**SAP PartnerEdge Cloud Choice Specific Terms and Conditions**
**("Cloud Choice STC")**

This Cloud Choice STC and the Cloud Choice Guide are hereby incorporated into and become part of the Sell Cloud Schedule executed by SAP and Partner.

**RECITALS**

WHEREAS, SAP markets, licenses, sells and/or distributes certain Cloud Services and provides other related services to End Users;

WHEREAS, Partner desires to broker contractual agreements and perform certain activities concerning SAP Cloud Services;

WHEREAS, SAP desires to grant Partner, as an independent undertaking, the non-exclusive and non-transferable right to broker for SAP the conclusion of contracts and perform certain activities concerning SAP Cloud Services with End Users including the marketing and promotion of these SAP Cloud Services.

**NOW THEREFORE**, in consideration of these premises, SAP and Partner agree as follows:

## 1. DEFINITIONS AND INTERPRETATIONS

"**Cloud Choice**" means the model that is offered by SAP to Partner under this Cloud Choice STC and which is set out in more detail in the Cloud Choice Guide.

"**Cloud Choice Guide**" means a guide that SAP has produced and publishes on SAP's partner-dedicated website that sets out a description of the Cloud Choice model and includes additional requirements.

"**Cloud Services**" means any subscription based, SAP hosted, supported and operated on-demand solutions listed on the Price List which are made commercially available by SAP for reselling by authorized SAP resellers.

"**Order Form**" means any SAP ordering document entered into by SAP and an End User for a specific Cloud Services.

"**POS Declaration**" or **"Proof of Services Declaration"** means a form or document that Partner is required to complete and to submit to SAP, indicating that required services have been performed, as well as any required additional documentation specified therein prior to any Order Form being signed and any commission being paid. The POS Declaration template is published on SAP's partner-dedicated website.

"**Entity Owned Or Controlled By The Government**" means any entity directly or indirectly owned or controlled by the government, a government organization, the Holy See, a public official or a publicly exposed person (PEP) or an immediate family member of these; any entity created by law or decree; any entity whose principal source of funds comes from the government; or any department, agency, or instrumentality of a government or a public international organization.

"**Price List**" means the "Price List for SAP Cloud Channel Partners" or any other price list provided by SAP under or in connection with the Sell Cloud Model applicable to the country in which End User is located which is published on SAP's partner-dedicated website or directly provided to Partner by SAP.

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

"**Program Requirements**" means that the Partner has to fulfill certain minimum program entry requirements as well as ongoing program requirements, some of which are general PartnerEdge requirements, some of which are specific for the "Sell Engagement" and some of which are specific for the different "On Demand" or "Cloud" Product Families, including, without limitation payment of the Program Fee(s), meeting certain minimum annual revenue requirements, upholding a Sell Authorization for at least one "On Demand" or "Cloud" Product Family and other requirements as set out in detail in the PartnerEdge Program Guide and the RSPI.

"**SAP Premium Services**" mean SAP Premium Engagement Services as described at http://www.sap.com/servicedescriptions current as of the effective date of the Services Order Form, that are offered by SAP directly to End Users only and are not eligible under this Cloud Choice STC.

"**Services**" with regards to this Cloud Choice STC, means any Consider & Select or Adopt & Operate activities as described in the POS Declarations which are published on SAP's partner-dedicated website, performed by Partner pursuant to a Cloud Service Order Form entered into between the End User and SAP.

"**Services Order Form**" means the applicable ordering document for SAP Premium Services entered into by SAP and End User that references the SAP Services General Terms and Conditions published on http://www.sap.com/agreements.

"**Usage Metric**" means the usage parameters for determining the permitted access and use and calculating the applicable fees due for a Cloud Service as set forth in an Order Form.

1.1. Any terms not defined in this Cloud Choice STC will have the meaning ascribed to them in any other part of the Agreement.

1.2. The headings in this Cloud Choice Amendment are for convenience only and are to be ignored in construing this Cloud Choice Amendment.

1.3. Any reference in this Cloud Choice STC to a defined document is a reference to that defined document as amended, varied, novated or supplemented from time to time.

1.4. The Sell Cloud Model Specific Terms and Conditions do not apply to this Cloud Choice STC, except to the extent that any defined terms are used in the Cloud Choice STC or elsewhere in the Agreement, then those defined terms and their meanings shall still apply.

**2. ENGAGEMENT MODEL**

2.1. Upon Partner meeting the Program Requirements for the first time and subject to Partner's compliance with all Program Requirements at all times during the term of this Cloud Choice STC, SAP hereby grants to Partner, and Partner hereby accepts from SAP, the right to broker those Cloud Services for which Partner achieved and continues to uphold a successful Sell Authorization in its own name, at its own risk and for its own account to End Users located in the Territory (as defined in the Sell Cloud Schedule) that are not directly or indirectly an Entity Owned Or Controlled By The Government.

2.2. This Cloud Choice model may be limited to specific countries, and applicable market segment(s) as reasonably determined by SAP under compliance considerations and as defined and published on SAP's partner-dedicated website.

