

SAP SERVICES GENERAL TERMS AND CONDITIONS

These SAP Services General Terms and Conditions ("GTC") are effective as of the Effective Date of the relevant Order Form and are entered into by and between SAP and Licensee.

RECITALS

WHEREAS, Licensee (or Licensee's parent company) licensed from SAP (or an SAP SE Affiliate, or an authorized reseller of SAP), the right to use SAP Software or an SAP Cloud Service. Licensee under an Agreement for Services may be an authorized Affiliate or subsidiary that has a right to use the SAP Software or SAP Cloud Services. Some versions of SAP agreements use the term "Customer" in place of "Licensee". For purposes of these GTC, references to "Customer" shall mean "Licensee" and vice versa.

WHEREAS, SAP provides certain Services which Licensee desires to obtain as set forth in an Order Form referencing and incorporating these GTC (each an "Order Form").

NOW, THEREFORE, the parties agree as follows:

1. DEFINITIONS

- 1.1 "Agreement"** means an Order Form governed by these GTC, including any documents incorporated into the Order Form and/or GTC.
- 1.2 "Affiliate"** means any legal entity 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 either (i) holding, directly or indirectly, more than fifty percent (50%) of the shares or voting rights of such legal entity or (ii) the ability to solely direct the management of such legal entity and the right to appoint or remove all 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 "Change Request"** means a change request made in accordance with section 4 of this GTC and in the form made available by SAP from time to time or included in the Order Form.
- 1.4 "Cloud Service"** means any distinct subscription based, hosted, supported and operated on demand solution provided by SAP under a Cloud Service Order Form.
- 1.5 "Cloud Service Order Form"** means all written order forms or other ordering documentation for Cloud Services entered into by SAP, or an SAP SE Affiliate or a reseller of SAP SE or an SAP SE Affiliate, and Licensee.
- 1.6 "Confidential Information"** means, with respect to Licensee: (i) the Customer Data, (ii) Licensee marketing and business requirements, and/or (iii) Licensee financial information, and with respect to SAP: (i) the Services, documentation, SAP materials and Work Product and Deliverables, and (ii) information regarding SAP research and development, product or services offerings, pricing and availability. Confidential Information of either SAP or Licensee also includes information which the disclosing party protects against unrestricted disclosure to others that (i) the disclosing party or its representatives designates as confidential at the time of disclosure, or (ii) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure.
- 1.7 "Consultants"** means employees and third party contractors which SAP utilizes to provide Services to Licensee.
- 1.8 "Customer Data"** means any content, materials, data and information that Licensee or its authorized users enter into managed services or Customer-specific data that is derived from Licensee's use of the managed services (e.g. Customer-specific reports) as long as such derivative work is not a component of the managed services itself or furnished by SAP under the Agreement. Customer Data shall not include any component of the Services or material provided by or on behalf of SAP.

- 1.9 "Deliverables"** means those specific Work Products which are explicitly identified as a "Deliverable" under the applicable Order Form.
- 1.10 "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.
- 1.11 "License Agreement"** means the agreement between SAP (or an SAP SE Affiliate, or an authorized reseller of the SAP Software) under which Licensee procured the license rights to use SAP Software or SAP hosted or on demand service.
- 1.12 "Material Defect"** means the Deliverable fails to substantially comply with the applicable and corresponding acceptance criteria for that Deliverable set forth in the Order Form.
- 1.13 "Order Form"** means the ordering document for Services that references the GTC.
- 1.14 "SAP SE"** means SAP Societas Europaea, a European corporation, with main offices located in Walldorf, Germany.
- 1.15 "SAP SE Affiliate"** means a subsidiary of SAP SE.
- 1.16 "SAP Software"** means (i) software products licensed to Licensee as specified in software order forms all as developed by or for SAP, SAP SE and/or any of their affiliated companies and delivered to Licensee; (ii) any new releases, updates or versions thereof made available through unrestricted shipment pursuant to the respective SAP support agreement or warranty obligation and (iii) any complete or partial copies of any of the foregoing.
- 1.17 "Scope Document"** means the document that is provided with and becomes part of the Order Form and which defines sometimes in conjunction with a Service Description the Services to be provided.
- 1.18 "Services"** mean those service(s) as further defined by the specific Service Descriptions and/or Scope Documents under an Order Form.
- 1.19 "Service Description"** means pre-defined descriptions of services found at <http://www.sap.com/servicedescriptions> current as of the effective date of the Order Form which in conjunction with a Scope Document defines the Services to be provided and becomes part of the Order Form.
- 1.20 "Taxes"** means local sales, value added tax, withholding, use, property, excise, service or similar taxes.
- 1.21 "Work Product"** means any work product or tangible results produced by or with SAP, including works created for or in cooperation with Licensee.

