

SAP PartnerEdge
Service Specific Terms and Conditions

(together with the Service Schedule and all documents referenced therein **"Service Model"**)

Article 1 Definitions and Interpretation

1. Definitions

"Maintenance Services" with regard to this Service Model means the delivery of any new versions, releases, updates, upgrades, patches, fixes and corrections for any Software, Cloud Services or both as well as any other kind of support or maintenance for the Software, Cloud Services or both whether in person, via telephone or remote connection.

"Product Family" means an SAP product family which may comprise 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 which are specific for the "Service Engagement" and some of which are specific for the different "Service" Product Families, including, without limitation, payment of the Program Fee(s), meeting certain minimum business performance requirements, upholding a Service Authorization for at least one "Service" Product Family and other requirements as set out in detail in the PartnerEdge Program Guide and the RSPI.

"Service Authorization" means that Partner needs to meet specific qualification requirements for the products included in a "Service" Product Family that Partner wants to promote and offer Services for as set out in detail in the PartnerEdge Program Guide and the applicable RSPI.

"Services" with regard to this Service Model means demonstration, integration and implementation of Software, Cloud Services and any kind of other services that Partner wants to provide to End Users in connection with the Software and Cloud Services but excluding any kind of Maintenance Services.

"Test and Demo License" means:

- a) any test and demonstration agreement provided by SAP setting out the terms and conditions under which SAP SE or any other member of the SAP Group makes certain Software available to partners for, inter alia, testing and demonstration purposes; and
- b) any test and demonstration agreement provided by SAP setting out the terms and conditions under which SAP SE or any other member of the SAP Group makes certain Cloud Services available to partners for, inter alia, testing and demonstration purposes.

2. Any terms not defined in this Service Model will have the meaning ascribed to them in any other part of the Agreement (as defined in the Master Partner Agreement).

3. The headings in this Service Model are for convenience only and are to be ignored in construing this Service Model.

4. For clarification: Any reference in this Service Model to a defined document is a reference to that defined document as amended, varied, novated or supplemented from time to time in line with Part 1 Article 12 (Change to Terms) of the SAP PartnerEdge GTCs.

5. Where the context so admits, the singular includes the plural and vice versa.

6. Any defined document referenced in this SAP PartnerEdge Service Model will be provided by SAP upon request.

Article 2 Engagement Model

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 Service Model, SAP hereby grants to Partner and Partner hereby accepts from SAP the right to promote and offer Services for those Software products and Cloud Services for which Partner achieved and continues to uphold a successful Service Authorization in its own name, at its own risk and for its own account to End Users located in the Territory (as defined the Service Schedule).

2. Partner will be solely liable to its End Users for the provision of Services.

3. Partner is solely responsible for accurately and completely representing the SAP Products. Partner assumes all financial and legal liability for the quality, reliability and accuracy of all representations and warranties made by Partner, its employees, agents and consultants beyond what is contained in the Documentation. Partner will give the SAP Group and its licensors appropriate credit for the ownership of the SAP Products.

4. Partner will be solely responsible for setting its own prices vis-à-vis the End User for the provision of Services.

Article 3 Responsibilities of SAP

1. The Software and Cloud Services provided under a Test and Demo License will be made available to Partner under the terms and conditions of the relevant Test and Demo License after such Test and Demo License was concluded between SAP SE or any other member of the SAP Group and Partner.

2. SAP will make available to Partner, on a space available basis:

- a) SAP's regularly scheduled partner trainings;
- b) customer training courses generally offered by SAP; and
- c) marketing-oriented training courses,

all of which are available at SAP's then current prices and terms.

Article 4 Responsibilities of Partner

Partner must:

1. immediately conclude and continue to uphold at least one Test and Demo License with a member of the SAP Group as further explained in the PartnerEdge Program Guide;

2. acquire and continue to uphold a comprehensive and fundamental knowledge of and ensure that its employees and consultants who perform any Services in connection with this Service Model will at all times have the proper skill, training and background to enable them to demonstrate and implement the Software and Cloud Services in a competent and professional manner;

3. provide potential End Users with marketing materials and information necessary to evaluate the Software and Cloud Services being considered by the End User provided that such marketing materials and information do not include Confidential Information;

4. support SAP Group's implementation, support and maintenance methodologies for the Software and Cloud Services;

5. if required by End User, provide End User with release and version management and migration support as related to the Software and Cloud Services throughout the period of productive installation of the Software and Cloud Services;
6. inform its End Users that any modifications, add-Ons or other alterations of the Software or Cloud Service (other than alterations of the Software made by a member of the SAP Group) may lead to possibly unpredictable and significant faults in the running of Software or Cloud Service and other programs and in communications with other programs, for which SAP Group will not be responsible; they may also impair maintenance or support services provided by SAP and may have consequences in terms of the warranty;
7. upon mutual agreement and upon invitation by SAP, participate in SAP Group's sponsored marketing events by presenting speeches, providing information to End Users as set out in this Article 4 (Responsibilities of Partner) no. 3, and assisting, where requested, in the organization and implementation of the events;
8. dedicate a coordinator with an adequate support structure to act as the central focal point to coordinate activities with SAP and designate a contact person within the support group to be available to SAP who is authorized to act on behalf of Partner within the scope of this Service Model; and
9. adhere to data reporting requirements as established by SAP, including status information on requested SAP software projects conducted in connection with this Service Model and surveys of Partner's satisfaction with SAP field and alliance management.

