SOFTWARE LICENSE AND SUPPORT AGREEMENT
General Terms and Conditions
("GTC")

1.   DEFINITIONS.

1.1   "Add-on" means any development that adds new and independent functionality, but does not modify existing SAP functionality, and is developed using SAP application programming interfaces or other SAP code that allows other software products to communicate with or call on SAP Software.

1.2   "Affiliate" means any legal entity in the Territory in which the Licensee, directly or indirectly, holds more than fifty percent (50%) of the shares or voting rights or such legal entity is Controlled by the Licensee. Any such legal entity shall be considered an Affiliate for only such time as such interest or Control is maintained. "Control" means in reference to a legal entity is defined as the ability to solely direct the management of such legal entity and the right to appoint or remove the majority of the board of directors. For the avoidance of doubt, in no event may a third party have a veto right or any other right or ability to circumvent the sole control of Licensee towards the Affiliate.

1.3   "Agreement" means the agreement as defined in the Software Order Form.

1.4   "Business Partner" means a legal entity or individual that requires access to the Software in connection with Licensee's internal business operations, such as customers, distributors and/or suppliers of Licensee.

1.5   "Confidential Information" means, with respect to Licensee: Licensee's marketing and business plans and/or financial information, and with respect to SAP: (a) the Software and Documentation and other SAP Materials, including without limitation the following information regarding the Software: (i) computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in the Software; (ii) benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats; and (iii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to the Software; (b) the research and development or investigations of SAP; and (c) product offerings, content partners, product pricing, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, marketing plans, forecasts and strategies. In addition, Confidential Information of either SAP or Licensee (the party disclosing such information being the "Disclosing Party") includes information which the Disclosing Party protects against unrestricted disclosure to others that (i) the Disclosing Party or its representatives identifies 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; including, without limitation, information from, about or concerning any third party that is disclosed under this Agreement. Confidential Information does not include information that is trivial or obvious.

1.6   "Designated Unit" means information technology devices (e.g. hard disks or central processing units) identified by Licensee pursuant to this Agreement that have been officially made known to the public as appropriate for Use or interoperation with the Software.

1.7   "Documentation" means SAP's then-current technical and/or functional documentation which is delivered or made available to Licensee with the Software under this Agreement.

1.8   "Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.

1.9   "Modification" means (i) a change to the delivered source code or metadata; or (ii) any development, other than a change to the delivered source code or metadata, that customizes, enhances, or changes existing functionality of the Software including, but not limited to, the creation of any new application program interfaces, alternative user interfaces or the extension of SAP data structures; or (iii) any other change to the Software (other than an Add-on) utilizing or incorporating any SAP Materials (defined below).

1.10   "SAP Materials" means any software, programs, tools, systems, data or other materials made available by SAP to Licensee prior to or in the course of the performance under this Agreement including, but not limited to, the Software and Documentation, as well as any information, materials or feedback provided by Licensee to SAP relating to the Software and Documentation.

1.11   "SAP Support" means SAP's then-current SAP support offering made available to Licensee, as stated in the applicable Software Order Form and made a part hereof.

1.12   "Software" means (i) any and all software products licensed to Licensee under this Agreement as specified in Software Order Forms hereto, all as developed by or for SAP, SAP SE and/or any of their affiliated companies and delivered to Licensee hereunder; (ii) any new releases, updates or versions thereof made available through unrestricted shipment pursuant to SAP Support or warranty obligation and (iii) any complete or partial copies of any of the foregoing.

1.13   "Software Order Form" means the order form for the Software, Third Party Software and related SAP Support ordered by Licensee thereunder, including information on Software, Third Party Software, SAP Support, fees, and other information necessary for the delivery of such items to Licensee.

1.14   "Taxes" means local sales, value added tax, withholding, use, property, excise, service or similar taxes.

1.15   "Territory" means the territory stated in the Software Order Form.

