The parties agree that their contractual relationship shall be governed by the terms and conditions of the Agreement (as defined below). The Agreement consists of (1) this OEM Partner Agreement General Terms and Conditions ("GTCs"), (2) applicable Program Schedule(s), (3) applicable Order Form(s), (4) the Software Use Rights, and (5) all other applicable exhibits or schedules referenced by these GTCs, any applicable Program Schedules or Order Forms. Each Program Schedule, together with the terms and conditions of this GTC, Software Use Rights, applicable Order Forms and all applicable exhibits or schedules incorporated by reference or referenced therein shall constitute and construed as a separate agreement (the "Agreement").

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

"Add-on" means any development using SAP APIs that adds new and independent functionality to the Software, but does not modify existing functionality of the Software.

"Affiliate" means with regard to a party to this Agreement, any legal entity for so long as a party to this Agreement holds, directly or indirectly, more than fifty percent (50%) of the shares or voting rights of such legal entity.

"API" means Licensor or its Affiliates' application programming interfaces, as well as their respective code that allows other software products to communicate with or call on the Software (for example, SAP Enterprise Services, BAPIs, Idocs, RFCs and ABAP calls or other user exits) provided under this Agreement. APIs are made available to Partner through either (or both) the Software or SAP Software Development Kits.

"Confidential Information" shall mean all information which Disclosing Party protects against unrestricted disclosure to others, furnished by the Disclosing Party to the Receiving Party (the party disclosing such Confidential Information being the "Disclosing Party" and the party receiving such Confidential Information being the "Receiving Party") in connection with this Agreement that (i) the Disclosing Party 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, including but not limited to, information (including benchmark results) that is related to: the Software, any SAP SDK and the content of this Agreement.

"Control" means the power to direct or cause the direction of the affairs of an entity whether by means of direct or indirect ownership of fifty per cent (50%) or more of the voting rights or similar rights of ownership or by means of having the power to direct the management or directors whether conferred by constitutional documents, shareholder's agreement or other document regulating the affairs of an entity.

"Documentation" means the Licensor documentation which is delivered or made available to Partner with the Software under this Agreement.

"End User" means Partner's customer licensing or using the Software in conjunction with Partner Products from Partner.

"End User License" or "EULA" means a license agreement between Partner and any End User to which Partner resell, license, distribute or otherwise provide access to the Software in accordance with the Agreement.

"Integration" means applications, scripts, commands or instructions that use the API to connect to the Software.

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

"Licensor" means the entity identified by the Agreement or the Order Form that is a party to this Agreement.

"Licensor Materials" means any software, programs, tools, systems, data, Licensor Confidential Information or other materials made available by Licensor to Partner in the course of the performance under this Agreement including, but not limited to, the Software, Documentation, subscription services and APIs, as well as any information, materials or feedback provided by Partner to Licensor relating to the Software, Documentation, subscription services and APIs.

"Modification" means (i) a change to the delivered source code or metadata; or (ii) any development, other than a change to the delivered source code or metadata, that customizes, enhances, or changes existing functionality of the Software including, but not limited to, the creation of any new application program interfaces, alternative user interfaces or the extension of the Software data structures; (iii) any other change to the Software (other than an Add-on) utilizing or incorporating any Licensor Materials, or (iv) any modification, enhancement or customization of the Software using SAP SDK, as well as any modification, enhancement or customization of such SAP SDK.

"Partner Products" means the Partner's computer hardware, software products, and/or services identified in Exhibit B attached hereto or to any Order Form.

"Order Form" means any order form, amendment, addendum, schedule or annex mutually executed by Licensor and Partner for the Software or subscription services ordered by Partner hereunder, including information on Software or Subscription Service, support or maintenance fees, and such other terms and conditions as mutually agreed upon by the parties in writing. All Exhibits or schedules referenced in the GTCs or Program Schedule may be attached to an Order Form.

"Program Schedules" means the applicable Program Schedules made available at: http://www.sap.com/agreements/western-europe referenced in the Order Form and current as of the effective date of such Order Form. The Program Schedules provides certain rights and obligations with respect to the Software, subscription services and/or support and maintenance service, that are in addition to or different from those set forth herein.

"Release" means (i) a "major release" that includes architectural changes and may be identified by a change of the release numeral to the left of the decimal point (e.g., 3.0) ("Major Release"), (ii) a "minor release" that includes improvements and bug corrections and may be identified by the release numeral to the right of the decimal point (e.g., 3.1) ("Minor Release"), and (iii) a "maintenance release" indicating a bug correction or patch and may be identified by a change of the release numeral two digits to the right of the decimal point (e.g., 3.12) or otherwise designated as "SP" or "Service Pack" ("Maintenance Release"). Any Major Release, Minor Release and Maintenance Release made generally available by Licensor under OEM Support after the Effective Date are collectively referred to as "New Releases".

"SAP SDK" means SAP software development kit that includes tools such as APIs, source code, redistributable files and instructions. SAP SDKs are also Software within the meaning of this Agreement.

