PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is effective as of the Effective Date of the relevant SOW and is entered into by and between SAP and Customer.

RECITALS

WHEREAS, Licensee licensed from SAP (or an SAP AG Affiliate, or an authorized reseller of the SAP Software), the right to use SAP Software pursuant to a License Agreement. For purposes of this Agreement, Licensee may alternately mean a legal entity that has a right under such License Agreement to use the SAP Software as an Affiliate or Subsidiary.

WHEREAS, SAP provides certain Services in the Czech Republic and the countries specified in the relevant SOW which Licensee desires to obtain on the basis of certain Statements of Work executed by the parties which reference and incorporate this Agreement (each a "SOW"). The SOWs more fully describe the scope, duration, and fees for the Services.

NOW, THEREFORE, in consideration of the mutual promises and obligations in this Agreement, the sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. **Definitions**

    The terms, whether capitalized or not, used herein or in any SOW or any Exhibit thereto, whether in singular or plural, that are stated below in this Section 1 shall have the meaning as follows.

    1.1. "Acceptance" means the hand - over and take – over of Services, Deliverables and/or other Work Products hereunder that should be done in accordance with Acceptance procedure, unless stated otherwise herein.

    1.2. "Acceptance procedure" means the procedure by which the Services, Deliverables and Work Products or its parts shall be handed over and taken over.

    1.3. "Acceptance Protocol" means a document signed by both Parties confirming that the Acceptance procedure has been finished and that the respective Service/s, Deliverable/s and/or Work Product/s were duly accepted by the Licensee.

    1.4. "Agreement" means this Professional Services Agreement (also "PSA").

    1.5. "Business Blueprint" means a document which further specifies concrete parameters of Deliverables and Work Products initially defined under the respective SOW in its part called "Enterprise Scope". Should the Business Blueprint be created, it must be explicitly defined as Deliverable in the respective SOW. Business Blueprint, by its mutual acceptance by the Parties in accordance with the SOW, replaces the "Enterprise Scope" provisions which are contained in the respective SOW, notwithstanding any other specification in the SOW.

    1.6. "Basic System Configuration" means the configuration sets the System up to be in a state where it can support approx. 70% of the Licensee's basic business processes described in SOW – typically those which can be implemented using standard functionality of the Computer programme.

    1.7. "Business day" means all days other than Saturdays, Sundays, and public and other holidays. If an event is to occur on a business day, this means during business hours.

    1.8. "Business hours" mean business days from 8:00 a.m. to 5:00 p.m.

    1.9. "Computer programme" means a computer programme, or a set of computer programmes, which forms a part of SAP Software supplied under a separate license agreement and which relates to the scope of Services under relevant SOW.

    1.10. "Confidential Information" means, with respect to SAP, all information which SAP protects against unrestricted disclosure to others, including but not limited to: (a) the SAP Software, documentation, Work Product and other SAP materials, including without limitation the following information regarding the SAP 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; (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; and (d) any information about or concerning any third party (which information was provided to SAP subject to an applicable confidentiality obligation to such third party). With respect to Licensee, "Confidential Information" means all information which Licensee protects against unrestricted disclosure to others and which (i) if in tangible form, Licensee clearly identifies as confidential or proprietary at the time of disclosure; and (ii) if in intangible form (including disclosure made orally or visually), Licensee identifies as confidential at the time of disclosure, summarizes the Confidential Information in writing, and delivers such summary within thirty (30) calendar days of any such disclosure.

    1.11. "Day, calendar day" means any day in the year regardless of whether it is a Saturday, Sunday, or public holiday.

    1.12. "Deadline" means the timeframe for fulfilling obligations, stipulated in hours, days, weeks, or years. If not expressly stated that the deadline begins to run from moment of the decisive event, the deadline begins to run from the beginning of the subsequent calendar hour, day, week, or year following the moment of occurrence of the decisive event triggering the deadline. A deadline stipulated in business hours that does not end on the business day on which it began shall be interrupted and then resumed at the beginning of the next business day.

    1.13. "Deliverables" mean such Work Products, if applicable, which are specific outputs that SAP provides to Licensee, provided such output must be clearly and expressly labelled as a "Deliverable" in the applicable SOW.

1.14. "Final System Configuration" means configuration of the System to also support the remaining approx. 30% of the Licensee's business processes under SOW that were not the subject of the Basic System Configuration (see above for definition) - typically interfaces, modifications and enhancements of standard functionality of the Computer programme etc. (if they form part of the scope under particular SOW).

