SAP PartnerEdge Build
On Premise Specific Terms and Conditions
("SAP PartnerEdge Model")

1.   DEFINITIONS

Commonly used capitalized terms are defined in the Glossary at the end of the document. All capitalized terms not defined in this SAP PartnerEdge Model will have the meaning ascribed in the Agreement, including the Build Master Partner Agreement, any applicable SAP PartnerEdge Schedule, other applicable document, exhibit, appendix, annex, and/or Order Form, included in, attached to, or referenced to in the Agreement. With respect to the SAP PartnerEdge Model, references to the "GTC" in this SAP PartnerEdge Model, the Build Master Partner Agreement or elsewhere in the Agreement means the SAP PartnerEdge Build General Terms and Conditions.

2.   ENGAGEMENT MODEL

2.1   Program Requirements. Subject to Partner's compliance with all Program Requirements (including meeting the Application Readiness Check criteria) at all times during the term of this SAP PartnerEdge Model and subject to Partner's subscription to a Development License as set forth in the PartnerEdge Program Guide and execution of a Development Agreement, SAP grants to Partner the rights set forth in Section 2.2 below. Partner may hold itself out as an SAP PartnerEdge Partner in the Territory (as defined in the applicable SAP PartnerEdge Schedule that references this SAP PartnerEdge Model).

2.2   Grant of Rights.

(a)   Partner Development. This SAP PartnerEdge Model provides no license or subscription to any Development License to Use Software. Any use of Software by Partner for testing, development, and demonstration purposes is subject to the terms and conditions of a separate Development Agreement.

(b)   On Premise Distribution License. SAP grants to Partner a non-exclusive and non-transferable license to reproduce, market, distribute and license the Software (including any Modification and Add-ons) and Documentation only as integrated and embedded in the Partner Solutions, to run the Customer's and its Affiliates' internal business operations (the "On-Premise Distribution License"). Permitted uses and restrictions of the Software also apply to Third Party Software excepted as stated in the Agreement.

(c)   ASP License. SAP grants to Partner a non-exclusive and non-transferable license to use the Software and Documentation to provide ASP Services to Customers only as an integrated part of the Partner Solution ("ASP License"). If any SAP client software is required to be used with the Software, SAP grants to Partner the right to reproduce, distribute and license such client software to the same extent as the Software under an On Premise Distribution License, provided that: (i) Customers will only be permitted to use the client software to access the ASP Services, and (ii) the Customer will not be granted general development rights to the Software.

(d)   Distribution through Affiliates, Resellers and Distributors. SAP grants to Partner the non-exclusive and non-transferable right to authorize its Affiliates, distributors and/or resellers to further distribute and license the Bundled Solution under an On-Premise License to the same extent and scope as that applied to Partner, provided that Partner will ensure that anyone it authorizes to distribute or resell the Software does so only in compliance with, and pursuant to written terms at least as protective of SAP as, the terms of the Agreement. In case of an ASP License, the same applies as above, except that the Software may not be distributed by Partner to any of its resellers or distributors.

(e)   SAP App Center. Partner may apply to become a participant of the SAP App Center. Use of the SAP App Center is subject to the terms and conditions of a separate participation agreement.

2.3 Bundled Solution. The Use of the Software is subject to the following additional restrictions.

(a) **Restricted License.** The Software may only be used with the Partner Solution to enable its performance, with data access limited to data created by the Partner Solution or data processed by the Partner Solution that is necessary to enable the functionalities of the Partner Solution (referred to as a "Restricted License"). Partner agrees that Partner Solution must add significant and primary additional functionalities to the Software in order to qualify as Partner Solution. Partner may only distribute or provide access to a Software release for as long as such Software release is under Mainstream Maintenance.

(b) **Bundled Solution Review.** The Bundled Solution must be reviewed and approved by SAP in advance in accordance with SAP's standard practices (including meeting the Application Readiness Check criteria) before Partner may promote or make it available to its Customers or third parties. Partner agrees to provide such information about the Bundled Solution as reasonably requested by SAP. SAP may deny or withhold approval in its sole discretion. SAP's approval of the Bundled Solution is not, and will not be construed or represented by Partner to any third party to be a verification of the Bundled Solution functionality or any support, preference, warranty or endorsement of such by SAP in any way.