Article 5 Responsibilities of the Parties

To the extent reasonable under the circumstances, the Parties will undertake the following cooperative activities with respect to identifying and bringing to each other opportunities to promote the Software and Cloud Services:

1. Inform appropriate personnel in their respective organizations of the existence of this Service Model;
2. Furnish each other with appropriate information for support and planning purposes; provided, however, that each Party reserves the right, in its sole discretion, to determine the content and availability of such information;
3. Subject to confidentiality constraints, endeavor to keep each other apprised of new products and services; and
4. Exchange such other information and conduct such other activities as the Parties agree will carry out the intent of this Service Model.

Article 6 Tax

1. Each Party will be responsible for the payment of its own taxes.
2. All taxes based on income that are imposed, or may be imposed, by any state or local government entities for payments received under or in connection with any part of this Agreement will be borne by the recipient of the payment ("**Recipient**").
3. If the Party making such payments ("**Payer**") is required by law to withhold income or corporation tax or a similar tax ("**Withholding Tax**") from any gross payment to the Recipient under or in connection with any part of this Agreement, Payer will be entitled to withhold or deduct such tax from the gross amount to be paid if and to the extent that the Recipient may offset the withholding income and corporate tax liabilities according to the law the country of residence of the Recipient against its income or corporate tax liabilities. However, Payer must use all endeavours to reduce any such withholding payable to the lowest possible rate subject to compliance with all applicable laws and double taxation treaties. Recipient will cooperate with Payer to the extent that is necessary to apply for such reduction, especially by, but not limited to, providing necessary forms to Payer or the relevant tax authority. Otherwise, Payer is entitled to withhold tax at standard rates according to the relevant laws. The Payer will in the case of any withholding of any Withholding Tax provide to the Recipient a receipt from the relevant tax authority to which such Withholding Tax has been paid. In case the Recipient under or in connection with any part of this Agreement is not entitled to offset the withholding income and corporate tax liability according to the law of the country of residence, Recipient and Payer will mutually agree in writing whether the Payer will be entitled to withhold taxes on account of the Recipient from the contractually agreed payments. The fact that such offset is not possible (or not possible in a specific year) must be notified by Recipient to the Payer.
4. All other taxes or charges of any kind (including but not limited to, customs duties, tariffs, excise, gross receipts, sales and use and value added tax) except income tax or corporation tax (or similar taxes) will be borne by the Payer. Partner must communicate to SAP its VAT or GST identification number(s) attributed by the country where Partner has established its business. SAP shall consider the Software distributed or provided under or in connection with this Agreement to be for Partner's business operations and provided to the location(s) of the Partner in accordance with the provided VAT or GST identification number(s). If any such tax or duty has to be withheld or deducted from any payment under or in connection with any part of this Agreement, Payer must increase payment under or in connection with any part of this Agreement by such amount to ensure that after such withholding or deduction, Recipient has received an amount equal to the payment otherwise required. Any applicable direct pay permits or valid tax-exempt certificates must be provided to SAP prior to the execution of the Service Schedule.

Article 7 Term and Termination for convenience

1. Term. This Service Model comes into effect as of the Effective Date defined in the Service Schedule and remains in full force and effect until and including 31 December of the same year. Thereafter its term is automatically extended for subsequent periods of one year.
2. Termination for convenience. Either Party may terminate this Service Model for convenience with three months' prior written notice to 31 December of each year.
3. Termination for non-compliance with Program Requirements. SAP may terminate this Service Model with three months' prior written notice if Partner:
 - a) did not meet all of the Program Requirements for the first time within six months after the Effective Date defined in the Service Schedule; 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. 1 a) and no. 2 a) of Part 1 of the PartnerEdge GTCS apply.
4. Extraordinary termination rights and the right to termination for just cause remain unaffected.

Article 8 Model-specific Effect of Termination

1. If this Service Model is terminated, rescinded or ends in any other way Partner's right to promote and offer Services to End Users located in the Territory under this Service Model as set out in 6 (Engagement Model) immediately ends.
2. When this Service Model is terminated, rescinded or ends in any other way, all Test and Demo Licenses are automatically terminated at the same time, unless Partner still has the respective use rights due to an official SAP partner status.
3. When Partner's last Test and Demo License is terminated, rescinded or ends in any other way this Service Model is automatically terminated at the same time without any explicit notice.