1.15. "Hour" means a unit of time that is 60 minutes in length and begins to run at any time between 0:00 and 24:00, for purposes of setting Deadlines.

1.16. "Implementation of the Computer programme" means configuration of user parameters of the computer programme according to the Licensee's requirements defined in SOW without changing its source code through the help of a programming language. Only if it is expressly stated in SOW, it also can include realization of custom development (modifications and enhancements of standard functionality of the Computer programme, custom reports, custom forms, nonstandard interfaces etc.).

1.17. "Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret, know-how 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.

1.18. "License Agreement" means the agreement between SAP (or an SAP AG Affiliate, or an authorized reseller of the SAP software) under which Licensee procured the license rights to use a Computer programme.

1.19. "Licensee's staff members" are the Licensee's employees and/or other natural persons whom the Licensee authorises to execute this agreement and whose actions connected to the execution of the supply hereunder are deemed to be actions taken by Licensee.

1.20. "Parties or Party" mean the contractual parties hereto, i.e., the SAP and the Licensee.

1.21. "Productive operation of the computer programme" means the use of the Computer programme with the Licensee's real data by the Licensee's authorised and trained staff members.

1.22. "Project" means the formalised process of performing the agreed activities, pursuant to the principles set out in the respective SOW or in Exhibits thereto, for the purpose of executing Services or providing Deliverables.

1.23. "Project Manager" is a member of SAP´s staff or Licensee´s staff that shall be responsible for leading and supervising the Project on the relevant part (SAP Project Manager for SAP and Licensee Project Manager for the Licensee).

1.24. "SAP AG" means SAP AG, a company with its registered office in Walldorf, Dietmar-Hopp-Allee 16, postcode 691 90, Federal Republic of Germany, the sole shareholder of SAP ČR, spol. s r.o., and the controlling person (parent company) in accordance with Section 66a(2) of the Commercial Code.

1.25. "SAP AG Affiliate" means subsidiary of SAP AG, i.e. a company in which SAP AG has a majority share in the voting rights.

1.26. "SAP Software" means (i) any and all software products licensed to Licensee under the License Agreement as specified in Software Order Forms (or other order forms, Exhibits or appendices as applicable) thereto; (ii) any new releases thereof made available through unrestricted shipment pursuant to the respective support agreement and (iii) any complete or partial copies of any of the foregoing.

1.27. "SAP's staff members" are the SAP's employees and/or other natural persons whom the SAP or his sub-SAP authorises to execute this agreement and whose actions connected to the execution of the supply hereunder are deemed to be actions taken by the SAP.

1.28. "Services" means professional services, provided by SAP to Licensee under a SOW that references this Agreement.

1.29. "System" means the Computer programme, or a number of Computer programmes, professionally installed on the Licensee's specific hardware.

1.30. "System integration tests" are the testing key process chains that take place together and exceed the limits of the functional modules of the System. These integration tests take place at the end of the realization phase and their output is the final acceptance of the Services or Deliverables rendered by the Licensee. For this reason, these tests, in addition to integration testing, also include testing System outputs, interfaces, procedures, the proposal for organisation, and authorisation profiles.

1.31. "System performance testing" means stress and volume tests or other System administration tests (Backup/Restore, Archiving, Printers, …).

1.32. "System stress test" examines the technical side of the System. The most important component is fine-tuning System feedback in connection with simulating the load of a large number of System users carrying out complex transactions. It is usually conducted with the involvement of actual future users.

1.33. "Version of the computer programme" means a Computer programme, labelled using an alphanumeric sequence (e.g., 4.6C), in the scope of certain functionality described in its original documentation.

1.34. "System volume test" means a technical test of the System whose objective is to fine-tune the System in terms of storing, processing, and quickly accessing large volumes of data. For example, the period that it takes the System to carry out a certain closing operation, calculate the production plan, etc., is tested. The result of the test is usually a recommendation for fine-tuning System parameters. In extreme cases, it can be a recommendation for revising hardware configuration.

1.35. "Taxes" means federal, state or local sales, VAT, GST, foreign withholding, use, property, excise, service or similar taxes as may be levied under Czech Law.

1.36.   "Work Product" means any work product or tangible results produced by or with SAP pursuant to this Agreement or any SOW, including, but not limited to, works created for or in cooperation with Licensee.