2.4 Minimum Terms. Each Customer having access to the Software must have executed an End User Agreement. The End User Agreement must be binding on Customers under applicable laws and regulations in the country in which Partner is providing access to the Bundled Solution. The End User Agreement must contain terms not materially less protective of SAP than the Agreement including without limitation the terms required under this Section 2.4, the applicable SAP PartnerEdge Schedule, and the Use Terms. The Minimum Terms will include Partner's rights to perform audits on Customer's usage of the SAP Materials. Partner will not make any representations or warranties regarding the functionality or performance of the SAP Solution that conflict with the Agreement.

2.5 Authorized Users.

(a) **Authorized Users.** Partner and Customers must be appropriately licensed as stated in the Use Terms for any individuals that Use the Software. Use may occur by way of an interface delivered with or as a part of the Software, a Partner, Customer or third-party interface, or another intermediary system. Customers may permit Business Partners to Use the Software only through screen access, solely in support of Customer's permitted Use, and not to run any of Business Partners' business operations.

(b) **Service Providers.** For Software licensed to Customers under an On Premise License, Customer may permit service providers to access the Software only to assist Customer with its permitted Use of the Software. For Partner's Use of the Software under an ASP License, Partner may permit service providers to access the Software only to assist Partner with its permitted Use of the Software. Service providers must enter into a written agreement with Customer or Partner, as applicable, agreeing to comply with the terms of the Agreement. Service providers cannot Use the Software to run their own business, or operate or provide processing services to any third party. Partner or Customer, as applicable, is responsible for any breach of the Agreement caused by any individuals using the Software or SAP Materials or SAP Confidential Information.

2.6 Acceptable Use Policy.
With respect to the Software and other SAP Materials, Partner will not:

(a) disassemble, decompile, reverse-engineer, copy, translate, reverse engineer or make derivative works,

(b) except as expressly authorized under this SAP PartnerEdge Model, permit any Customer or third party to:

    i. provide services to third parties (such as service bureau, business process outsourcing or training);

> ii. lease, loan, resell, sublicense or otherwise distribute the Software or other SAP Materials; or
>
> iii. distribute or publish Software keycodes.

(c) use software components other than as intended and as specifically identified in the SAP PartnerEdge Schedule or Order Form, even if it is technically possible for Partner to otherwise access such components;

(d) transmit any content or data that is unlawful or infringes any Intellectual Property Rights; or

(e) circumvent or endanger the operation or security of the Software and other SAP Materials.

Partner must not create or attempt to create the source code from the object code of the Software or other SAP Materials unless such action is indispensible in order to obtain information necessary to achieve interoperability of the Software with an independently created computer program and Customer has not been provided such information, despite a written request, within a reasonable period of time. Information obtained through such action may not be used for purposes other than to achieve interoperability, and may not be given to third parties, unless this is necessary to establish interoperability, in particular is not to be used for the development, creation or marketing of programs similar to the Software. If Partner wishes to exercise any right to reverse engineer to ensure interoperability in accordance with applicable law, Partner must first provide written notice to SAP and permit SAP, at its option, to make an offer to provide information and assistance reasonably required to ensure interoperability of the Software with other products for a fee to be mutually agreed upon (if any).

2.7 Installation. Except as permitted in Section 2.5(b) above, Partner may permit Customer to install the Software only on compatible hardware located at Customer's or its Affiliates' facilities and in their direct possession.

2.8 Third Party Software.
Agreement terms relative to "Software" apply to Third Party Software except:
(a) Partner will not make Modifications and/or Add-ons to Third Party Software, and
(b) as otherwise stated in the Use Terms.

2.9 Delegation.
Partner may delegate the performance of the Partner's duties to suitably qualified personnel of an Affiliate. Notwithstanding such delegation by the Partner of its duties, Partner will remain directly accountable to SAP. Partner's Affiliate will not be entitled to hold itself out to be an authorized SAP partner or having any other direct relationship to SAP.