2. PROVISION OF SERVICES

- 2.1** SAP will provide the Services in accordance with the Order Form and these GTC.
- 2.2** SAP may use third party contractors to perform SAP's duties. SAP will be responsible for the performance of the Services of such third party contractors to the same extent as for its own employees.
- 2.3** SAP will, at its sole discretion (i) select the Consultants to be deployed to deliver Services; and (ii) reserves the right to replace any Consultant at any time with a Consultant having equivalent skills.
- 2.4** 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 spent by the Consultants on such Service will be charged to Licensee.
- 2.5** Any services, deliverables, and work products provided by SAP to Licensee prior to the execution of an applicable Order Form or a Change Request are the sole property and Confidential Information of SAP and shall be governed by the terms of this Agreement. If no Order Form is completed, all services, Work Products and deliverables must be returned or deleted and must not be used.
- 2.6** All dates with respect to performance of the Services are estimated and time shall not be deemed of the essence.

2.7 Acceptance.

If the applicable Order Form expressly states that the Deliverables are subject to acceptance and does not otherwise specify an acceptance procedure, the following acceptance procedure applies:

- (a) 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 based on the acceptance criteria set forth in the Order Form for that Deliverable.
- (b) If the relevant Deliverable passes the acceptance criteria set forth in the Order Form, Licensee shall 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 Material Defect.
- (c) SAP shall have a reasonable period to cure 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 Material Defect, Licensee shall be deemed to have accepted such Deliverable as of the 10th day of the Acceptance Period.
- (d) 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. Licensee shall not make productive use of a Deliverable, unless it has been accepted by Licensee (either expressly or by passage of time).
- (e) If acceptance criteria are not specified in the Order Form, such Deliverable will be deemed accepted upon delivery.

3. LICENSEE'S RESPONSIBILITIES

- 3.1** Licensee will make 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 Order Form.
- 3.3** If the Services are performed at Licensee's site, Licensee agrees to provide necessary access to its site including appropriate access to Licensee premises, computer systems and other facilities.
- 3.4** Licensee shall appoint a contact person with the authority to make decisions and to supply SAP with any necessary or relevant information expeditiously.
- 3.5** Licensee shall ensure to have all necessary license rights including third party license rights required to allow SAP to perform the Services.

4. CHANGE REQUEST PROCEDURES

- 4.1** Either party can request changes to the Service.
- 4.2** SAP is not required to perform under a Change Request prior to the execution by the parties of the applicable Change Request.
- 4.3** 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 Order Form.

5. SATISFACTION WITH PERSONNEL

If at any time Licensee or SAP is dissatisfied with the material performance of a Consultant 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 will 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** SAP will provide an invoice specifying the fees for each of the Services in accordance with the terms of the Order Form. Payment is due thirty [30] days after the invoice is issued. Any fees not paid when due shall accrue an administrative fee at the rate of 12% per annum, but not to extend the maximum amount as allowed by law. After written notice, SAP may suspend the provision of Services until payment is made.
- 6.2** Fees and other charges described in the 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.
- 6.3** 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 Licensee shall be liable to pay to SAP the amount so deducted upon demand.
- 6.4** 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.

7. TERM AND TERMINATION

7.1 Term of the GTC.

These GTC shall commence on the Effective Date and remain in effect unless terminated earlier by either party in accordance with this Section 7. For the avoidance of doubt there is no requirement to obtain a court order to exercise the rights of termination under this clause.

7.2 Termination of the GTC for convenience.

Either party may terminate this GTC for convenience upon thirty (30) days' prior written notice to the other party. If these GTC are terminated for convenience prior to the completion of one or more Order Forms, such termination will not affect the continuation of any such Order Form as governed by these GTC.