1.16   "Third Party Software" means (i) any and all software products and content licensed to Licensee under this Agreement as specified in Software Order Forms hereto, all as developed by companies other than SAP, SAP SE and/or any of their affiliated

companies and delivered to Licensee hereunder; (ii) any new releases, updates or versions thereof made available through SAP Support or warranty obligations and (iii) any complete or partial copies of any of the foregoing.

1.17 "Use" means to activate the processing capabilities of the Software, load, execute, access, employ the Software, or display information resulting from such capabilities.

1.18 "Use Terms" means the Software Use Rights document as defined in the Software Order Form.

2.   LICENSE GRANT.

2.1   License.

2.1.1 Subject to Licensee's compliance with all the terms and conditions of this Agreement, SAP grants to Licensee a non-exclusive, non-transferable, perpetual (except for subscription or term based licenses) license to Use the Software, Documentation, and other SAP Materials at specified site(s) within the Territory to run Licensee's and its Affiliates' internal business operations (including customer back-up and passive disaster recovery) and to provide internal training and testing for such internal business operations, unless terminated in accordance with the terms of this Agreement. Licensee may make Modifications and/or Add-ons to the Software in furtherance of its permitted Use under this Agreement and shall be permitted to use Modifications and Add-ons with the Software in accordance with this Section 2.1.1 and Section 6.3. Licensee shall not: (i) use the SAP Materials to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training) other than to Affiliates (subject to Section 2.2); (ii) lease, loan, resell, sublicense or otherwise distribute the SAP Materials, other than distribution to Affiliates (subject to Section 2.2); (iii) distribute or publish keycode(s); (iv) make any Use of or perform any acts with respect to the SAP Materials other than as expressly permitted in accordance with the terms of this Agreement; (v) use Software components other than those specifically identified in the Software Order Form, even if it is also technically possible for Licensee to access other Software components. Licensee may permit Business Partners to Use the Software only through screen access, solely in conjunction with Licensee's Use. Business Partner may not Use the Software to manage or operate any of Business Partners' business operations.

2.1.2 Licensee agrees to install the Software only on Designated Units located at Licensee's facilities and in Licensee's direct possession. With advance written notice to SAP, the information technology devices may also be located in the facilities of an Affiliate and be in the Affiliate's direct possession. Licensee must be appropriately licensed as stated in the Use Terms for any individuals that Use the Software, including employees or agents of Affiliates and Business Partners. Use may occur by way of an interface delivered with or as a part of the Software, a Licensee or third party interface, or another intermediary system. If Licensee receives licensed Software that replaces previously licensed Software, its rights under this Agreement with regard to the previously licensed Software end when it deploys the replacement Software for Use on productive systems following a reasonable testing period. At the date the rights to the previously licensed Software end, Licensee shall comply with Section 5.2 of this Agreement with respect to such previously licensed Software.

2.1.3 The terms and conditions of this Agreement relative to "Software" apply to Third Party Software except (i) Licensee shall not make Modifications and/or Add-ons to Third Party Software or otherwise modify Third Party Software unless expressly authorized by SAP; and (ii) as otherwise stated in the Use Terms.

2.2   Affiliate Use. Affiliates' Use of the Software, Documentation and other SAP Materials to run their internal business operations as permitted under Section 2.1.1 is subject to the following: (i) Licensee ensures that the Affiliate agree in writing to comply with the terms of this Agreement as if it were the Licensee; and (ii) a breach of the Agreement terms by Affiliate shall be considered a breach by Licensee hereunder. If Licensee has an affiliate or subsidiary with a separate license or support agreement for SAP software with SAP SE, any SAP SE affiliate (including SAP) or any other distributor of SAP software, the Software shall not be Used to run such affiliate's or subsidiary's business operations and such affiliate or subsidiary shall not receive any support services under this Agreement even if such separate agreement has expired or is terminated, unless otherwise agreed to in writing by the parties.