3. MODIFICATIONS AND ADD-ONS

3.1 Modifications.
Except for Add-ons, Partner may not Modify, adapt, enhance, localize, translate or make derivatives of the Software or SAP Materials. SAP retains all right, title, and interest to all parts of the Software and SAP Materials, and any derivatives thereof, that are included all Modifications and Add-Ons.

3.2 Add-ons.
i. Partner may make Add-ons to the Software in furtherance of its permitted use under this SAP PartnerEdge Model. Partner may distribute or sublicense Add-ons with the Software only to the same extent as that applied to Partner's grant of the Software set forth herein. All Add-ons developed by SAP or its Affiliates (either independently or jointly with Partner) and all rights associated therewith are the exclusive property of SAP and its Affiliates. Partner agrees to execute those documents reasonably necessary to secure SAP or its Affiliates' rights in the foregoing. All Add-ons developed by or on behalf of Partner without SAP or its Affiliates' participation ("Partner Add-on"), and all rights associated therewith, are the exclusive property of Partner subject to SAP's rights in and to the Software and SAP Materials.

     ii.   Any Add-on to the Software developed by Partner must not (and subject to other limitations set forth herein): enable the bypassing or circumventing any of the restrictions set forth in the Agreement and/or provide Customers with access to the Software to which Customers are not directly licensed; nor unreasonably impair, degrade or reduce the performance or security of the Software; nor disclose any SAP Confidential Information.

4.   **ORDERS; OFFSET.**

4.1   **Independent Pricing.** Partner will independently establish the price of the Bundled Solution for its Customers.

4.2   **Orders.** Partner will order Software from SAP using and filling out completely such forms and minimum order requirements as SAP may prescribe from time to time and must comply with any then current order process for the specific Software product. Where applicable, Partner agrees to use the electronic means provided by SAP for placing orders.

4.3   **Order Rejection.** SAP reserves the right to reject an Order Form in its sole and reasonable discretion, if Partner is in violation of the Build Master Partner Agreement, SAP PartnerEdge Model, or the SAP PartnerEdge Build GTC.

4.4   **Offset.** Partner cannot withhold, reduce or set-off fees owed nor reduce license volume of any license, regardless of any termination, nonpayment, or other conduct of its Customer.

5.   **SUPPORT**

5.1   **Mutual Obligations.** SAP and Partner will fulfill its respective obligations in accordance with the SAP's then-current SAP support offering set forth in the SAP support schedule that is incorporated in the SAP PartnerEdge Schedule. SAP will only provide SAP Support if Partner has paid the applicable SAP Support fee for the relevant Customer.

5.1   **No Support to Customers.** SAP has no obligations to provide any SAP Support to Customers directly. Partner will be responsible for providing all support and maintenance services for the Software to Customers directly.

6.   **TERM AND TERMINATION**

6.1   **Term.** The term of this SAP PartnerEdge Model is as stated in the applicable SAP PartnerEdge Schedule. This SAP PartnerEdge Model may be terminated in accordance with the SAP PartnerEdge Build GTC.

6.2   **Termination for convenience.** Either Party may terminate this SAP PartnerEdge Model for convenience with written notice (email acceptable) three-months' prior to the end of the initial term set forth in the applicable SAP PartnerEdge Schedule or the then current renewal term.

6.3   **Termination for non-compliance with Program Requirements.** SAP may terminate this SAP PartnerEdge Model with three months' prior written notice (email acceptable) if Partner:

    (a)   did not meet all of the Program Requirements for the first time within twelve months after the Effective Date defined in the applicable SAP PartnerEdge Schedule; or

    (b)   does not comply with any of the Program Requirements excluding the Program Fee.

6.4   **Consequence of Termination.** Upon termination or expiration of the Agreement or this SAP PartnerEdge Model, and in addition to other termination obligations set forth in the Agreement:

    (a)   Partner will cease marketing, distributing or licensing the Software or SAP Materials to any third party, including renewing any subscription-based license or service agreements with existing customers.