Article 9 Defects as to Quality, Defects in Title, Other Faults

1. If applicable SAP warrants the agreed qualities of Software (with the exclusion of Software that was provided for no fee and / or under a trial license), and warrants that the grant to Partner of the agreed rights does not infringe any third-party right. The following provisions in this Article 9 no. 2 to 8 apply:

2. To discharge its liability for shown quality defects, SAP will remedy the defects either by providing to Partner a new Software version that is free of defects or, at its election, by eliminating the defects. SAP may also eliminate a defect by indicating to Partner a reasonable way to avoid the effect of the defect. To discharge its liability for shown defects in title, SAP will remedy the defects either by procuring for Partner the legally incontestable right under license to use the Software or, at SAP's election, providing equivalent replacement or altered Software. Partner must accept a new software version that is functionally compliant unless it would be unreasonable to require Partner to do so.
3. If Partner sets a reasonable limited additional time period for SAP to remedy the defect and SAP finally fails to do so in that time, Partner has the right to rescind the contractor reduce the remuneration. Subject to the exclusions and limitations in Article 10, SAP undertakes to compensate for loss or wasted anticipatory expenditure caused by a defect.
4. The time bar for claims under no 1 to 3 comes into effect one year after delivery of the Software. This also applies to rights arising out of rescission or reduction of remuneration under no. 3, sentence 1. The reduction in the time before the time bar comes into effect does not apply in cases of SAP's intent or gross negligence, of fraudulent concealment of a defect, of personal injury, or of defect in title to which the Croatian Civil obligations act applies.
5. The time bar for claims for defects in works or services to eliminate or avoid a defect provided in discharge of defect liability also comes into effect at the time specified in no. 4. However, the time before the bar comes into effect is tolled while, with Partner's consent, SAP is checking the existence of a defect or is remedying a defect, until SAP informs Partner of the results of its check, gives notice that the remedy is complete, or refuses to remedy the defect. The time bar comes into effect no earlier than three months after the end of the toll.
6. If SAP provides defect identification or elimination works or services without being under obligation to do so, SAP is entitled to a specific remuneration. Such services are provided subject to SAP's General Terms and Conditions for Consulting and Services and SAP is entitled to remuneration for them in accordance with the relevant SAP list of prices and conditions. This applies in particular to any reported quality defect that is not reproducible or not imputable to SAP or in cases where the Software is not used in compliance with its Documentation. Without prejudice to the generality of the foregoing, SAP is entitled to remuneration for additional work it does to eliminate any defect that arises out of Partner's failure to properly discharge its duty to collaborate, inappropriate operation of the Software, or failure to take the SAP services that SAP recommends.
7. If a third party claims that the exercise of the license granted to Partner under this SAP PartnerEdge Service Model infringes its rights, Partner must fully inform SAP in writing without delay. If Partner ceases to exercise its license rights granted hereunder to mitigate loss or for other just reason, Partner must notify the third party that such cessation does not imply any recognition of the claimed infringement. Partner will conduct the dispute with the third party both in court and out of court only in consultation and agreement with SAP or authorize SAP to assume sole conduct of the dispute.
8. If SAP fails to properly perform any of its duties herein that is not within the ambit of defect liability, or is otherwise in breach, Partner must give written notice of the failure or breach to SAP and fix a limited additional time period during which SAP has the opportunity to properly perform its duty or otherwise rectify the situation. SAP will compensate for loss or wasted anticipatory expenditure subject to the exclusions and limitations in Article 10.
9. Partner duty to collaborate includes the obligation to give notice of all defects including sufficient detail for SAP to analyse the alleged defect..

Article 10 Liability

1. SAP's liability in contract, tort, and otherwise for loss including but not limited to wasted anticipatory expenditure, under this Service Model is subject to the following provisions:
 - a) In cases of intent, SAP's liability extends to the full loss; in cases of gross negligence, SAP's liability is limited to the amount of foreseeable loss that would have been prevented through the exercise of due care; in cases of absence of a guaranteed quality, SAP's liability is limited to the amount of foreseeable loss that would have been prevented by the presence of the guaranteed quality.
 - b) In other cases: SAP is not liable except for breach of a major obligation and only up to the limits in Article 10 (Liability) no. 1 c). A breach of a major obligation in the meaning of this is assumed where the duty itself is a necessary prerequisite for the contractual performance, or where the breach of the relevant duty jeopardizes the purpose of the contract and where Partner could legitimately rely upon its fulfillment.
 - c) Liability in cases under Article 10 (Liability) no. 1 b) is limited to € 100,000 per incident and limited in total to € 500,000 for all claims arising out of this Service Model.
2. Contributory fault and contributory negligence may be claimed. The limits of liability in Article 10 (Liability) no. 1 do not apply to personal injury liability or liability under the Croatian acts governing product liability.