2.3   Services Providers. With SAP's prior written consent, Licensee may permit services providers to access the Software solely for the purpose of providing facility, implementation, systems, application management or disaster recovery services to Licensee in connection with the business of Licensee for which the Software is herein licensed provided: (i) these rights will continue only while Licensee and such services provider have in place a written agreement that includes provisions requiring such services provider's compliance with the terms of this Agreement prior to such access, including without limitation non-disclosure of SAP Confidential Information; (ii) Licensee must be appropriately licensed for all employees of such services provider authorized to access the Software; (iii) such services provider shall be permitted to Use the Software solely to install and configure the Software in accordance with the business of Licensee as set forth herein (or in the case of a disaster recovery vendor, to provide disaster recovery services only); (iv) under no circumstances may such services provider Use the Software to operate or provide processing services to Licensee or any other party, or in connection with such services provider's own business operations; (v) Licensee shall be responsible for any additional Software, migration tools, or third party software needed to effect such transition; and (vi) Licensee expressly agrees to indemnify SAP, its officers, employees, agents and subcontractors from and against all claims, liabilities, losses, damages and costs (including reasonable attorney fees) suffered by SAP arising from a breach by the services provider of the conditions of this Agreement. Upon SAP request, Licensee shall provide written confirmation to SAP that items (i)-(iv) are fulfilled.

3.   VERIFICATION. SAP shall be permitted to audit (at least once annually and in accordance with SAP standard procedures, which may include on-site and/or remote audit) the usage of the SAP Materials. Licensee shall cooperate reasonably in the conduct of such audits. In the event an audit reveals that (i) Licensee underpaid Software license fees and/or SAP Support fees to SAP and/or (ii) that Licensee has Used the Software in excess of the license quantities or levels stated in the Software Order Form, Licensee shall pay such underpaid fees and/or for such excess usage based on the then-current SAP price list, terms and conditions in effect at the time of the audit, and shall execute an additional Software Order Form to affect the required licensing of any additional quantities or levels. In the event SAP is required to perform an on-site audit, if the audit results indicate usage in excess of the licensed quantities or levels, the Licensee will be required to pay such reasonable costs including reasonable travel and accommodation expenses) which shall be paid by Licensee provided SAP notifies the Licensee a reasonable period in advance. SAP reserves all rights at law and equity with respect to both Licensee's underpayment of License fees or SAP Support fees and usage in excess of the license quantities or levels.

4.   PRICE AND PAYMENT.

4.1   Fees. Licensee shall pay to SAP the Software license fees and the SAP Support fees as specified in the Software Order Forms. Licensee fees include costs of initial delivery and packaging for physical shipment. In cases of electronic delivery, SAP makes the Software available for download from a network at its own cost, and Licensee is responsible for the cost of downloading the Software. Licensee acknowledges that a purchase order is for administrative convenience only and that Licensor has the right to issue an invoice and collect payment without a corresponding purchase order.

4.2   Taxes. Fees and other charges described in this Agreement do not include Taxes, now or hereinafter levied all of which shall be for Licensee's account with the exception of income or corporation taxes attributable to SAP.   SAP and Licensee agree to comply with the applicable Tax law in force for the duration of the Agreement. Any applicable direct pay permits or valid tax-exempt certificates must be provided to SAP prior to the execution of this Agreement. If SAP is required to pay Taxes, Licensee shall reimburse SAP for such amounts.

Notwithstanding the above, if the Licensee is legally required to deduct withholding/any other type of taxes from any payment which is due to SAP, the Licensee must promptly notify SAP at time of receiving invoice or when it becomes aware of such requirement, whichever is earlier and provide SAP with evidence of receipt by the relevant tax authority of any sum that the Licensee has deducted as withholding tax / any other type of taxes and such other information or documents as SAP may reasonably require for purposes of obtaining any available tax credit. Should the Licensee, notwithstanding formal written demand to it by SAP, fail to furnish to SAP such receipt within a reasonable period for any reason other than the obvious delay of the issuing authority, then the Licensee shall be liable to pay to SAP the amount so deducted upon demand.