"Software" means, collectively, (i) the object code versions of the software programs identified in Exhibit A attached hereto or to any Order Form, along with the Documentation, if applicable, all as developed by or for SAP AG, Business Objects Software Limited, Sybase, Inc, iAnywhere Solutions, Inc, and/or any of their Affiliates and delivered to Partner hereunder; (ii) any New Releases thereof subject to unrestricted shipment that are on Licensor's OEM Product List and made generally available by Licensor to its partners as part of OEM Support and (iii) any complete or partial copies of any of the foregoing.

"Software Use Rights" means, with regard to Software or other subscription services specified in an Order Form, the SAP Software Use Rights Schedule current as of the effective date of the applicable Order Form, a copy of which are found at: http://www.sap.com/agreements/western-europe (please select "Software Use Rights Agreements" => "English" => "SAP Software Use Rights (English)"). The Software Use Rights provide additional or supplemental terms and conditions in connection with the Use of the Software as specified in the Program Schedule or Order Form. Such Software Use Rights are incorporated herein by reference. SAP recommends Partner and End User print a copy of the Software Use Rights for their respective records.

"Standalone Use" means the Software (and any corresponding Third Party Software) licensed under the Agreement may only be used with or access, directly or indirectly, Partner Products and any other Software or Third Party Products licensed under this Agreement.

"Third Party Products" means any software product (including, without limitation, address directories) licensed under the Agreement in which proprietary rights are held by someone other than Licensor, SAP AG and/or their respective Affiliates.

"Territory" means except as otherwise specified in the applicable Order Form, all the countries in the world except for Iran and Cuba, and subject to Section 10 of this Agreement (Import and Export Control).

"Trademarks" means the trademarks, service marks, trade names, service names, proprietary words, symbols and other logos of Licensor, SAP AG or their respective Affiliates.

References to "Exhibits" shall include all sub-exhibits of such Exhibit (i.e. references to Exhibit A will include Exhibits A-1, A-2 and A-3 etc) and such Exhibits may be attached to this Agreement, Program Schedule or any Order Form.

2. GRANT OF RIGHTS

2.1 Program Schedules. The Agreement provides Partner certain rights and obligations with respect to specific SAP partner programs, all as specified in the Program Schedule(s). The parties may, but are under no obligation to, execute multiple Program Schedules, or Order Forms each referencing different Program Schedules, in order for Partner to join different SAP partner programs.

2.2 Grant of Licenses.

(a) Integration License. Subject to the terms of this Agreement, Licensor grants Partner during the term of this Agreement a nonexclusive, nontransferable right to use in the Territory the Test and Demonstration license described in Exhibit C-1 to the Software to develop an Integration between the Software and the Partner Products, and to make copies of the Software or other Licensor Materials for such Integration purposes.

(b) Evaluation License. Subject to the terms of this Agreement, Partner may distribute at no cost in the Territory a reasonable number of evaluation copies of the Software only for use in conjunction with Partner Product to prospective End Users up to a maximum of 60 days (unless otherwise approved by Licensor in writing), provided that such evaluation copies must not be used in production and the Software shall be destroyed or deleted at the end of the evaluation period. Partner shall provide an evaluation license agreement with every evaluation copy of the Software.

(c) Distribution and Resell License. Subject to the terms of the Agreement and if specified in the applicable Program Schedule, Licensor further grants to Partner such other non-exclusive, non-transferable right to use, license, offer for license, resell and/or otherwise distribute the Software solely in accordance with the license grant specified in the applicable Program Schedule.

2.3 Restricted License. Partner may market and sublicense the Software only for Standalone Use (except as otherwise set forth in the applicable Order Form) and in conjunction with the Partner Products pursuant to the licensing and use restrictions as set forth in this Agreement, the Software Use Rights, and such other terms as set forth in the specific Exhibit A for the applicable Software. Any Third Party Products contained in or provided with the Software may only be used as part of the Software. It is the intention of the parties that Partner Products that are software must add significant and primary additional functionalities to the Software in order to qualify as Partner Product. Partner warrants that Partner Products provide signification and primary additional functionalities to the Software. The End User Licenses shall permit the End User's use of the Software only with the Partner Products, and to the extent Partner Products consists of software ("Partner Applications"), for the sole purpose of enabling performance of the Partner Applications and integrating data from Partner Applications, with data access limited to data created or necessary to enable the functionalities of the Partner Products (referred to as a "Restricted License"). Software licensed under the Agreement shall not access, directly or indirectly, in any manner whatsoever, any third party runtime database acquired from Licensor or its Affiliates or any of its respective resellers or distributors. Partner shall use commercially reasonable efforts to ensure that its End User, distributor, reseller or Partner Affiliate are not in breach of this Section 2.3. In the event Partner becomes aware that an End User, distribution, reseller or Partner Affiliate is violating the limitations imposed on this Section 2.3, Partner shall promptly notify Licensor of such. Partner shall reasonably cooperate with Licensor to enforce the limitations imposed according to this Section 2.3 to the fullest extent possible.