2.3. Not all Cloud Services are eligible under this Cloud Choice STC. Eligible Cloud Services are indicated in the then-current and applicable Price List.

2.4. In the event that a Partner's End User comes under the direct or indirect control of an Entity Owned Or Controlled By The Government, after SAP has already accepted an Order for such End User, no further Orders for such End User will be accepted by SAP under this Cloud Choice STC.

2.5. Partner understands and accepts that under the Cloud Choice model, Partner engages with End Users in two distinct stages ("Consider & Select" and "Adopt & Operate") and that an End User has the right to change to a new partner at any time after the Consider & Select stage. Details of the stages, change of partner process, and related information are set forth in the Cloud Choice Guide, available on SAP's partner-dedicated website.

2.6. In advance of submitting an opportunity to SAP and/or making an offer to an End User, Partner must decide whether Partner intends to offer the respective Cloud Services under this Cloud Choice STC or offer them under another model. In the event that Partner decides to offer the Cloud Services under another model, then an opportunity shall not be submitted and no Order Form will be generated under this Cloud Choice STC.

2.7. SAP Premium Services

2.7.1. Partner agrees to share End User's business contact information with SAP where an End User chooses to purchase SAP Premium Services directly from SAP for Cloud Services ordered under this Cloud Choice STC. SAP shall use End User's business contact information solely for this purpose.

2.7.2. Partner acknowledges and agrees that:

a) SAP shall directly contact End User for the purpose of concluding a Services Order Form.

b) Partner will obtain, and will maintain, all necessary rights, permissions, consents, and authorizations required under applicable law and under its agreement with the relevant End User to disclose such business contact information to SAP for the purposes described in this Article 2.7. Partner is responsible to provide sufficient information to enable the relevant End User to comply with all applicable data protection laws.

c) No commission or other compensation under this Cloud Choice STC shall be payable to Partner with respect to SAP Premium Services. Commission, if any, on the Cloud Services component is payable where the Price List designates the relevant Cloud Services as commissionable.

**3. APPOINTMENT OF PARTNER**

3.1. SAP hereby authorizes Partner to submit opportunities for SAP to conclude contracts concerning Cloud Services with End Users and to perform relevant Cloud Choice model activities. Partner represents and warrants, that the brokering of opportunities for SAP to conclude contracts is not its main professional activity and solely done in connection with its regular business activities. Partner is not authorized to negotiate or conclude contracts on behalf of SAP nor to otherwise represent or oblige SAP in legal transactions.

3.2. Partner acknowledges that SAP prohibits any payments for the purpose of "opening doors" or general "business development" and therefore, must clearly and credibly define, in the POS Declaration, which real and legitimate sales-cycle handling for SAP they can deliver to a particular End User. Prior to any sales commission pay-out to the Partner, a verifiable solid and detailed POS Declaration must be provided by the Partner to SAP (in addition to other requirements as set forth herein and in the Cloud Choice Guide) and consequently be vetted and approved by SAP.

3.3. Partner may communicate to End Users that Partner is authorized by SAP to perform certain business activities on behalf of SAP, however, Partner shall neither assert nor create the impression vis-à-vis third parties that it is entitled to transact business for SAP.

**4. PARTNER OBLIGATIONS**

***4.1.*** Prior to engaging SAP for the purpose of preparing an Order Form for a particular End User, Partner shall ensure that such End User is not an Entity Owned Or Controlled By The Government.

***4.2.*** Partner shall provide all required information to SAP for the preparation of an Order Form, including but not limited to, the End User's name, address, selected Cloud Services, any Usage Metric information, and any other information requested by SAP. SAP shall return the prepared Order Form to Partner. Partner will then provide such Order Form to End User for End User signature(s).

4.3. During the Consider & Select cycle, Partner shall deliver the Consider & Select activities (including pre-sales and sales activities) as set forth in the Cloud Choice Guide through and up until the initial Order Form has been duly executed.

4.4. During the Adopt & Operate cycle, Partner shall deliver the customer engagement activities, as set forth in the Cloud Choice Guide.

4.5. Partner must ensure that SAP is entitled to use any data or information from or about a prospective End User provided by Partner for verification of Partner´s obligations hereunder. Partner shall obtain the consent of the End User and employees of the End User and of its own employees in accordance with the applicable data protection law prior to SAP's aforementioned usage of any data or information provided to SAP. Furthermore, where the consent of any other third party or an individual is required, Partner shall ensure that such consent is given.

**5. PARTNER COMMISSION**

5.1. Fees payable to Partner under the Cloud Choice model are subject to a) conditions set forth in the Cloud Choice Guide having been met; b) Partner performing its obligations outlined herein, c) SAP having obtained satisfactory proof of such performance as defined in the POS Declaration; and d) SAP having received full payment from the End User for the applicable Cloud Service invoice. Notwithstanding the foregoing, commissions are subject to certain thresholds as set forth in the Cloud Choice Guide. SAP shall inform Partner in advance regarding any changes to the commission.