Licensee hereby agrees to reimburse SAP for any taxes and tax related costs, administrative fees and penalties paid or payable by SAP as a result of Licensee's non-compliance in regard to this Section or delay with its responsibilities herein.

5.   TERM.

5.1   Term. This Agreement and the license granted hereunder shall become effective as of the date first set forth in the applicable Software Order Form and shall continue in effect thereafter unless terminated upon the earliest to occur of the following: (i) thirty days after Licensee gives SAP written notice of Licensee's direction to terminate this Agreement, for any reason, but only after payment of all License and SAP Support fees then due and owing; (ii) thirty days after SAP gives Licensee written notice of Licensee's material breach of any provision of this Agreement (other than Licensee's breach of its obligations under Sections 6, 10 or 11, which breach shall result in immediate termination), including Licensee's failure to pay any money due hereunder, unless Licensee has cured such breach during such thirty day period; (iii) immediately if Licensee files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors. For the avoidance of any doubt, the parties agree there is no requirement to obtain a court order to exercise the rights of termination under this Section 5. In addition, termination of this Agreement shall strictly apply to all Software licensed under this Agreement, its appendices, schedules, addenda and order documents and any partial termination of this Agreement by Licensee shall not be permitted in respect of any part of this Agreement, its appendices, schedules, addenda, order documents.

5.2   End of Term Duties. Upon any termination hereunder, Licensee and its Affiliates shall immediately cease Use of all SAP Materials and Confidential Information. Within thirty (30) days after any termination, Licensee shall irretrievably destroy or upon SAP's request deliver to SAP all copies of the SAP Materials 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. Licensee must certify to SAP in writing that it has satisfied its obligations under this Section 5.2. Licensee agrees to certify in writing to SAP that it and each of its Affiliates has performed the foregoing. Sections 3 (verification), 4 (price and payment), 5.2 (end of term duties), 6 (intellectual property rights), 7.2 (warranty), 8 (indemnification), 9 (limitation of liability), 10 (confidentiality), 12.4 (regulatory matters), 12.5 (governing laws and limitations period), 12.6 (arbitration), 12.7 (notices) and 12.9 (entire agreement) shall survive such termination. In the event of any termination hereunder, Licensee shall not be entitled to any refund of any payments made by Licensee. Termination shall not relieve Licensee from its obligation to pay fees that remain unpaid.   Termination of this Agreement shall strictly apply to all SAP Materials licensed hereunder and to this Agreement's appendices, schedules, addenda, Order Forms, order documents and any other incorporated documents. Partial termination of this Agreement by Licensee shall not be permitted in respect of any part of this Agreement.

6.   INTELLECTUAL PROPERTY RIGHTS.

6.1   Reservation of Rights. The SAP Materials, and all Intellectual Property Rights embodied therein, shall be the sole and exclusive property of SAP, SAP SE (the parent company of SAP) or its or their licensors, subject to any rights expressly granted to Licensee in Section 2 and 6.3 herein. Except for the rights set forth in Sections 2 and 6.3 herein, Licensee is not permitted to modify or otherwise make derivative works of the Software or other SAP Materials.

6.2   Protection of Rights. Except to the extent such rights cannot be validly waived by law, Licensee shall not copy, translate, disassemble, decompile, nor reverse engineer the Software or other SAP Materials. Licensee shall not create or attempt to create the source code from the object code of the Software or other SAP Materials. Licensee 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 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 technically infeasible. Licensee must not change or remove SAP's copyright and authorship notices.

6.3   Modifications/Add-ons.

6.3.1 Licensee shall comply with SAP's registration procedure prior to making Modifications or Add-ons. All Modifications and all rights associated therewith shall be the exclusive property of SAP, SAP SE or its or their licensors. All Add-ons developed by SAP (either independently or jointly with Licensee) and all rights associated therewith shall be the exclusive property of SAP, SAP SE or its or their licensors. Licensee agrees to execute those documents reasonably necessary to secure SAP's rights in the foregoing Modifications and Add-ons. All Add-ons developed by or on behalf of Licensee without SAP's participation ("Licensee Add-on"), and all rights associated therewith, shall be the exclusive property of Licensee subject to SAP's rights in and to the Software and SAP Materials; provided, Licensee shall not commercialize, market, distribute, license, sublicense, transfer, assign or otherwise alienate any such Licensee Add-

ons. SAP retains the right to independently develop its own Modifications or Add-ons to the Software, and Licensee agrees not to take any action that would limit SAP's sale, assignment, licensing or use of its own Software or Modifications or Add-ons thereto.