2.   Provision of Services.

2.1.   SAP will provide the Services in accordance with the SOW.

2.2.   SAP may utilize third party contractors to perform SAP's duties. SAP shall be responsible for the performance of the Services of such third party contractors to the same extent as SAP is liable for its own SAP's staff members.

2.3.   If any Service, in whole or in part, cannot be provided by SAP due to a Licensee issue and Licensee fails to provide SAP with reasonable advance notice, the time agreed to be spent by SAP resources on such Service will be billed to Licensee.

2.4.   Notwithstanding the foregoing, any services and work products provided by SAP to Licensee prior to the execution of this Agreement or a specific SOW or a Change Request are the sole property and Confidential Information of SAP and shall be governed by the terms of this Agreement, in particular Sections 9 (Confidentiality) and 12 (Limitation of Liability). If no agreement is completed, all services, work products and deliverables must be returned or deleted and must not be used.

2.5.   Services are subject to Acceptance procedure described in relevant SOW.

2.6.   If there is no Acceptance procedure defined in SOW, the following Acceptance procedure applies:

Upon delivery by SAP of a completed Deliverable, Licensee shall have 10 calendar days to accept or reject ("Acceptance Period") the Deliverable, due to a material defect using reasonable discretion, based on the acceptance criteria set forth in the SOW for that Deliverable. A "material defect" means the Deliverable fails to substantially comply with the applicable and corresponding acceptance criteria for that Deliverable set forth in the SOW. If the relevant Deliverable passes the agreed acceptance criteria set forth in the SOW, Licensee will accept the Deliverable. Acceptance will not be unreasonably withheld by Licensee. If Licensee notifies SAP that it has rejected the Deliverable due to a material defect, Licensee shall provide written notice, within such 10 day period, specifying the basis of the deficiency of the Deliverable. SAP shall have a reasonable period to cure such deficiency and redeliver the Deliverable for an additional Acceptance Period. If Licensee fails to reject any Deliverable within the Acceptance Period, in a written document specifying the deficiency, Licensee shall be deemed to have accepted such Deliverable as of the 10th day of the Acceptance Period. Upon acceptance of a Deliverable, all Services associated with such Deliverable shall be deemed accepted and SAP shall have no further obligation with respect to an accepted Deliverable. A Deliverable shall not be made available for Licensee's productive use, unless it has been accepted by Licensee (either expressly or due to lapse of Acceptance Period). Where acceptance criteria is not specified in the SOW for a Deliverable, such Deliverable will be deemed complete and accepted by Licensee the day after SAP performs it or delivers it.

3.   Licensee's General Responsibilities.

3.1.   Licensee is responsible for making the necessary arrangements to allow SAP to perform the Services.

3.2.   Licensee shall provide and make available all Licensee personnel that SAP reasonably requires in connection with performance of the Services and as may be further addressed in an applicable SOW.

3.3.   If the Services are performed at Licensee's site, Licensee agrees to provide necessary access to its site including, but not limited to, appropriate access to Licensee premises, computer systems and other facilities.

3.4.   Licensee shall appoint a contact person to supply SAP with any necessary or relevant information and who shall have the authority to make decisions or obtain decisions from others expeditiously.

3.5.   Before commencing live operation with any provided Service and/or Work Product (including any Services provided to remedy a defect) Licensee should test the provided work thoroughly whether it is free from defects and suitable for operation. Licensee is responsible for appropriate precautions against the possibility that the works may have or cause faults and take precautions including, for example, data backups, error diagnosis, and regular results monitoring (including data quality).   Except where otherwise expressly stated in writing in each individual case, SAP's staff members are always entitled to act with the assumption that all data with which they come into contact has met these precautions.

4.   Change Request Procedures.

4.1.   During the term of a SOW, either party can request changes to a SOW in accordance with the change request procedure described in the applicable SOW.

4.2.   If there is no change request procedure defined in SOW, the following change request procedure applies:

If Licensee makes a change request to SAP, SAP will inform Licensee within ten (10) working days (which excludes weekends and applicable public holidays) whether the change is possible or not and what impact the change would have on the Agreement with particular reference to the timeline and remuneration. Licensee must thereupon inform SAP in writing within five (5) working days whether the change request is to apply or whether the contract is to be continued on the existing terms. If the investigation of a change request itself requires substantial work, SAP is entitled to bill separately for that work.

If SAP submits a change request, Licensee must notify SAP in writing within ten (10) working days whether it accepts the change or not.

Until there is agreement about the change, work will continue in accordance with the existing SOW.