7.3 Term of an Order Form or Service.

Each Order Form and Service shall be effective on the effective date set forth in that Order Form and shall remain in effect until end of term or completion of the Services in accordance with the Order Form, the respective Service Description or Scope Document, or terminated earlier by either party in accordance with this Section 7. For clarity, the termination of any particular Service in accordance with this Section 7 shall not cause or result in the termination of any other Services ordered under the same Order Form nor reduce Licensee's liability for payments to SAP.

7.4 Termination of an Order Form for convenience.

Except as otherwise agreed in an Order Form, each Order Form (excluding fixed-price Services and excluding subscription or monthly reoccurring Services) may be terminated by either party subject to thirty (30) days' prior written notice to the other party.

7.5 Termination of Agreement and/or an Order Form for cause.

Either party may terminate these GTC and/or an Order Form for cause:

- (a) upon thirty (30) days prior written notice of the other party's material breach of any provision (including more than thirty (30) days delinquency in Licensee's payment of any money due hereunder or any Order Form) of the Agreement unless such party has cured such breach during such thirty (30) day period; or
- (b) immediately if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or otherwise materially breaches Sections 9 or 14.

7.6 Effect of Termination.

Licensee shall be liable for payment of all costs, fees and expenses up to the effective date of termination for (i) any completed, partially completed or scheduled Services from any phase or milestone; (ii) any reasonable committed costs or expenses; (iii) any non-refundable travel costs including visa costs and related expenses.

All Confidential Information of the other party provided in connection with this Agreement in the possession of such party shall, subject to any legal retention rights and upon request of the other party be returned to the disclosing party or destroyed with certification of such destruction from an individual of authority to bind the respective party. The obligation to return or destroy Confidential Information does not apply to Work Products that are provided by SAP to Licensee, unless the Order Form or Agreement is terminated by SAP in accordance with section 7.5 herein.

8. INTELLECTUAL PROPERTY RIGHTS

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 SE. Licensee agrees to execute and to ensure its third parties execute such documentation as reasonably necessary to secure SAP's or SAP SE's title over such rights.

8.2 Once all amounts due under an Order Form 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 Order Form 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 may allow its third-party service providers to access the Deliverables, Work Product and Services of SAP solely for purposes of supporting the Licensee or Affiliates and provided that such third-party service provider is obligated under substantially similar written terms to protect SAP Confidential Information and Licensee shall be responsible for any breach as if by Licensee.

8.3 Licensee must immediately notify SAP in writing if any third-party gains unauthorized access to SAP proprietary materials or Confidential Information. Licensee shall take all reasonable steps to stop such unauthorized access.

9. CONFIDENTIALITY

9.1 Use of Confidential Information.

(a) The receiving party will protect all Confidential Information of the disclosing party as strictly confidential to the same extent it protects its own Confidential Information, and not less than a reasonable standard of care. Receiving party will not disclose any Confidential Information of the disclosing party to any person other than its personnel, representatives or Authorized Users whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under written obligations of confidentiality substantially equivalent to those herein. Licensee will not disclose the Agreement or the pricing to any third party. Notwithstanding this section, a receiving party may use in its business activities the ideas, concepts and know-how related to the technology contained in the other party's Confidential Information and retained in the unaided memories of the other party's employees who have access to such Confidential Information in connection with the Services.

(b) In the event of legal proceedings relating to the Confidential Information, the receiving party will cooperate with the disclosing party and comply with applicable law (all at disclosing party's expense) with respect to handling of the Confidential Information.

9.2 Exceptions.

The restrictions on use or disclosure of Confidential Information will not apply to any Confidential Information that:

- (a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information,
- (b) is generally available to the public without breach of the Agreement by the receiving party,
- (c) at the time of disclosure, was known to the receiving party free of confidentiality restrictions, or
- (d) the disclosing party agrees in writing is free of confidentiality restrictions.