3. **GENERAL OBLIGATIONS OF AND LIMITATIONS TO PARTNER**

3.1 Partner shall secure the End User's consent to an End User License with terms not less protective of Licensor than the SAP Software General Terms and Conditions current as of the effective date of the license for Software licensed to each End User, a copy of which may be found at: http://www.sap.com/agreements/western-europe (please select "SAP Software Agreements" => "SAP Software General Terms and Conditions"), the Software Use Rights and such other special terms as required under this Agreement to be included in such End User License, including without limitation Section 2.3 and the applicable Exhibit A. Partner shall ensure that the terms of the End User License are fully effective and binding as required under applicable laws and regulations in the country, territory or jurisdiction in which Partner is distributing the Software, whether directly or indirectly. For clarity, Partner is not required to use the SAP Software General Terms and Conditions verbatim and a specific reference to Licensor is not required, provided that the requirements of this Section 3.1 are met. However, the End User must agree to Licensor or Partner performing audits with regards to the usage of the Software.

3.2 Partner's Business Practices. Partner shall avoid deceptive, misleading or unethical practices. Partner shall make no representations or warranties on behalf of Licensor except as Licensor may itself provide or approve in writing.

4. **PAYMENT AND TAXES**

4.1 Orders, Fees and Payment terms. Partner will independently establish prices and terms for the Software, provided such terms include those required by the Agreement. Partner shall order the Software and services according to Licensor's standard procedures. Any amounts payable under this Agreement and invoiced by Licensor shall be due within thirty (30) days of the invoice date. Partner agrees that all fees due to Licensor shall not be used to reduce, offset, or make contingent any payments due to Licensor. Partner can offset claims only if they are uncontested or awarded by final and binding court or arbitration court order. All payments made hereunder are non-refundable.

4.2 Partner shall pay for fees in the amount and currency as agreed between the parties set forth in the Agreement. Payments made under this Agreement after their due date will incur interest at the applicable statutory interest rate. The currency exchange rate shall be based on the official fixing of the European Central Bank at the last business day of the month in which the Partner invoices the End User.

4.3 Taxes.

(a) All federal, state or local sales, VAT, GST, foreign withholding (including foreign income withholding), use, property, excise, service, or similar taxes ("Tax(es)") now or hereafter levied, all of which (except income or corporate taxes) shall be borne by Partner. If any such Taxes have to be withheld or deducted from any payment under this Agreement, Partner will increase payment under this Agreement by such amount as shall ensure that after such withholding or deduction Licensor shall have received an amount equal to the payment otherwise required.

(b) Income taxes will be borne by Licensor. If Partner is required to withhold income or corporation tax or a similar tax from any payment to Licensor under this Agreement, Partner shall be entitled to withhold or deduct such tax from the gross amount to be paid. However, Partner shall use all endeavors to reduce any such withholding tax payable to the lowest possible rate subject to compliance with all applicable laws and double taxation treaties. Partner will in the case of any withholding of tax provide Licensor a receipt from the relevant authority to which such withholding tax has been paid and all other information and documents reasonably necessary or expedient in order to enable Licensor to apply for a tax credit against its income tax.

4.4 Delivery. Subject to the terms and conditions of the Agreement, Licensor will deliver the Software and support by making it available for electronic download through the SAP ServiceMarketPlace (http://service.sap.com/swdc) or such other network to Partner or its End User as the case may be. The Software is deemed delivered (including but not limited for purpose of fixed delivery dates) and the risk of loss passes at the time of such electronic delivery and has informed the Partner or the End User, as the case may be, of such download availability. Partner agrees not to request any physical delivery of Software or 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 support.

5. **REPORTS AND AUDITS**

5.1 Payment Reports. Within twenty (20) days after the close of each calendar quarter or as otherwise specified in Exhibit C, Partner will deliver to Licensor a report which will provide all information reasonably required by Licensor identifying each End User by an unique customer number for computation, customer name (no abbreviations), customer address (street, city, postal code, country), group (if any), and/or confirmation of the fees, if any, due or credited to Licensor for the period being reported, including without limitation: (i) license information (material code/software description, license quantity, license metric, and associated license fee due Licensor), and (ii) applicable support and maintenance plan (as defined in Exhibit C-1) and/or support and maintenance fees, associated maintenance rate and indicating whether it is first year maintenance or a renewal, and associated license fee. The payment report shall be submitted to Licensor even if the license and maintenance fees due is less than the minimum license fee set forth Exhibit C. Partner will provide the report in Excel-file format in electronic form. Licensor will inform in writing Partner in case of change to the reporting format. Any changes or corrections to the reports submitted to Licensor can only be made within thirty (30) calendar days.

