC can be changed with regard to SAP Support and rental agreements, provided that the change does not have any impact on the content of the SAP Support or rental agreement that is material for the equivalency of services and remuneration between the parties and provided that such change is reasonably acceptable for Customer. SAP will inform Customer about the change of the GTC in writing. If, in this case, Customer does not expressly disagree in writing within 4 weeks after receipt of the change notice, the change will be deemed to be effected as is the changed GTC version is the basis for existing SAP Support or rental

agreements between SAP and Customer from that point in time. SAP will draw attention to this consequence in the change notice.

11. FINAL PROVISIONS; MISCELLANEOUS

- 11.1. Except in emergencies, a limited time fixed by Customer pursuant to the law or contract must not be less than 10 working days. Failure to comply with any fixed time limit entitles Customer to be released from the contract (e.g. by rescission, termination, or claim for damages in lieu of performance) or to a price reduction for breach only if this was threatened in writing in the notice fixing the limited time as a consequence of failure to comply with that time limit. After a limited time fixed in accordance with sentence 2 expires, SAP is entitled to give notice to Customer requiring that any rights arising out of the expiration be exercised within two weeks of receipt of the notice.
- 11.2. SAP has four weeks to accept offers made by Customer. SAP's offers are nonbinding unless otherwise agreed in writing. In cases of conflict, the contract terms and details that apply are those in SAP's offer or confirmation.
- 11.3. Export Laws / Trade Compliance
 - 11.3.1. SAP and Customer shall comply with Export Laws in the performance of the Software Agreement. SAP Confidential Information (in particular SAP Software and SAP Support) is subject to Export Laws. Customer and its Affiliates shall not directly or indirectly use, export, re-export, release, or transfer SAP Confidential Information (in particular SAP Software and SAP Support) in violation of Export Laws. Customer is solely responsible for compliance with Export Laws including obtaining any required export authorizations if Customer exports or re-exports SAP Confidential Information (in particular SAP Software and SAP Support). Customer must not use the SAP Confidential Information (in particular SAP Software and SAP Support) from Crimea/Sevastopol, Cuba, Iran, the People's Republic of Korea (North Korea)), the so-called Luhansk Peoples Republic (LNR) and Donetsk Peoples Republic (DNR) and Syria.
 - 11.3.2. Upon SAP's request, Customer shall provide information and documents to support obtaining an export authorization. With regard to the affected SAP Software, SAP may immediately terminate Customer's SAP Support and/or rental or term license upon written notice to Customer if:
 - a) the competent authority does not grant such export authorization within 18 months; or
 - b) Export Laws prohibit SAP from providing the SAP Software and / or SAP Support to Customer.
- 11.4. German law applies exclusively to all claims in contract, in tort or otherwise, and the UN sales laws convention as well as the rules of conflict of laws are excluded. If Customer is a merchant within the meaning of the German Commercial Code (HGB), section 1, or a public-law legal entity or special fund, the sole place of jurisdiction for all differences arising out of or in connection with the Software Agreement shall be Karlsruhe.
- 11.5. Amendments and additions to the Software Agreement and any contractually relevant notices as well as notices influencing a legal relation, such as termination notices, reminders, or notices to set time limits, require written form. The foregoing provision also applies to any waiver of the written-form requirement. The written form requirement can be met by exchange of letters or in the following electronic formats: facsimile transmission, e-mail transmission with scanned signatures, SAP Store, DocuSign™ or any equivalent electronic process provided by SAP. Except in that respect, however, the provisions in the German Civil Code, section 127 (2) and (3) do not apply.
- 11.6. No conditions that are conflicting with or amending the Software Agreement – notably Customer's general terms and conditions – form any part of the contract, even where SAP has performed a contract without expressly rejecting such provisions.
- 11.7. A separate agreement is required for any other goods, works and services that are not expressly described in the purchase, rental, leasing or SAP Support agreements. Unless otherwise agreed, such goods, works and services are provided subject to SAP Services General Terms and Conditions of SAP Deutschland & Co. KG and SAP is entitled to remuneration for them in accordance with the relevant SAP list of prices and conditions.