6.3.2 Any Modification developed by or on behalf of Licensee without SAP's participation or Licensee Add-on must not (and subject to other limitations set forth herein): enable the bypassing or circumventing any of the restrictions set forth in this Agreement and/or provide Licensee with access to the Software to which Licensee is not directly licensed; nor unreasonably impair, degrade or reduce the performance or security of the Software; nor render or provide any information concerning SAP software license terms, Software, or any other information related to SAP Materials.

6.3.3 Licensee covenants, on behalf of itself and its successors and assigns, not to assert against SAP or its affiliated companies, or their resellers, distributors, suppliers, commercial partners and customers, any rights in any (i) Licensee Add-ons or Modifications, or (ii) other functionality of the SAP Software accessed by such Licensee Add-ons or Modifications.

7. PERFORMANCE WARRANTY.

7.1 <u>Warranty</u>. SAP warrants that the Software will substantially conform to the specifications contained in the Documentation for six months following delivery. The warranty shall not apply: (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect is caused by a Modification or Add-on (other than a Modification or Add-on made by SAP and which is provided through SAP Support or under warranty), Licensee or third party software; or (iii) to any Licensee unlicensed activities. SAP does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of Licensee's business requirements. Licensee accepts responsibility for the selection of the Software to achieve its intended results and acknowledges that the Software has not been developed to meet Licensee's individual requirements. Provided Licensee notifies SAP in writing with a specific description of the Software's nonconformance within the warranty period and SAP validates the existence of such nonconformance, SAP will, at its option: a) repair or replace the nonconforming Software, or b) refund the Software license fees paid for the applicable nonconforming Software in exchange for a return of such nonconforming Software. This is Licensee's sole and exclusive remedy under this warranty.

7.2 <u>Express Disclaimer</u>.

Except for the warranties, terms, conditions, representations or statements expressly set out in this Agreement, all other warranties, terms, conditions, representations or statements which might have effect between the parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law, custom or otherwise, are hereby excluded to the fullest extent permitted by law, including any implied conditions, warranties or other terms as to quality or fitness for purpose or non-infringement of any third party's rights.

8. THIRD PARTY CLAIMS.

8.1 <u>Infringement and Defense of Licensee</u>. SAP shall defend Licensee against claims brought against Licensee in the Territory by any third party alleging that Licensee's Use of the Software, in accordance with the terms and conditions of this Agreement, constitutes a direct infringement or misappropriation of such third party's patent claim(s), copyright or trade secret rights, and SAP will pay damages finally awarded against Licensee (or the amount of any settlement SAP enters into) with respect to such claims. This obligation of SAP shall not apply if the alleged infringement or misappropriation results from (i) Use of the Software in conjunction with any other software; (ii) Use of the Software with an apparatus other than a Designated Unit; (iii) failure to promptly use an update provided by SAP if such infringement or misappropriation could have been avoided by use of the update; or (iv) any Use not permitted by this Agreement. This obligation of SAP also shall not apply if Licensee fails to timely notify SAP in writing of any such claim; however, Licensee's failure to provide or delay in providing such notice shall not relieve SAP of its obligations under this Section except to the extent SAP is prejudiced by Licensee's failure to provide or delay in providing such notice. SAP is permitted to control fully the defense and any settlement of any such claim as long as such settlement shall not include a financial obligation on or admission of liability by Licensee. In the event Licensee declines SAP's proffered defense, or otherwise fails to give full control of the defense to SAP's designated counsel, then Licensee waives SAP's obligations under this Section 8.1. Licensee shall reasonably cooperate in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable to SAP. SAP expressly reserves the right to cease such defense of any claim(s) in the event the Software is no longer alleged to infringe or misappropriate, or is held not to infringe or misappropriate, the third party's rights. SAP may settle or mitigate damages from any claim or potential claim by substituting alternative substantially equivalent non-infringing programs and supporting documentation for the Software. Licensee shall not undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation of the Software that is prejudicial to SAP's rights.