5. Satisfaction with Personnel.

5.1. If at any time Licensee or SAP is dissatisfied with the material performance of an assigned SAP's staff member or a Licensee project team member, the dissatisfied party shall promptly report such dissatisfaction to the other party in writing and may request a replacement. The other party shall use its reasonable discretion in accomplishing any such change (which also, in the case of SAP, shall be subject to staffing availability).

6. Compensation of SAP.

6.1. All Services will be provided by SAP on a time and materials (plus expenses) basis unless otherwise agreed by the parties in the SOW.

6.2. Unless otherwise agreed in writing, the Services will be invoiced in accordance with the fees or rates listed in or referenced in the SOW, or Exhibits thereto, as applicable. Unless otherwise agreed in SOW, payment is due fourteen (14) days after the invoice is issued. If an invoice does not contain all of the information required by valid legal regulations for tax documents or if the information contained therein is incorrect, the Licensee shall be entitled to return it to SAP within five (5) days of receiving it, together with an indication of the missing particulars or incorrect information. In such case, the maturity of the invoice temporarily stops and its run is resumed again upon the delivery of the corrected invoice to the Licensee. In case of partial acceptances, SAP may request pro rata payments based on partial statements of account (the day of taxable transaction is the day of partial acceptance), unless agreed upon to the contrary in the SOW.

6.3. Any fees not paid when due shall accrue interest at the rate of 0.05% per each day of the delay. SAP may suspend performance of Services while Licensee is in default with any invoice payments or any fees that Licensee owes SAP provided, however, he informs the Licensee of such fact in writing at least fourteen (14) days before suspending work. In the event that work is suspended, the fee for the Services or Deliverables shall increase by the costs and expenses (calculated on the basis of the SAP's price list) incurred by SAP in connection with the suspension and subsequent resumption of work related to the Services or Deliverables, and the deadlines hereunder shall be extended by the period of time that the work was suspended and by the period reasonably required to resume work..

6.4. SAP is entitled to require payment in advance if there are any grounds to doubt that Licensee will render payment punctually including Licensee's filing for bankruptcy or similar proceeding.

6.5. Licensee will pay any Taxes, (except for income Tax), duties and any stamp duty paid or payable on this Agreement or any SOW. All prices specified by SAP are exclusive of all Taxes and Licensee agrees to pay to SAP an additional amount equal to the VAT (or other similar taxes) payable on or for the services provided by SAP (if applicable) subject to SAP first providing Licensee with a valid tax invoice in accordance with the legal regulation.

6.6. For the avoidance of doubts, the Parties hereby confirm that fees and other charges described in this Agreement do not include Taxes. 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. Licensee hereby agrees to indemnify SAP for any Taxes and related costs, interest and penalties paid or payable by SAP. This Section shall not apply to taxes based on SAP's income.

6.7. If not otherwise agreed in a SOW, the billing for time spent travelling and travel and accommodation expenses will be based on travel from the SAP employee's normal place of work. Charges for time spent travelling and travel expenses are incurred in connection with travel between the employee's normal place of work and Licensee's site and between Licensee's different sites.

7. Term and Termination.

7.1. Term of the Agreement. This Agreement shall be effective as of the Effective Date, specified above, and shall remain in effect for three years unless terminated earlier by either party in accordance with this Section 7.

7.2. Termination of the Agreement for Convenience. Either party may terminate this Agreement for convenience. The termination shall be effective upon expiry of period of30 days from delivery of written notice to the other party. If this Agreement is terminated for convenience prior to the completion of one or more SOWs, such termination will not affect the continuation of any such SOW or the applicability of the provisions of this Agreement to any such SOW for the remaining term of that SOW. In case of termination of the Agreement for convenience, SOWs which are valid and effective to the date of the termination of the Agreement shall be nevertheless governed by this Agreement.

7.3. Term of a SOW. Each SOW shall be effective on the effective date set forth in that SOW, and shall remain in effect until completion of the Services or terminated earlier by either party in accordance with this Section 7.

7.4. Termination of a SOW for Convenience. Except as otherwise agreed in a SOW, each SOW (excluding fixed-price SOWs) may be terminated by either party. The termination shall be effective upon expiry of 30 days from delivery of written notice to the other party. If there is more than one SOW referencing this Agreement, a SOW may be terminated for convenience in accordance with the terms of this section without terminating this Agreement or the other SOWs.