9.3 Publicity.

Neither party will use the name of the other party in publicity activities without the prior written consent of the other, except that Licensee agrees that SAP may use Licensee's name in customer listings or quarterly calls with its investors or, at times mutually agreeable to the parties, as part of SAP's marketing efforts (including reference calls and stories, press testimonials, site visits, SAPPHIRE participation). Licensee agrees that SAP may share information on Licensee with SAP SE and its Affiliates for marketing and other business purposes and that it has secured appropriate authorizations to share Licensee employee contact information with SAP SE and its Affiliates.

10. FEEDBACK

Licensee may at its sole discretion, provide SAP (or as used herein SAP SE or other SAP entity) with input, comments or suggestions from Licensee, regarding SAP's business and technology direction and/or the possible creation, modification, correction, improvement or enhancement of the software, products and/or services of SAP, (collectively "**Feedback**"). Licensee grants to SAP SE a non-exclusive, perpetual, irrevocable, worldwide, transferable, royalty-free license, with the right to sublicense through multiple tiers, to use, publish, disclose, perform, copy, make, have made, use, modify, create derivative works, distribute, sell, offer for sale and otherwise benefit from Feedback in any manner and via any media.

11. WARRANTY

11.1 Good industry practices.

SAP warrants that

- (a) its Services will be performed in a professional workman-like manner by Consultants with the skills reasonably required for the Services; and
- (b) for forty-five (45) days following provision of the Service, the Deliverables will materially conform with the applicable specifications for that Deliverable. For clarity, the warranty period for Deliverables (if any) resulting from any subscription based Services will in no event exceed the termination date of the subscription based Services.

SAP does not warrant error-free or uninterrupted operation of any Service or Deliverable or that SAP will correct all non-conformities.

11.2 Notification.

Licensee shall notify SAP within forty-five (45) days of provision of the Service or Deliverable in writing of the alleged warranty breach and provide SAP with a precise description of the problem and all relevant information reasonably necessary for SAP in order to rectify such warranty breach.

11.3 Remedy.

Provided Licensee has notified SAP in accordance with section 11.2 of a warranty breach and SAP validates the existence of such warranty breach, SAP will, at its option:

- (a) re-perform the applicable Services or Deliverable;
- (b) refund the fee paid or reallocate quota for the specific non-conforming Service or Deliverable.

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

11.4 Exclusions.

This warranty shall not apply

- (a) if the Deliverables are not used in accordance with any applicable documentation provided or
- (b) if the alleged warranty breach is caused by a modification to the Deliverable, Licensee or third-party software.

11.5 Disclaimer.

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.

12. THIRD PARTY CLAIMS

12.1 SAP shall defend (at its sole expense) Licensee against claims brought against Licensee by any third party alleging that Licensee's use of the Deliverables, in accordance with the terms and conditions of the Agreement, constitutes an infringement or misappropriation of a patent claim(s), copyright, or trade secret rights. 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

- (a) use of the Deliverables in conjunction with any other software, services, or any product, data or apparatus that SAP did not provide; or
- (b) anything Licensee provides including configurations, instructions or specifications;
- (c) a modification of the Deliverable by Licensee or by a third party on behalf of Licensee or
- (d) any use not permitted by the Agreement.

12.2 In the event a claim under Section 12.1 is made or in SAP's reasonable opinion is likely to be made, SAP may, at its sole option and expense:

- (a) procure for Licensee the right to continue using the Deliverable under the terms of the Agreement; or
- (b) replace or modify the Deliverable to be non-infringing without material decrease in functionality.

If these options are not reasonably available, SAP or Licensee may terminate the Agreement to the affected Deliverable upon written notice to the other.

12.3 Licensee shall defend SAP and its affiliated companies against claims brought against SAP by any third party arising from or related to

- (a) any Licensee use of the Services in violation of any applicable law or regulation;
- (b) an allegation that the Customer Data, Licensee's use of the Services or anything Licensee has provided to SAP including access to third party software or proprietary information violates, infringes or misappropriates the rights of a third party.

The foregoing shall apply regardless of whether such damage is caused by the conduct of Licensee and/or its named users or by the conduct of a third party using Licensee's access credentials.