8.2 The provisions of this Section 8 state the sole, exclusive and entire liability of SAP and its licensors to Licensee and is Licensee's sole remedy, with respect to any infringement or misappropriation of third party Intellectual Property Rights.

9. LIMITATIONS OF LIABILITY.

9.1 <u>Not liable</u>. SAP and its licensors will not be liable for any Licensee activities not permitted under this Agreement including without limitation to the extent that any liability arises from: (i) the Software not being used in accordance with the Documentation; or (ii) any defect or liability caused by Licensee, a Modification or Add-on (other than a Modification or Add-on made by SAP and provided through SAP Support or under warranty), or third party software; or (iii) the Software being used in conjunction with any third party software for which the Licensee lacks sufficient rights from the third party vendor for such use; SAP and its licensors shall not be liable for any claims or damages arising from inherently dangerous Use of the Software and/or Third Party Software.

9.2 <u>Exclusion of Damages; Limitation of Liability</u>.

9.2.1 Subject to sections 9.2.2, 9.2.3 and 9.2.4 below and regardless of the basis of liability (whether arising out of breach of contract, tort (including but not limited to negligence), misrepresentation, breach of statutory duty, breach of warranty or claims by third parties, wilful misconduct or otherwise) neither SAP or Licensee shall be liable to the other or any other party for any of the following types of loss or damage arising under or in relation to this Agreement:

(a) loss of profits or revenue; (ii) loss of business; (iii) loss of or damage to data; (iv) loss of goodwill; (v) losses from computer failure or malfunction; (vi) legal fees; (vii) computer failure or malfunction, (viii) interest or exemplary or punitive damages, or (ix) loss of anticipated savings; and regardless of whether any such loss or damage listed in this sub-section (a) is direct, indirect, special, incidental or consequential;

(b) indirect, special, incidental or consequential loss or damages and whether or not the other party had been advised of the possibility of such loss or damage; or

(c) loss or damage related to Third Party Software which exceeds the net Software license fees paid for the Third Party Software directly causing the loss or damage.

9.2.2   Subject to sections 9.2.1, 9.2.3 and 9.2.4 and regardless of the basis of liability (whether arising out of breach of contract, tort (including but not limited to negligence), misrepresentation, breach of statutory duty, breach of warranty or claims by third parties, wilful misconduct or otherwise) the aggregate liability of each party to the other or any other party for any loss or damage arising under or in relation to this Agreement shall not exceed the aggregate Software license fees paid for the Software directly causing the damages.

9.2.3   Nothing in this Agreement shall exclude or limit either party's liability for death or personal injury caused by negligence, for fraud and fraudulent misrepresentation or for any other liability which cannot be excluded or limited by applicable law.

9.2.4   Nothing in this Agreement shall exclude or limit either party's liability for damages resulting from unauthorized use or disclosure of Confidential Information, SAP's liability for Third Party Claims under Section 8.1 or Licensee's liability for any failure to pay any fees due under or in relation to this Agreement.

9.3   The parties agree that the provisions of this Agreement appropriately allocate the risks between SAP and Licensee and the Software License and SAP Support fees reflect this allocation of risk and the limitations of liability herein.