7.5. Termination of Agreement and/or a SOW for Cause.

Either party may terminate this Agreement and/or a SOW for cause:

7.5.1. upon thirty (30) days' prior written notice of the other party's material breach of any provision of the Agreement or SOW, as applicable, including more than thirty (30) days delinquency in Licensee's payment of any money due hereunder or any SOW, unless Licensee has cured such breach during such thirty day period; or

7.5.2. immediately if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or otherwise breaches materially its obligations in Section 9 Confidentiality or Section 13 Assignment; or

7.5.3.   immediately for a material breach that cannot be removed or cured; or

7.5.4.   immediately, if Business Blueprint is not accepted within the deadline set in the SOW or the additional deadline agreed by the Parties in accordance with the SOW, unless agreed otherwise.

7.6. <u>Effect of Termination</u>.

7.6.1.   In case of termination of Agreement and/ or SOW for convenience, the Licensee shall be liable for all payments to SAP, including fees for all Services, including expenses, incurred in the performance of such Services up to the date on which any termination of a SOW or the Agreement takes effect. For avoidance of any doubts, Services and Deliverables accepted by Licensee under a SOW as well as prices that have been paid for them to SAP shall not be returned. Should SAP terminate SOW for convenience, it shall provide Licensee with necessary support to prevent the Licensee´s incapacity to continue the Project or to duly use the Work products already rendered. Licensee shall pay SAP for such support as for the Services under relevant SOW. Should Licensee terminate SOW for convenience, it shall pay SAP fees for contractual performance provided and compensation as specified in relevant SOW. In case SOW does not stipulate any fees applicable to the support described in previous sentences, the fees specified by SAP in SAP's written announcement shall apply.

7.6.2.   In case of termination of Agreement and/or a SOW for cause, the Parties agree that provision of Section 351, subsection 2 of the Commercial Code shall be not applicable.

7.6.3.   In the event of termination of a SOW or the Agreement, all Confidential Information of either party provided in connection with this Agreement or SOW, as applicable, in the possession of either party shall be returned to the other party or destroyed with certification of such destruction from an individual of authority to bind the respective party.

7.7. <u>Applicable Law in relation to termination</u>. For avoidance of any doubt, the Parties hereby agree that laws related to "termination with notice" shall be applied to termination for convenience under point 7.2 and 7.4. The Parties also agree that laws related to "withdrawal" of the Commercial Code shall be applied to termination for cause under 7.5.

8. <u>Work Product.</u>

8.1.   All title to and rights in the Services, Deliverables and Work Products, and all Intellectual Property Rights embodied therein, including techniques, knowledge or processes of the Services and/or Deliverables (whether or not developed for Licensee), shall be the sole and exclusively property of SAP and SAP AG. Licensee agrees to execute and to ensure its third parties execute such documentation as reasonably necessary to secure SAP's or SAP AG's title over such rights.

8.2.   Once all amounts due under a SOW are paid in full and all claims have been satisfied, Licensee is granted a non-exclusive, non-transferable license for the duration of the license granted under the License Agreement, so long as Licensee complies with the terms of the License Agreement and this Agreement, to use any Deliverables and Work Products provided to it by SAP under a relevant SOW under this Agreement in order to run Licensee's and its Affiliates' internal business operations, and otherwise to the same extent as Licensee is granted a license to use the SAP Software, documentation and SAP Confidential Information in the License Agreement. Licensee shall be entitled to use the Services, Deliverables and Work Products and all Intellectual Property Rights embodied therein before the payment all amounts under SOW is done based on an interim license that SAP grants to Licensee for a period which lapses on date when the final invoice issued under SOW is due.

8.3.   Licensee must immediately notify SAP in writing if any third party gains unauthorized access to the property or information to or in which SAP retains title or rights and shall take all reasonable steps to stop such unauthorized access and also inform the third party of SAP's rights.

9. <u>Confidentiality.</u>

9.1.   <u>Use of Confidential Information</u>. Confidential Information shall not be reproduced in any form except as required by the receiving party to perform its obligations under this Agreement and/or a SOW. Any reproduction of any Confidential Information of the other party 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 hereunder. 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 exchanged between the Parties in course of negotiating this Agreement expressly designated as confidential shall be subject to the protections afforded hereunder.

9.2.   <u>Exceptions</u>. 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.

9.3.   Each party shall be entitled to disclose confidential information in the extent necessary for fulfillment of its statutory obligations or for purposes of audits and other similar purposes to a company to which it is in relation of a Controlled company. SAP shall be entitled to disclose the confidential information to SAP AG.