5.2 Audits. During the term of this Agreement and for two (2) years thereafter, Partner will maintain relevant records regarding Partner's activities under the Agreement, including the compliance with the license terms applying to Software, the calculation of the fees due under this Agreement, and the accurateness and completeness of the payment or royalty reports submitted to Licensor under this Agreement. Upon Licensor's request, Partner will make such records of Partner and its representatives available to Licensor or Licensor's independent auditor, at Licensor's expense. All such records will be subject to Section 7.5 (Confidential Information). In the event any such audit reveals that Partner has underpaid Licensor by more than five percent (5%) for the period covered by the audit, then, Partner shall pay Licensor the reasonable cost of the audit. In the event Partner or Licensor discovers that the use of Software by any End User has exceeded the licensed level, Partner shall be obligated to pay Licensor the applicable fees as if the additional licenses were included in the original royalty or payment reports for the period during which the licenses were first used. Partner shall use reasonable efforts to obtain the approval of the End User to enable Licensor or any third party authorized by Licensor to carry out system measurements at the systems of the Partner´s customers, directly.

6. SUPPORT AND MAINTENANCE

6.1 End User Support by Partner. Partner will be responsible for providing direct technical support for the Software to End User licensed from Partner, its Affiliates, distributors or resellers. Partner's technical support personnel shall include persons trained and qualified on the Software as specified in Exhibit D. Training and qualification will be at Partner's expense and at Licensor's then-current published rates.

6.2 OEM Support. Partner will designate its technical contact representatives ("Named Contacts") to whom Licensor (or its Affiliates) will provide access to OEM Support for the supported Software during the term of this Agreement, provided that Partner has paid the OEM Support fee specified in Exhibit C-1. OEM Support is provided to Partner only and is described in Exhibit C-1. During the term of this Agreement and as part of OEM Support, Licensor will make available to Partner New Releases, if and when such Releases are made generally available by Licensor under OEM Support.

6.3 New Releases. Partner shall not provide New Releases to any existing licensed End Users unless the applicable maintenance fees for the New Releases as set forth in Exhibit C have been paid to Licensor. End Users not covered by a valid support and maintenance agreement with the Partner may purchase an upgrade license for a New Release for the specified Software as set forth in the applicable Exhibit C. Licensor has no obligations to provide any support or New Releases to End Users directly.

7. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

7.1 Intellectual Property Rights. The Software, Licensor Materials, Integration, Modifications, and all Intellectual Property Rights embodied in the foregoing, shall be the sole and exclusive property of Licensor or its Affiliates, or their licensors. All rights not expressly granted in this Agreement are reserved by Licensor.

7.2 Trademarks.

7.2.1 For the term of the Agreement, Licensor grants to Partner during the term of the applicable Order Form a revocable, nonexclusive, nontransferable license to use the appropriate SAP partner logo included with the SAP Branding Guide in the Territory in accordance with the terms of this Section 7.2. This license to use the SAP partner logo includes the right to use the SAP corporate logo as part of the SAP partner logo (both referred to as "**SAP Logos**"). Partner is not permitted to grant sublicenses to the SAP Logos. When using SAP Logos, Partner must adhere to all requirements and obligations of SAP Branding Guide, including, without limitation, observe Licensor's directions concerning the colors and size of the SAP Logos. Partner shall not remove, delete or in any manner alter the Trademarks or any other Intellectual Property Rights notices of Licensor, SAP AG, their respective Affiliates or licensors, if any, appearing on the Software or Licensor Materials as delivered to Partner.

7.2.2 Partner shall not contest the validity of the SAP Logos or support the contesting of its validity and shall not derive any right against Licensor through its permitted use of SAP Logos. When using SAP Logos, Partner must indicate that the SAP Logos are registered trademarks of SAP AG or its Affiliates. In this context, Partner acknowledges that SAP AG is the sole owner of rights in the SAP Logos. Partner undertakes to make all those declarations and provide all those documents for the benefit of SAP as SAP or SAP AG or its Affiliates may require in the prosecution of its rights in the SAP Logos.

7.2.3 Licensor, SAP AG and their respective Affiliates have the sole and exclusive right to protect and defend the SAP Logos at its sole discretion, cost and expense. Partner will reasonably cooperate with Licensor, at Licensor's expense, in the defense and protection of the SAP Logos and will promptly notify Licensor of the use of any mark infringing any of the SAP Logos of which it has knowledge.

7.2.4 All advertising and sales material used by Partner for the Software must bear the notices prescribed by Licensor or its Affiliates concerning Trademarks and other identifying marks. Partner must refrain from (i) registering Licensor, SAP AG or any of their respective Affiliates' name (including, in both cases, any domain name or Trademark) or SAP AG's logo or any logo of its Affiliates (including, in both cases, any names, logos, domain names or Trademarks which are confusingly similar to any of them) for itself or (ii) permitting third parties to use or otherwise exploit SAP's name, logo or trademark or any name, logo or Trademark of Licensor, SAP AG or any of their respective Affiliates (including, in both cases, any name, logo, Trademark or domain name which are confusingly similar to any of them). Partner must, at Licensor's choice, either transfer any rights regarding such name, logos, Trademarks and domain names to Licensor, SAP AG or their respective Affiliates as soon as they arise or permit Licensor, SAP AG or their respective Affiliates to exploit them. Partner must afford Licensor such assistance as may be necessary for Licensor or its Affiliates to obtain at Licensor's expense the appropriate registrations for protection in any chosen country.