10.   CONFIDENTIALITY.

10.1   Use of Confidential Information. Confidential Information shall not be reproduced in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information of the other shall remain the property of the disclosing party and shall contain any and all confidential or proprietary notices or legends which appear on the original. With respect to the Confidential Information of the other, each party : (a) shall take all Reasonable Steps (defined below) to keep all Confidential Information strictly confidential; and (b) shall not disclose any Confidential Information of the other to any person other than its bona fide individuals whose access is necessary to enable it to exercise its rights and/or perform its obligations hereunder, and who are under obligations of confidentiality substantially similar to those set forth herein. As used herein "Reasonable Steps" means those steps the receiving party takes to protect its own similar proprietary and confidential information, which shall not be less than a reasonable standard of care. Confidential Information of either party disclosed prior to execution of this Agreement shall be subject to the protections afforded hereunder.

10.2   Exceptions. The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that: (a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information, or is lawfully received free of restriction from a third party having the right to furnish such Confidential Information; (b) has become generally available to the public without breach of this Agreement by the receiving party; (c) at the time of disclosure, was known to the receiving party free of restriction; or (d) the disclosing party agrees in writing is free of such restrictions.

10.3   Confidential Terms and Conditions; Publicity. Licensee shall not disclose the terms and conditions of this Agreement or the pricing contained herein to any third party. Neither party shall use the name of the other party in publicity, advertising, or similar activity, without the prior written consent of the other, except that Licensee agrees that SAP and its affiliated companies may use Licensee's name in customer listings or, at times mutually agreeable to the parties, as part of SAP's marketing efforts (including without limitation reference calls and stories, press testimonials, site visits, SAPPHIRE participation). SAP will make reasonable efforts to avoid having the reference activities unreasonably interfere with Licensee's business. Licensee agrees that SAP may share information on Licensee with its affiliated companies for marketing and other business purposes and that Licensee has secured permission from its employees to allow SAP to share business contact information with its affiliates.

11.   ASSIGNMENT and SUBCONTRACTING. Licensee may not, without SAP's prior written consent, assign, delegate, pledge, or otherwise transfer this Agreement, or any of its rights or obligations under this Agreement, or the SAP Materials or SAP Confidential Information, to any party, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation. SAP may assign this Agreement to any of its affiliates.   SAP has the right to subcontract support services without the need to obtain the consent of the Licensee.

12.   GENERAL PROVISIONS.

12.1   Severability. It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

12.2   No Waiver. If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

12.3   Counterparts. This Agreement may be signed in two counterparts, each of which shall be deemed an original and which shall together constitute one Agreement. Both parties agree that this document and its signature can be established in electronic form (sending by facsimile, scanned copy sent via e-mail, or electronic signature by using means implemented by SAP – for example DocuSign) and that, in electronic form, they shall be deemed originals.

12.4   Regulatory Matters. The Software, Documentation and SAP Materials are subject to the export control laws of various countries, including without limit the laws of the United States, Ireland and Germany. Licensee agrees that it will not submit the Software, Documentation or other SAP Materials to any government agency for licensing consideration or other regulatory approval without the

prior written consent of SAP, and will not export the Software, Documentation and SAP Materials to countries, persons or entities prohibited by such laws. Licensee shall also be responsible for complying with all applicable governmental regulations of the country where Licensee is registered, and any foreign countries with respect to the use of the Software, Documentation or other SAP Materials by Licensee and/or its Affiliates.

12.5   Governing Law and Limitations Period. This Agreement, and any claims arising out of or relating to this Agreement and its subject matter, shall be governed by and construed under the laws of England, without reference to its conflicts of law principles Licensee must initiate a cause of action for any claim(s) arising out of or relating to this Agreement and its subject matter within one (1) year from the date when Licensee knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

12.6   Arbitration.

12.6.1   Except for the right of either Party to apply to a court of competent jurisdiction for injunctive, or other equitable relief, any dispute or claim arising out of or relating to this Agreement, shall be settled by arbitration in Dubai International Financial Center in United Arab Emirates in accordance with the rules of arbitration of the London Court of International Arbitration (LCIA). The language to be used in the arbitration shall be English.