9.4.   <u>Confidential Terms and Conditions; Publicity</u>. Licensee shall not disclose the terms and conditions of this Agreement and/or SOW or the pricing contained therein 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 may use Licensee's name in Licensee listings and to analyze and leverage details from this Agreement and/or

SOWs respectively (e.g., to forecast product demand), 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.

9.5. Contracting parties have agreed that the party in breach of its obligations ensuing from this Section 9 with respect to the protection of confidential information is obliged to pay the other contracting party a contractual penalty in the amount of 1.000.000 CZK (one million of Czech Crowns) for each breach of such an obligation. The limits of liability stated in Section 12 hereunder apply also to the penalties payable under this Section 9 (i.e., any penalty exceeding the total liability cap shall not be paid).

10. **Warranty.**

10.1. Warranty

SAP warrants that its Services shall be performed in a professional workman-like manner and with the skills reasonably required for ninety (90) days following completion of the Service (hereinafter "warranty period"). Unless it is expressly confirmed in writing by SAP, no communication of any kind can be construed as imposing on SAP any other or more onerous duty or liability than is set forth in this Agreement.

If the respective SOW does not provide otherwise, SAP warrants that within the warranty period the Work products provided hereunder shall have no defects. For the purposes of this Section10, a defect shall mean configuration of the System by the SAP that is at variance with the SOW (or specifically at variance with Business Blueprint, should a Business Blueprint be a Deliverable under the respective SOW), under the condition that such configuration is made possible by the functionality of the computer programme, where such functionality is described as attainable in the computer programme documentation.

10.2. The warranty shall not apply

10.2.1. if the Work Products are not used in accordance with the supplied documentation or

10.2.2. if the defect is caused by a modification to the Work Product, Licensee, third party or third-party software. SAP does not warrant that the Work Product will operate uninterrupted or that they will be free from minor defects or errors that do not materially affect such performance or that the applications contained in the Work Product are designed to meet all of Licensee's business requirements.

10.3. If SAP is liable for the defect based on the provided quality guarantee stated in an applicable SOW, SAP shall commence work on removing the defect by the respective deadline under the following defect classifications:

10.3.1. Category A defect – The Delivery or Work Product is unusable in its basic functions, or a functional defect exists that prevents the Delivery or Work Product from working and it is not possible to circumvent the defect through an alternative solution (workaround). This state may jeopardise the Licensee's regular operations or cause major financial or other damage – SAP shall commence work on remedying the defect no later than within 8 business hours upon its being reported. The defect shall be remedied within the shortest period of time possible with regard to its nature and impact on the Licensee's business.

10.3.2. Category B defect – The functionality of the The Delivery or Work Product is degraded in its functions to such a degree that this state restricts the Licensee's regular operations. A category A defect is also considered to be such a defect if it can be circumvented through an alternative solution (workaround). SAP shall commence work on remedying the defect no later than on the next business day following its being reported. The defect shall be remedied within the shortest period of time with regard to its nature and impact on the Licensee's business.

10.3.3. Category C defect – Other – minor defects that do not fall under categories A or B – SAP shall commence work on remedying the defect within 5 business days of its being reported.

10.4. Provided Licensee notifies SAP in writing with a specific description of the Services warranty breach within the warranty period and SAP validates the existence of such warranty breach, SAP will, at its option:

10.4.1. re-perform the applicable Services ; or

10.4.2. refund the fee paid for the applicable Services

This is Licensee's sole and exclusive remedy for a warranty breach.

10.5. SAP AND ITS LICENSORS DISCLAIM ALL WARRANTIES EXPRESS OR IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

10.6. Should the delivery of the Services, Deliverables or Work Products be delayed from the reasons on the side of SAP, SAP undertakes to pay the Licensee a contractual penalty calculated as 0.05% of the price or fee or rate of the relevant part of Service, Deliverable or Work Product per each day of default.