    (b)   Partner's right to provide ASP Services to new customers will immediately terminate. Subject to Partner's continuing compliance with the terms of the Agreement, Partner may continue to use its perpetual ASP Licenses to provide ASP Services to its Customers that are contracted with Partner as of the termination date of this SAP PartnerEdge Model but may not renew any additional renewal periods after such termination.

    (c)   except for termination by SAP in accordance with the Agreement, Partner's rights to use any non-perpetual ASP License after the termination of this SAP PartnerEdge Model will be subject to the relevant Order Form that grants such license.

(d) any paid-up perpetual license to the Software previously granted to an Customer under an On-Premise License will survive according to the terms of such license; and

(e) Partner's right to receive benefits under the SAP PartnerEdge Program immediately ends.

(f) Partner may request to receive, and SAP may agree to provide for a limited time, support services for the Software after the termination of the Agreement upon mutual agreement in writing.

6.5 **Survival**. Sections 1, 3, 6.4 - 6.5, 8, 9.4, 10, 12-13 will survive the expiration or termination of the Agreement.

7. DELIVERY.

SAP will deliver the Software and SAP Support by making it available for electronic download through the SAP Software Download Center (https://support.sap.com/en/my-support/software-downloads.html) to Partner. Risk of loss passes at the time of such electronic delivery. Partner agrees not to request any physical delivery of Software or SAP Support and should it occur that any such delivery will be rejected by Partner. Partner agrees and understands that the calculation of Taxes may be affected by the delivery method and delivery location of the Software and corresponding SAP Support.

8. THIRD PARTY CLAIMS

8.1 **Claims Brought Against Partner.**

(a) SAP will defend Partner against claims brought against Partner and its Affiliates by a third-party owner of intellectual property alleging that Partner's use, distribution or resale of the Software in the Territory in accordance with the Documentation and the terms and conditions of the Agreement constitutes a direct infringement or misappropriation of a thirty party's patent claim, copyright, or trade secret right. SAP will pay Partner damages finally awarded against Partner (or the amount of any settlement SAP enters into) with respect to these claims.

(b) SAP's obligations under Section 8.1 will not apply if the claim results from (i) Partner's breach of the Agreement, (ii) use of the Software in combination with any product or service (including any Modification and Add-ons) not provided by SAP, (iii) failure to promptly use an update for Software provided by SAP if infringement or misappropriation could have been avoided by the use of the update, or (iv) use of the Software provided for no fee.

(c) In the event a claim is made or likely to be made, SAP may (i) procure for Partner the right to continue using the Software under the terms of the Agreement, or (ii) replace or modify the Software to be non-infringing without material decrease in functionality. If these options are not reasonably available, SAP or Partner may terminate the license to the affected Software upon written notice to the other.

8.2 **Claims Brought Against SAP.**

Partner will defend SAP against claims brought against SAP, SAP SE, its Affiliates and subcontractors by any third party related to the items set forth in Section 8.2(a) through (c). Partner will indemnify SAP against all damages finally awarded against SAP, SAP SE, its Affiliates and subcontractors (or the amount of any settlement Partner enters into) with respect to these claims.

(a) Taxes (other than its income and payroll taxes) and related costs paid or payable by SAP attributable to those Taxes;

(b) Partner or its Affiliates' breach of the terms set forth in Sections 2.3 and 2.4 of this SAP PartnerEdge Model, and Sections 7 and 8 of this SAP PartnerEdge Build GTC; and

(c) a claim that (i) the Partner Product infringes, misappropriates or violates any patent, copyright or trade secrets of any third party, (ii) Partner's combining (or its authorizing others to combine) the Software with any products or service not provided by SAP, or (iii) Partner's use, license or distribution of the Software in violation of the Agreement,

infringes, misappropriates or violates any patent, copyright or trade secrets of any third party.

8.3 Third Party Claim Procedure.

(a)   The party against whom a third-party claim is brought will timely notify the other party in writing of any claim, reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the party providing the defense.

(b)   The party that is obligated to defend a claim will have the right to fully control the defense.

(c)   Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought.