12.4 The obligations under this Section 12 are conditioned on

- (a) the party against whom a third-party claim is brought timely notifying the other party in writing of any such claim, provided however that a party's failure to provide or delay in providing such notice shall not relieve a party of its obligations under this Section 12 except to the extent such failure or delay prejudices the defense;
- (b) the party who is obligated hereunder to defend a claim having the right to fully control the defense of such claim; and
- (c) the party against whom a third-party claim is brought reasonably cooperating in the defense of such claim. Any settlement of any claim shall not include a financial or specific performance obligation on or admission of liability by the party against whom the claim is brought, provided however that SAP may settle any claim on a basis requiring SAP to substitute for the Services any alternative substantially equivalent non-infringing services. The party against whom a third-party claim is brought may appear, at its own expense, through counsel reasonably acceptable to the party obligated to defend claims hereunder. Neither party shall undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation that is prejudicial to the other party's rights.

12.5 The provisions of this Section 12 state the sole, exclusive, and entire liability of the parties, their Affiliates and their licensors to the other party, and is the other party's sole remedy, with respect to third party claims covered hereunder and to the infringement or misappropriation of third-party intellectual property rights.

13. LIMITATION OF LIABILITY

13.1 SAP will not be liable for any Licensee activities not permitted under this Agreement including without limitation to the extent that any liability arises from any Service provided for no fee.

13.2 Exclusion of damages:

13.2.1 Subject to sections 13.2.2, 13.2.3 and 13.2.4 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, willful 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) (i) 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) interest or exemplary or punitive damages, or (viii) 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.

13.2.2 Subject to sections 13.2.1, 13.2.3 and 13.2.4 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, willful misconduct or otherwise) the maximum aggregate liability of each party (or its respective Affiliates or SAP's licensors) to the other or any other party, will not exceed, (i) the fees paid for the applicable Services under the relevant Order Form; or (ii) in the case of subscription based Services (including managed services), the fees paid in the twelve (12) month period preceding the date of the incident giving rise to the liability.

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

13.2.4 Nothing in this Agreement shall exclude or limit either party's liability for damages resulting from unauthorized use or disclosure of Confidential Information or Licensee's liability for any failure to pay any fees due under or in relation to this Agreement.

13.3 The parties agree that the provisions of this Agreement appropriately allocate the risks between SAP and Licensee and the Services reflect this allocation of risk and the limitations of liability herein.

14. ASSIGNMENT

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 SE Affiliates or (ii) subcontract all or part of the work to be performed under this Agreement to a qualified third party.

15. GENERAL PROVISIONS

15.1 Severability.

If any provision of the Agreement is held to be invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Agreement.

15.2 No Waiver.

A waiver or non-enforcement against any breach of the Agreement or obligation under the Agreement is not deemed a waiver of any other breach or obligation.

15.3 Electronic signature.

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

15.4 Notice.

All notices will be in writing and given when delivered to the respective offices of SAP and Licensee at the addresses first set forth above with copy to the legal department.

15.5 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.

15.6 System Security and Data Safeguards.

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 Consultants 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.

15.7 Force Majeure.

Any delay in performance (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party is not a breach of this Agreement. The time for performance will be extended for a period equal to the duration of the conditions preventing performance.

15.8 Governing Law and Arbitration.

- (a) Governing Law. The Agreement and any claims relating to its subject matter shall be governed by and construed under the laws of England, without reference to its conflicts of law principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The 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 year from the date when Licensee knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).
- (b) Arbitration. 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. 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.

15.9 Non-Solicitation.

Neither party shall knowingly solicit or hire, any of the other party's employees involved in the Services during the term of the applicable Order Form 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.

15.10 Entire Agreement; Written Form.

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.

15.11 Hierarchy.

In the event of any inconsistencies between the GTC and an Order Form, the Order Form shall take precedence over the GTC. The Scope Document prevails over any Service Description.

15.12 Regulatory Matters.

The SAP Confidential Information is subject to the export control laws of various countries, including the laws of the United States, Germany, Ireland, United Kingdom and the applicable laws of the Middle East and North Africa region. Licensee will not submit 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 if prohibited by export laws.

15.13 Survival.

Sections 7 (Term and Termination), 8 (Intellectual Property Rights), 9 (Confidentiality), 13 (Limitation of Liabilities), 15.8 (Governing Law), and 15.9 (Non-Solicitation) shall survive any termination of this Agreement.