11. **Indemnification.**

11.1. Subject to Section 12, SAP shall defend Licensee against claims brought against Licensee in the Czech Republic by any third party alleging that Licensee's use of the Work Product, in accordance with the terms and conditions of this Agreement, constitutes a direct infringement or misappropriation of a patent claim(s), copyright, trade secret rights or other intellectual property 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 use of the Work Product in conjunction with any other software, an apparatus other than a designated unit (device, e.g. hard disks or central processing units, which has been approved by

SAP in writing or otherwise officially made to know to the public as appropriate for use or interoperation with Work Product), failure to use an update provided by SAP if such infringement or misappropriation could have been avoided by use of the update, or unlicensed activities. This obligation of SAP also shall not apply if Licensee fails to timely notify SAP in writing of any such claim. SAP is permitted to control fully the defence and any settlement of any such claim as long as such settlement shall not include a financial obligation on Licensee. In the event Licensee declines SAP's proffered defence, or otherwise fails to give full control of the defence to SAP's designated counsel, then Licensee waives its rights to indemnification by SAP under this Section11. Licensee shall cooperate fully in the defence of such claim and may appear, at its own expense, through counsel reasonably acceptable to SAP. SAP expressly reserves the right to cease such defence of any claim(s) in the event the Work Product is no longer alleged to infringe or misappropriate, or is held not to infringe or misappropriate, the third party's rights. SAP may settle any claim on a basis requiring SAP to substitute for the Work Product alternative substantially equivalent non-infringing programs and supporting documentation. Licensee shall not undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation of the Work Product that is prejudicial to SAP's rights.

11.2. SAP's duty to defend and indemnify for a third party's claim of a violation or infringement of the third party's proprietary right does not apply to: (a) anything Licensee provides which is incorporated into the Work Products; or (b) a Licensee modification of the Work Products which SAP did not provide, either directly or indirectly; or (c) the combination, operation, or use of the Work Products with any product, data, or apparatus that SAP did not provide; or (d) as a result of SAP's compliance with the instructions, directives, or specifications of the Licensee.

11.3. THE PROVISIONS OF THIS SECTION 11 STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF SAP AND ITS LICENSORS TO LICENSEE, AND IS LICENSEE'S SOLE REMEDY, WITH RESPECT TO THE INFRINGEMENT OR MISAPPROPRIATION OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

12. Limitation of Liabilities.

ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM WILLFUL MISCONDUCT, A PARTY´S INTENTION AND SAP'S RIGHT TO COLLECT UNPAID FEES, UNDER NO CIRCUMSTANCES SHALL SAP, ITS SAP'S STAFF MEMBERS OR LICENSEE BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES AND CONTRACTUAL PENALTIES (IN TOTAL) IN EXCESS OF THE FEES PAID FOR THE APPLICABLE SERVICES UNDER THE RELEVANT SOW, AS APPLICABLE, DIRECTLY CAUSING THE DAMAGES OR BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES. The provisions of this Agreement and the fees under a specific SOW allocate the risks between SAP and Licensee. For the avoidance of doubt, the Parties confirm that (i) any penalties paid by a Party for a breach of its obligation hereunder (or under an applicable SOW) shall be deducted from the amount of compensation of damages arisen out of the same event of breach; and (ii) this Section applies to the contractual penalty specified in Section 9, point 9.5; however, if the amount of limitation agreed in this Section is lower than the contractual penalty specified in Section 9, point9.5, the amount of limitation exclusively with respect to the breach of the obligations specified in Section 9 shall equal the amount of the contractual penalty specified in Section 9, point 9.5.

13. Assignment.

13.1. 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 Work Products and Deliverables 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 (i) assign this Agreement to any of the SAP AG affiliates or (ii) subcontract all or part of the work to be performed under this Agreement or a relevant SOW to a qualified third party.

13.2. In case that a Licensee assigns or transfers this Agreement or any rights or obligations under this Agreement contrary to the provision of this Section 13, SAP shall have right to terminate this Agreement in accordance with Section 7, point 7.5.3.

14. General Provisions.

14.1. 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. The Parties undertake to replace such an invalid or unenforceable provision with a valid and enforceable provision with content as close as possible to the purpose of the invalid or unenforceable provision.

14.2. 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.

14.3. Notice.

All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed to be duly given when delivered to the respective executive offices of SAP and Licensee at the addresses first set forth above. Where in this Section 14.3 or elsewhere in this Agreement written form is required, that requirement can be met by facsimile transmission, exchange of letters or other written form.

14.4. Independent Contractor.

The relationship of SAP and Licensee established by this Agreement is that of an independent contractor and no employment, agency, trust, partnership or fiduciary relationship is created by this Agreement.

14.5. 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.

14.6. Governing Law.

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 the Czech Republic, without reference to its conflicts of law principles. In the event of any conflicts between foreign law, rules, and regulations, and the Czech law, rules, and regulations, Czech law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The Uniform Computer Information Transactions Act as enacted shall not apply. 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).