8.4 Exclusive Remedy.

The provisions of Section 8 state the sole, exclusive, and entire liability of the parties, their Affiliates, Business Partners and subcontractors to the other party, and is the other party's sole remedy, with respect to covered third party claims and to the infringement or misappropriation of third party Intellectual Property Rights.

9.   WARRANTY AND DISCLAIMER.

9.1 Performance Warranty.

SAP warrants that the Software will substantially conform to the specifications contained in the Documentation for six months following delivery.

9.2 Remedy.

Partner's sole and exclusive remedies and SAP's entire liability for breach of the warranty under Section 9.1 will be:

(a)   the repair or replacement of the nonconforming Software, and

(b)   if SAP fails to repair, replace or re-perform within a reasonable time, Partner may terminate its license for the affected Software. Any termination must occur within three months of SAP's failure to repair, replace or re-perform.

The remedies set forth in this Section 9.2 is conditioned upon Partner notifying SAP in writing with a specific description of the Software's nonconformance within the warranty period and SAP validates the existence of such nonconformance.

9.3 Warranty Exclusions.

The warranty in Section 9.1 will not apply if:

(a)   The Software is not used in accordance with the Agreement or Documentation,

(b)   any non-conformity is caused by Partner or its Customers, or by any product or service (including Modifications or Add-ons) not provided by SAP,

(c)   the Software was provided for no fee, or

(d)   Partner has not licensed any Software under any SAP PartnerEdge Model, SAP PartnerEdge Schedule, or Order Form.

9.4 Disclaimer.

Except as expressly provided in this SAP PartnerEdge Model, neither SAP nor its subcontractors make any representation or warranties and SAP and its subcontractors disclaim all representations, warranties, terms, conditions or statements, which might have effect between the parties or be implied or incorporated into the Agreement or any collateral contract, whether by statute, common law or otherwise, all of which are hereby excluded to the fullest extent permitted by law including the implied conditions, warranties or other terms as to merchantability, suitability, originality, or fitness for a particular use or purpose. Further, except as expressly provided in the Agreement, neither SAP nor its subcontractors make any representations, warranties, terms, conditions or statements of non-infringement or results to be derived from the use of or integration with any products or services provided under the Agreement, or that the operation of any products or services will be secure, uninterrupted or error free. Partner agrees that it is not relying on delivery of future functionality, public comments or advertising of SAP or product roadmaps in obtaining subscriptions for any SAP Solution.

9.5 Partner Representation.
Partner will not make any representations or warranties as to the performance of the SAP Solution or other services on behalf of SAP or otherwise make commitments on behalf of SAP. Partner represents and warrants that it has and will maintain sufficient facilities and adequate capital, resources, and personnel to market and support the Bundled Solution and to perform its obligations under this Agreement.

10. REFUND.
For termination by Partner under Sections 8.1(c) or 9.2(b), Partner will be entitled to a refund of the license fees paid for the affected Software less an appropriate amount covering the period of actual use of the Software by Partner and its Customers.

11. APPLICATION READINESS CHECK.
Partner agrees to develop the Bundled Solution in accordance with Documentation and Application Readiness Check criteria published by SAP. Partner will be responsible for providing SAP with all necessary information on their solution required for SAP to enable Application Review.

12. EXCEPTIONAL DISCOUNT.

12.1 Partner understands that the pricing provided in this SAP PartnerEdge Model may deviate from SAP standard partner discount and pricing and is therefore equivalent to an Exceptional Discount on SAP's standard pricing ("Exceptional Discount"). SAP's decision to offer an Exceptional Discount is based on the truth, accuracy and completeness of the information and documents provided by Partner such as Partner's solution, its business and commercial models (the "Exceptional Discount Information"). Partner confirms that it has provided accurate and truthful Exceptional Discount Information and documents to SAP.

12.2 SAP may audit the Exceptional Discount Information in accordance with the terms of Section 4 of the GTCs. Upon SAP's request, Partner will promptly provide SAP or the expert with all relevant documentation to enable SAP to verify that the Exceptional Discount Information was truthful and accurate. Such information may include but shall not be limited to the solution architecture and invoices, contracts, and purchase orders by and between Partner and Customer. The documentation shall enable SAP or the expert to determine the quantity of SAP licenses in the Bundled Solution licensed to the Customer.