7.2.5 Partner shall provide samples of its advertising copy and sales literature, in their original language and in English, as applicable, upon Licensor's request. Licensor reserves the right to review and approve all uses of SAP Logos in Partner's advertising and promotion of the Software, prior to use. Such approval will not limit Partner's obligation to comply with all applicable laws and will not be deemed an endorsement or approval of any advertising content. Partner shall make no representations regarding the Software except as consistent with Licensor's own promotional and technical materials or as Licensor may otherwise provide or approve in writing.

7.3 Modifications/Add-ons.

7.3.1 Modifications. Except for Add-Ons, Partner shall not modify, adapt, enhance, localize, translate or make derivatives of the Software and Licensor Materials. .

7.3.2 Add-ons.

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

(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 End Users with access to the Software to which End Users are not directly licensed; nor unreasonably impair, degrade or reduce the performance or security of the Software; nor disclose any Licensor Confidential Information; nor change the source code to the Software; nor use or access the Software in order to develop any application or interface functionality that accesses the Software or database used with the Software in any other manner other than in the manner provided by Licensor's API.

(iii) Any SAP SDK provided for the modification or customization of specified Software may not be used to modify or customize any other software from Licensor or its Affiliates, Partner or any other third party. Licensor does not provide Apple's iOS SDK to Partner, however certain SAP SDKs provided for use to develop mobile applications for iOS if licensed under Exhibit A of this Agreement may include iOS related software. With respect to an SAP SDK that is for iOS, Licensor's licenses under this Agreement to use such SAP SDK for iOS are strictly limited to use within Partner's own applications created by Partner only for specific use with iOS mobile applications pursuant to an Apple iOS Developer Program License Agreement or an Apple iOS Developer Program Enterprise License Agreement ("Program Agreement"). Partner guarantees that it has entered in to a Program Agreement with Apple and that it will maintain such Program Agreement throughout the term of this Agreement. Partner is prohibited from redistributing the SDK provided by Licensor hereunder or any part thereof.

(v) Partner covenants, on behalf of itself and its successors and assigns, not to assert against Licensor or its Affiliates, or their resellers, distributors, suppliers, commercial partners and customers, any rights in any Modifications developed by or on behalf of Partner or Partner Add-ons, or any other functionality of the SAP Software accessed by such Modification developed by or on behalf of Partner or Partner Add-on.

7.4 Reverse Engineering, Source Code.   Partner shall not duplicate, disassemble, decompile, de-obfuscate, reverse engineer nor otherwise create or attempt to create the source code from the object code of the Software or Licensor Materials in any manner unless such action is indispensable in order to obtain information necessary to achieve interoperability of the Software with an independently created computer program and End User 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 shall first provide written notice to Licensor and permit Licensor, 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).   Partner shall have no right to the source code of any Software.

7.5 Confidential Information.

(a) Confidential Information shall not be reproduced in any form except as required to accomplish the intent of this Agreement. The receiving party shall take all reasonable steps to keep Confidential Information strictly confidential; shall not disclose any Confidential Information to any person other than its Representatives who are involved in the performance of this Agreement; shall not use Confidential Information for any purpose other than in connection with the parties' performance of this Agreement; and shall not disclose to any person (other than its Representatives) any information about this Agreement. As used herein, "Representatives" shall mean (i) employees of Receiving Party and its Affiliates; (ii) attorneys, accountants, or other professional business advisors; and, (iii) employees of any entity who are directly involved in the performance of obligations under this Agreement. The Receiving Party shall be responsible for any breach of the terms of this Agreement by it or its Representatives. The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that: (i) is independently developed by receiving party without reference to the disclosing party's Confidential Information, (ii) is lawfully received free of restriction from a third party having the right to furnish such Confidential Information; (iii) has become generally available to the public without breach of this Agreement; (iv) at the time of disclosure was known to the receiving party free of restriction; or (v) the disclosing party agrees in writing is free of such restrictions.

(b) In the event that the receiving party or any of its Representatives are requested pursuant to, or required by, applicable law or regulation or by legal process to disclose any Confidential Information, the receiving party shall provide the disclosing party with prompt notice of such request or requirement in order to enable the disclosing party (i) to seek an appropriate protective order or other remedy; (ii) to consult with the receiving party with respect to the disclosing party's taking steps to resist or narrow the scope of such request or legal process; or (iii) to waive compliance, in whole or in part, with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, the receiving party or its Representatives shall use commercially reasonable efforts to disclose only that portion of the Confidential Information which is legally required to be disclosed and to require that all Confidential Information that is so disclosed will be accorded confidential treatment. Licensor's and Partner's liability for any breach of the foregoing confidentiality undertakings shall not be subject to any liability limitation otherwise applicable under this Agreement.

(c) Partner shall not disclose the terms and conditions of the Agreement or the pricing contained herein to any third party. Neither party shall use the name of the other party in publicity, advertising, or similar activity, without the prior written consent of the other, except that Partner agrees that Licensor may use Partner's name in customer or partner listings or, at times mutually agreeable to the parties, as part of Licensor's marketing efforts (including without limitation reference calls and stories, press testimonials, site visits, SAPPHIRE participation). Licensor will make reasonable efforts to avoid having the reference activities unreasonably interfere with Partner's business.