If the contractual parties fail to come to an agreement on the manner of resolving their mutual disputes, each party has the right to exercise its claim in arbitration proceedings. The arbitration proceedings shall be conducted in Prague, the Czech Republic, in front of the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic, with the dispute being decided according to its Rules by three arbiters. The arbitration proceedings shall be conducted in Czech. Correspondence submitted by the contractual parties in connection with the arbitration proceedings has to be translated into Czech unless the arbiters decided otherwise in valid cases. The arbitration award is final and binding on all parties, and neither contractual party shall turn to any authority with a request for a review of the case. This shall not affect the right of the contractual parties to prose that the court cancel the arbitration award or propose suspension of ordered enforcement of the decision in compliance with the law.

14.7. Non-Solicitation.

Neither party shall knowingly solicit or hire, any of the other party's employees involved in a SOW during the term of the applicable SOW and for a period of six (6) months from the termination thereof, without the express written consent of the other party. This provision shall not restrict the right of either party to solicit or recruit generally in the media. Should any Party breach its obligation stated here in this Section14, paragraph 14.7, it shall pay to the other Party a contractual penalty in the amount of 500.000,- CZK (five hundred thousand Czech Crowns).

14.8. Time.

Time shall not be deemed of the essence.

14.9. Entire Agreement; Written Form; Hierarchy.

14.9.1. This Agreement, including all applicable SOWs and Exhibits thereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties, whether written or oral, relating to the same subject matter.

14.9.2. No modifications, amendments, or supplements to this Agreement shall be effective for any purpose unless in writing and signed by the authorized signatories of the parties. The foregoing provision also applies to any waiver of the written-form requirement. Where in this Section and elsewhere in this Agreement or a SOW written form is required, that requirement can be met by facsimile transmission, exchange of letters, or other written form (excluding emails).

14.9.3. In the event of any inconsistencies between the Agreement and a SOW, the SOW shall take precedence over the Agreement. However, the SOW must explicitly reference the provision of the Agreement that it amends and state that it supersedes such provision.

14.9.4. No conflicting or other conditions, including Licensee's general terms and conditions, form any part of the Agreement or SOW, even where SAP has performed Services without expressly rejecting such conditions. Any purchase order or other document issued by Licensee is for administrative convenience only. If, for reasons related to Licensee's internal arrangements or otherwise, Licensee's conditions of purchase or other standard terms are included by insertion, reference, enclosure, attachment or otherwise in Licensee's acceptance of SAP's offer (for example, in Licensee's purchase order), Licensee cannot rely on those conditions or terms and they are not incorporated in and do not form any part of the Agreement or SOW, and failure to expressly exclude them does not imply their acceptance.

14.10. Regulatory Matters.

The SAP Confidential Information inclusive of all Work Product and Deliverables are subject to the export control laws of various countries, including without limit the laws of the Czech Republic. Licensee agrees that it will not submit the SAP Confidential Information to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP, and will not export the Confidential Information 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 Confidential Information by Licensee and/or its subsidiaries.

14.11. <u>Survival.</u>

Sections 7 (Term and Termination), 8 (Work Product), 9 (Confidentiality), 12 (Limitation of Liabilities), 14.6 (Governing Law), and 14.7 (Non-Solicitation) shall survive any termination of this Agreement.

15. **<u>System Security and Data Safeguards.</u>**

When SAP is given access to Licensee's systems and data, SAP shall comply with Licensee's reasonable administrative, technical, and physical safeguards to protect such data and guard against unauthorized access. In connection with such access, Licensee shall be responsible for providing SAP's staff members with user authorizations and passwords to access its systems and revoking such authorizations and terminating such access, as Licensee deems appropriate from time to time. Licensee shall not grant SAP access to Licensee systems or personal information (of Licensee or any third party) unless such access is essential for the performance of Services under the Agreement. The parties agree that no breach of this provision shall be deemed to have occurred in the event of SAP non-conformance with the aforementioned safeguard but where no personal information has been compromised. In the event that Licensee will disclose to SAP any database or other material containing personal data, Licensee shall act as a "Administrator" and respect all statutory duties under Act No. 101/2000 Coll., on Personal Data Protection, as amended. For the sake of certainty, SAP shall not, under this agreement, process any personal data. Should Licensee require such processing, the Parties may conclude a separate agreement on personal data processing; otherwise such processing shall not be possible.