5.2. Subject to Article 2, Section 5. and Article 4, Section 4., a fee is granted for an eligible Cloud Service Order Form for renewal of the initial Order Form, and increases in Cloud Services, but only if, and to the extent, such renewal or increases are brokered by Partner in accordance with the terms and conditions of this Cloud Choice STC. If the End

User changes to a new partner any time after the Consider & Select cycle, then any renewal or increase will be attributed to the new partner and the new partner is entitled to the fee.

5.3. Payments to Partner will be remitted by SAP in local currency according to the practices established by SAP (through bank transfer or, in exceptional cases, may be remitted in the form of a general credit against the partner's accounts receivable balance). Subject to Partner´s full compliance with its contractual obligations hereunder, SAP shall pay the fee to Partner:

5.3.1. for the Consider & Select cycle within thirty (30) days after the end of the month in which the payment by End User is received by SAP, or

5.3.2. for the Adopt & Operate cycle, provided that SAP has received payment by End User, as applicable, within thirty (30) days after the end of each calendar quarter, and in the event that Partner is engaged mid-quarter, then fees shall be prorated accordingly.

5.4. SAP will only pay fees to Partner during the term of this Cloud Choice Flex STC. However, where SAP terminates this Cloud Choice Flex STC or the Agreement for convenience in accordance with Article 12, no 2 of the Cloud Sell Model, SAP shall be required to continue payment of fees to Partner in accordance with this Section 5 for the remainder of the current subscriptions year for Order Forms still in effect at termination, provided that the respective Order Form brokered by Partner remains in effect during such period and End User has not changed to a new partner. This obligation shall not apply in case of termination of this Cloud Choice Flex STC or the Agreement for good cause in accordance with Article 12, no 3 of the Sell Cloud Model.

5.5. SAP is not required to enter into any Order Form that Partner undertakes to broker with an End User. If SAP declines an Order Form, Partner shall not be entitled to any remuneration. Only fees that are permitted under applicable law, regulation or administrative requirement will be due and payable by SAP.

5.6. The Parties agree that SAP as the recipient of Partner´s service of brokering Orders between SAP and End Users will, where available, create a tax-invoice on Partner´s behalf (so called "self-invoice" or "buyer created tax invoice" or "recipient created tax invoice", hereinafter: "**Self-Invoice**"). Partner acknowledges that it owes the VAT or GST, as applicable, stated on that invoice to the tax authorities. Partner also confirms that it is duly registered for VAT or GST, as applicable, and will notify SAP in case this registration changes or ends. Partner will not issue tax-invoices on its own for its services described in this Cloud Choice Model.

For the purpose of creating Self-Invoices, Partner will disclose to SAP its VAT or GST registration number for inclusion in the invoice or any other data which is a mandatory component of a valid tax Self-Invoice. Partner also agrees that SAP may at its own discretion outsource the creation of Self-Invoices to either an affiliated company or to a third party, subject to local applicable law. In case an approval for self-invoicing is necessary, SAP will obtain such approval.

The availability of Self-Invoice is published on the Cloud Choice webpages at www.sappartneredge.com. In countries where Self Invoice is not available, the Parties agree that the Partner will issue an invoice to SAP for every commission payment corresponding to the instructions on the notifications issued by SAP and including the appropriate level of VAT or GST applicable.

## 6. INDEMNITY

Partner has no actual, apparent, or ostensible authority to act on behalf of SAP, unless expressly stated in this Cloud Choice STC. Therefore, Partner shall indemnify and hold harmless SAP in relation to any third-party claims against SAP arising from or relating to (a) any breach or misrepresentation by Partner of its authority provided under this Cloud Choice STC, or the Cloud Choice model to broker Cloud Services for End Users, including but not limited to breach of its obligations in Article 4 assertions that Partner acted as SAP's agent or otherwise on SAP's behalf.

## 7. CLOUD CHOICE STC TERM AND TERMINATION

7.1. Termination for convenience. Either Party may terminate this Cloud Choice STC for convenience with three months' prior written notice.

7.2. Termination for non-compliance with Cloud Choice model, as set forth herein and in the Cloud Choice Guide. SAP may terminate this Cloud Choice Cloud STC with three months' prior written notice if Partner:

a) does not meet all of the Cloud Choice model requirements; or

b) does not comply with any of the Program Requirements, excluding the Program Fee, for which the termination periods set out in Article 10 (Termination for good cause) no. 1a) and no. 2a) of Part 1 of the PartnerEdge GTCs apply.

## 8. GENERAL AMENDMENTS TO THE AGREEMENT

For the purposes of this Cloud Choice STC, the following amendments apply:

8.1. In the PartnerEdge GTCs, Article 3 Performance Warranty is deleted in its entirety and replaced with the following:

"Article 3 Intentionally Omitted"

8.2. For any Agreement executed prior to 1 July 2021: in the Sell Cloud Schedule, Article 3, Section 1.a), the words "SAP PartnerEdge Sell Cloud Specific Terms and Conditions" are deleted and replaced with the words "SAP PartnerEdge Cloud Choice Specific Terms and Conditions".