7.6 Partner shall promptly inform Licensor if it becomes aware of any third party that has acquired or markets, sells, or uses the Software or Licensor Materials without authorization. In such event, Partner must reasonably assist Licensor in the pursuance of Licensor's rights. Partner must temporarily stop licensing the Software to any such third party unless and until such ambiguity is resolved to Licensor's satisfaction.

7.7 The parties recognize that either party has the right to develop independently software or services that would compete with the other party's software or services without use of any Confidential Information disclosed by such other party hereunder. Further, either party shall be free to use for any purpose the residuals resulting from access to or work with Confidential Information disclosed hereunder. The term "residuals" means information in non-tangible form, which may be retained inadvertently in the unaided memory by persons

who have had access to the Confidential Information, including ideas, concepts, know-how or techniques contained herein, so long as such persons have not studied the information for the purpose of replicating the same from memory. Neither party shall have any obligation to limit or restrict the assignment of such persons or to pay fees or royalties for any work resulting from the use of residuals. However, the foregoing shall not be deemed to grant to either party a license under the other party's copyrights or patents.

8. INDEMNIFICATION

8.1 Third Party Rights.

(a) Licensor shall defend Partner against claims brought against Partner in the Territory to the extent such claim (i) is brought by a third party owner of the intellectual property giving rise to the claim and (ii) alleges that Partner's distribution of the Software in accordance with the terms and conditions of this Agreement constitutes a direct infringement or misappropriation of a patent claim(s), copyright, trademark or trade secret rights. Licensor will pay damages finally awarded against Partner (or the amount of any settlement Licensor enters into) with respect to such claim, provided that: (i) Partner notifies Licensor in writing of any such alleged claim without undue delay, and (ii) Partner authorizes Licensor to have sole control over the defense or settlement of any such claim, and (iii) Partner cooperates fully in the defense of such claim and provides Licensor with all relevant information and reasonable support, and (iv) Partner does not undertake any action in response to any infringement, or alleged infringement, of the Software that is prejudicial to Licensor's rights. Licensor expressly reserves the right to cease such defense of any claim(s) in the event the Software is no longer alleged to infringe or misappropriate, or is held not to infringe or misappropriate, the third party's rights.

(b) Licensor shall have no obligation under this Section 8.1 if the claim results from (i) Software or Documentation that has been altered by anyone other than Licensor or (ii) failure to use a New Release promptly provided by Licensor if such infringement or misappropriation could have been avoided by use of the New Release, or (iii) unlicensed activities by Partner (or its End User). Further, Licensor shall have no obligation under this Section 8.1 for a claim which could have been avoided if Partner had not used the Software or Licensor Materials in combination or conjunction with any software, data or systems not provided by Licensor.

(c) If an infringement or misappropriation of the intellectual property rights of a third party by the Software in accordance with Section 8.1 above is alleged or, in the reasonable opinion of Licensor, an infringement or misappropriation of the intellectual property rights of a third party is likely to occur or be alleged, Licensor may, at its discretion:

(i) procure for Partner the continued right to use the Software at no additional charges to Partner, or

(ii) modify the Software or substitute alternative substantially equivalent non-infringing programs and supporting Documentation for the Software, or

(iii) if none of the foregoing alternatives can be achieved at a reasonable cost, Licensor may terminate the Agreement and refund the prices paid by Partner less an appropriate amount covering the period of actual use of the Software by the Partner.

8.2 Indemnification by Partner. If an action is brought against Licensor and/or its Affiliates by a third party arising from (a) any taxes and related costs, interest and penalties paid or payable by Licensor and/or its Affiliates, (b) Partner or its Affiliates' breach of Sections 3.1, 10 or 11 of this Agreement, including any action in excess of Partner's authority hereunder, (c) any agreement between Partner and its distributors, resellers or End Users, or (d) a claim that any Partner Product infringes, misappropriates or violates any patent, copyright or trademark of any third party or Partner's combining (or its authorizing others to combine) the Software with any products not provided by Licensor, then Partner shall defend Licensor and its Affiliates, at Partner's expense, and shall pay any settlement amounts Partner authorizes and all damages, costs and attorneys' fees finally awarded against Licensor and/ or its Affiliates in the action.

8.3 THE PROVISIONS OF SECTION 8.1 STATE THE SOLE, EXCLUSIVE AND ENTIRE LIABILITY AND OBLIGATION OF LICENSOR TO PARTNER, AND PARTNER'S SOLE REMEDY WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS THAT MAY ARISE RELATED IN ANY WAY TO THE SOFTWARE, LICENSOR MATERIALS, OR DOCUMENTATION. The liability limitations contained in Section 14 below shall apply to all claims made under Section 8.1. Any limitations to the liability and obligations of Licensor according to Sections 8.1 and 8.3 shall also apply for the benefit of SAP's Affiliates and their respective licensors.