12.3 In its contracts with Intermediary of the Bundled Solution, Partner must require any Intermediary to adhere to the same obligations relevant to Exceptional Discounts as outlined in Sections 12.1 and 12.2 above. SAP must be named a third-party beneficiary to such terms in a contract between Partner and any Intermediaries with the right to enforce such terms itself and independently from Partner against an Intermediary.

12.4 In any case where Partner is unable to provide the requested documentation because of confidentiality obligations owed to a Customer or other applicable laws, including but not limited to relevant competition laws, whether arising by written contract or applicable law, Partner will promptly provide SAP with written evidence not subject to those obligations. In addition, Partner will promptly and in writing seek the Customer's consent to waive confidentiality restrictions to permit SAP to conduct its audit as intended. Should the Customer refuse to grant that consent, Partner will i) provide SAP with a copy of the waiver request and written proof of that refusal, and ii) identify appropriate contacts at the Customer with whom SAP may elect to discuss the refusal.

Glossary

1.1 "**ASP License (Non-Perpetual)**" means that upon Partner's purchase of the ASP License (Non-Perpetual) from SAP, Partner shall have such non-exclusive license during the subscription term to use the Software as part of the Partner Solution, for purposes of providing ASP Services to Customers.

1.2 "**ASP Service**" means application services that are provided by Partner utilizing Software that allow Customers to remotely access, or otherwise receive the benefits of, the Bundled Solution (via a private network or the Internet) that are installed in a Data Center.

1.3 "**Application Readiness Check**" means SAP's standard procedure to review a Bundled Solution required for go-to-market services offered by SAP under a separate agreement, based on the standard criteria as made available by SAP to Partner.

1.4 "**Build Authorization**" means that Partner needs to meet specific training and qualification requirements for the On Premise or Cloud Product Family as set out in detail in the PartnerEdge Program Guide.

1.5 "**Data Center(s)**" means the site at which the Software will be hosted, to enable Partner to provide ASP Services to its Customers. Such site or sites shall at all times be owned or controlled and operated by the Partner except as permitted under Section 2.5(b) of this SAP PartnerEdge Model.

1.6 "**Development License**" means a development license subscribed under a separate SAP Development Agreement.

1.7 "**Development Agreement**" means an SAP development agreement that provides for the terms and conditions of development use of the Software.

1.8 "**Mainstream Maintenance**" means the then current release strategy for Software releases as stated in https://support.sap.com/release-upgrade-maintenance.html.

1.9 "**Minimum Terms**" means, for purposes of this SAP PartnerEdge Model, all of the minimum terms required to be included in an End User Agreement as set forth in Section 2.4.

1.10 "**On-Premise Distribution License (Perpetual)**" means Partner is entitled to grant On-Premise Perpetual Licenses to Customers. This means that upon the purchase of the license for the applicable Software by a Customer from Partner, the Customer has such non-exclusive and perpetual license to use the Software included in Bundled Products subject to the terms and conditions of the Agreement.

1.11 "**Partner Solution**" means, with respect to this SAP PartnerEdge Model, a proprietary Partner solution which integrates with and which can be used with Software.

1.12 "**Product Family**" means an SAP product family which may comprise of one or several Software as further set out in the applicable RSPI.

1.13 "**Program Requirements**" means that the Partner has to fulfill certain program entry requirements as well as ongoing program requirements, some of which are general PartnerEdge requirements, some of which are specific for the "Build Engagement", including, without limitation payment of the Program Fee(s), successful conclusion of the Application Readiness Check for at least one Partner Solution within twelve (12) months after the Effective Date of this SAP PartnerEdge Model, upholding a subscription to at least one Development License, and other requirements as set out in detail in the PartnerEdge Program Guide and the Region-Specific Program Information ("RSPI").

1.14 "**SAP Solution**" means, with respect to this SAP PartnerEdge Model, the SAP Materials, Software, and/or SAP Support.