12.6.2   One or more arbitrators appointed in accordance with the following: (i) Arbitration by One Arbitrator: If the Parties agree to a one-arbitrator, the parties shall agree upon and appoint an arbitrator, after first ascertaining that the appointee consents to act, within thirty (30) days from the date on which written notice of referral to arbitration by one party is received by the other party (the "Notice Date") or (ii) Arbitration by Three Arbitrators: If the Parties are unable to agree on a one-arbitrator, or, having so agreed, are unable to agree on the arbitrator within thirty (30) days from the Notice Date, then the arbitration shall be conducted by and before three (3) arbitrators, who shall be appointed as follows. Each Party shall appoint one arbitrator, after first ascertaining that the appointee consents to act, and notify the other Party in writing of the appointment within sixty (60) days from the Notice Date. The appointed arbitrators shall agree upon and appoint the third arbitrator, who shall be the chairman, after first ascertaining that the appointee consents to act, and notify the Parties in writing of the appointment within ninety (90) days from the Notice Date.

The chairman shall be a qualified lawyer, and the other arbitrators shall have a background or training in computer law, computer science, or marketing of computer products. The arbitrators shall have the authority to grant injunctive relief, in a form substantially similar to that which would otherwise be granted by a court of law. The Parties irrevocably agree to submit to arbitration and the Parties each agree that any award made by the arbitrators shall be enforceable in any country, without further inquiry into the disputed matters which are the subject of the award. The provisions of this section shall survive termination of this Agreement.

12.6.3   The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

12.7   Notices. All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered to the respective executive offices of SAP and Licensee at the addresses first set forth in any Software Order Form. Where in this Section 12.6 or elsewhere in this Agreement a written form is required, except for any notice of termination or notice of a material breach which shall occur by exchange of letter(s), that requirement can be met by facsimile transmission, exchange of letters or other written form, including email.

12.8   Force Majeure. Any delay or nonperformance of any provision of this Agreement (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

12.9   Entire Agreement.

This Agreement constitutes the complete and exclusive statement of the agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, communications, arrangements, promises, assurances, warranties, representations and understandings between the parties (both oral and written) relating to that subject matter and no agreement, communication, arrangement, promise, assurance, warranty, representation, discussion, collateral contract or understanding of any kind, oral or written, shall be binding upon the parties unless incorporated herein. Each party acknowledges and agrees that in entering into this Agreement it has not relied on and shall have no remedy in respect of any agreement, communication, arrangement, promise, assurance, warranty, representation, discussion, collateral contract or understanding (whether negligently or innocently made) except those expressly set out in this Agreement. Each party agrees that it shall have no rights or remedies which, but for this section, might otherwise be available to it in respect of any such agreement, communication, arrangement, promise, assurance, warranty, representation, understanding, discussion, collateral contract or understanding; in any such case whether made innocently or negligently or otherwise. Nothing in this Agreement shall limit or exclude the liabilities or the rights or remedies of either party that cannot be limited or excluded by law.

This Agreement may be modified only by a writing signed by both parties. This Agreement shall prevail over any additional, conflicting, or inconsistent terms and conditions which may appear on any purchase order or other document furnished by Licensee to SAP. This Agreement shall prevail over any additional, conflicting or inconsistent terms and conditions which may appear in any clickwrap end user agreement included in the Software. Signatures sent by electronic means (facsimile or scanned and sent via e-mail) shall be deemed original signatures. This Agreement does not create any partnership, joint venture or principal-and-agent relationship.

12.10 Hierarchy. The following order of precedence shall be applied in the event of conflict or inconsistency between provisions of the components of this Agreement: (i) the Software Order Form; (ii) the Schedules; (iii) the GTC; and (iv) the Use Terms; except with respect to third party pass-through terms for Third Party Software stated in the Use Terms, in which case the Use Terms prevail over any conflict or inconsistency in any component of this GTC solely with respect to such third party pass-through terms.

12.11 Rights of Third Parties – Notwithstanding any other provision in this Agreement, nothing in this Agreement shall create or confer (whether expressly or by implication) any rights or other benefits in favour of any person not a party thereto.