9. TERM AND TERMINATION

9.1 This Agreement is entered for an initial term as described in Exhibit C-1 ("Initial Term"), unless earlier terminated as set forth herein. The Agreement may be extended by a term to be defined upon mutual written agreement of the parties only.

9.2 This Agreement and the license granted under this Agreement may be terminated by either party for good cause upon written notice to the other in accordance with the following:

(a) thirty days after Licensor gives Partner notice of Partner's breach of any provision of the Agreement (other than Partner's breach of its obligations under Sections 2.1, 7.1 - 7.5, 10, 11 or 12.1, which breach shall give right to immediate termination), unless Partner has cured such breach during such thirty day period;

(b) immediately if Partner does not pay on the due date any amount payable to Licensor unless payment is made within 30 days of its due date;

(c) immediately if (1) Partner commences negotiations with one or more of its creditors with a view to rescheduling major parts of its indebtedness or (2) Partner files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors.

9.3 For the avoidance of any doubt, termination of the Agreement shall strictly apply to all licenses under the Agreement and Order Form(s) and any partial termination of the Agreement by Partner shall not be permitted in respect of any part of the Agreement or Order Forms.

9.4 Obligations on Termination.

(a) Any terms of this Agreement which by their nature extend beyond the day this Agreement ends remain in effect until fulfilled, in particular any terms protecting Confidential Information and the Intellectual Property Rights of SAP and its Affiliates, and apply to respective successors and assignees.

(b) Upon termination or expiration of this Agreement for any reason:

(i) Partner shall immediately cease marketing, distributing or licensing the Licensor Materials to any third party, including renewing any subscription based license agreements with existing customers;

(ii) Partner shall immediately cease (a) use of all Licensor Materials and Confidential Information, and (b) to identify itself as an authorized Partner for Licensor or otherwise affiliated in any manner with Licensor;

(iii) Partner may use its Test and Demonstration licenses of the Software to provide support to its End Users and for archival purposes subject to Partner continuing compliance with the terms of the Agreement;

(iv) any fees previously paid by Partner are non-refundable;

(v) any paid-up perpetual license to the Software previously granted to an End User on an on-premise basis shall survive according to the terms of such license; and

(vi) Partner may request to receive, and Licensor may agree to provide for a limited time, support and/or maintenance services for the Software after the termination of this Agreement upon mutual agreement in writing.

9.5 Within 30 days after any termination or expiration of the Agreement, Partner shall irretrievably destroy or upon Licensor's request deliver to Licensor all copies of the Licensor Materials and Confidential Information in every form, except to the extent it is legally required to keep it for a longer period in which case such return or destruction shall occur at the end of such period. Partner must certify to Licensor in writing that it has satisfied its obligations under this Section. Termination shall not relieve Partner from its obligation to pay fees that remain unpaid. Partner agrees that communications to End Users and any publications/press releases regarding such termination shall be mutually agreed in writing prior to distribution.

10. IMPORT AND EXPORT CONTROLS

10.1 The Licensor Materials are subject to the export control laws of various countries, including without limit the laws of Ireland, United States, EU and Germany. Partner agrees that it will not submit the Licensor Materials to any government agency for licensing consideration or other regulatory approval without the prior written consent of Licensor and will not export, re-export or import any Licensor Materials to countries, persons or entities prohibited by any applicable export law. In that context, Partner is responsible for complying with all applicable regulations restricting import, export, re-export, transfer or release to certain entities or destinations (Export Regulations"). Partner will take all necessary actions and precautions to ensure that any permitted distributor, reseller, end user and other customer complies with the export regulations.

10.2 If Licensor delivers any Licensor Materials directly to Partner and/or End User, Partner will support Licensor in obtaining any required authorization and/or approval from the competent authorities by providing information and/or declarations, e.g. End User certificates, as may be requested by Licensor. Partner acknowledges that the delivery of Licensor Materials may be subject to the prior obtaining of export and/or import authorizations from the competent authorities and that this process may considerably delay or prevent the delivery of Software and Documentation and/or impact Licensor's ability to provide support or maintenance services.

10.3 With respect to any Licensor Materials delivered by Partner to an End User, it is Partner's sole responsibility to obtain any required authorization and/or approval from the competent authorities to comply with any applicable Export Regulations. Licensor assumes no responsibility or liability for Partner's failure to obtain any such required authorization or approval. Partner acknowledges that in case Licensor delivers any Licensor Materials directly to End Users, Section 10.2 above applies especially, without limitation, regarding the provision of maintenance services. Licensor will, upon Partner's reasonable request, provide any required information regarding any Licensor Materials originally provided by Licensor to Partner.

10.4 This Section 10 shall survive the expiration or earlier termination of this Agreement.

11. PARTNER'S COMPLIANCE OBLIGATIONS

11.1 Partner shall conduct its operations at all times in strict compliance with all applicable anticorruption laws including the US Foreign Corrupt Practices Act (FCPA), the U.K Bribery Act 2010. Such obligation shall also apply to the Partner´s subcontractors, Affiliates, resellers and distributors. Partner has in place a code of business conduct or comparable policies in connection with compliance of the foregoing laws.

11.2 Partner shall not obtain on Licensor´s behalf or provide to Licensor any information which is not legally available in the Territory, or which is procurement-sensitive, proprietary, or classified, where there is reason to believe that possession of such information is unauthorized, illegal, or unethical.

11.3 Partner and any person acting on the Partner`s behalf have not directly or indirectly paid, offered to pay, or authorized the payment of, and will not directly or indirectly pay, offer to pay, or authorize the payment of any monies or gifts or anything of value to any employee or representative of an End User or prospect (or an immediate family member of such persons) for the purpose of influencing their acts or decisions in order to secure or retain business on behalf of Licensor.

12. MISCELLANEOUS

12.1 Assignment. This Agreement may be assigned by Licensor to any entity which assumes its obligations or acquires ownership of or the right to use and license the Software. Neither this Agreement, nor any right or obligation hereunder, may be assigned, transferred, delegated or subcontracted, by operation of law or otherwise, in whole or in part, by Partner without Licensor's prior written consent, such consent not to be unreasonably withheld. Due to the importance of Partner's ownership and management, a Change of Control of Partner shall be deemed an assignment of this Agreement. "Change of Control" of Partner shall mean a transaction or series of transactions (i) pursuant to which Control of Partner is acquired by persons or entities other than those who Control Partner on the Effective Date of this Agreement, or (ii) resulting in the sale of all or substantially all of Partner's assets or all or substantially all of Partner's assets utilizing any Software or Licensor Materials. Subject to the foregoing, the provisions of this Agreement shall be

binding upon and inure to the benefit of the parties, and their permitted successors and assigns. Any attempted assignment or transfer of this Agreement is in violation of this Section is void.

12.2 Non-Exclusivity; Independent Contractors. The relationship of Licensor and Partner is that of independent contractors. This Agreement does not give either party the power to assume any obligation on behalf of the other, constitute the parties as partners, joint venturers, co-owners, principal-agent, or otherwise participants in a joint or common undertaking. This is a non-exclusive relationship.

12.3 Entire Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between Licensor and Partner, and all previous representations, discussions, and writings are merged in, and superseded by this Agreement and the parties disclaim any reliance on any such representations, discussions and writings. Each party is entering into this Agreement with its own independent investigation and not as a result of any representation of the other party not contained herein. Any additional or different terms in Partner's documents (including any preprinted terms contained on purchase orders) are hereby deemed to be material alterations and notice of objection to, and rejection of, them is hereby given, and such additional or different terms shall be void. Signatures sent by electronic means (facsimile or scanned and sent via e-mail) shall be deemed original signatures.

12.4 Amendments; Waivers. This Agreement may not be modified or any term or condition waived except in a writing signed by a duly authorized representative of each party. This also applies to any waiver of the written form requirement. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision hereof.

12.5 Force Majeure. Except for a party's payment obligations, neither party shall be liable to the other for its failure to perform any of its obligations hereunder during any period in which such performance is delayed by circumstances beyond its reasonable control including, but not limited to, earthquake, fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority.

12.6 Publicity. The terms of this Agreement are confidential. No press release or other like publicity regarding this Agreement may be made without the other party's approval.

12.7 Notices. All notices or reports provided by one party to another under this Agreement shall be in writing and delivered to the applicable addresses set forth in this Agreement or applicable Order Form. Notices provided by Partner to Licensor shall be sent to the attention of: SAP Legal Department. Notices may be sent by facsimile transmission, email or exchange of letters to the address, email address or facsimile number of the respective parties set forth in any Order Form.

12.8 Hierarchy. The following order of precedence (in descending order of priority) shall be applied in the event of conflict or inconsistency between provisions of the components of this Agreement: (i) the Order Form or Addendum to the Agreement; (ii) the Exhibits; (iii) Software Use Rights, and (iii) this Agreement (excluding applicable exhibits and schedules attached or referenced thereto).

13. **WARRANTIES AND DISCLAIMER**

13.1 Warranties of Licensor

(a) Licensor warrants that the Software is free of defects that materially impair their usefulness as described in the Documentation when in use without modification on the hardware prescribed by the Documentation as compatible for use with the Software ("Designated Unit"). The warranty shall not apply: (i) if the Software is not used in accordance with the Documentation; (ii) if the Software has been subjected to any modification; or (iii) if the Software is not installed on a Designated Unit; or (iv) to the extent that the defect is caused by or is contributed to by Partner or End User; or (v) if Partner or End User does not provide access, including remote access, to the Software to Licensor's support personnel; or (vi) if the defect is caused by any third party software, Partner or Third Party Products. Licensor does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of Partner or End Users' business requirements.

(b) Additional Terms for OnPremise Distribution Licenses:

(aa) In case of defects to the Software, Licensor will discharge its warranty by remedying the defect either by providing to Partner Software that is free of defects or, at Licensor's free discretion, eliminate the defect. Defect elimination may, among others, be by indicating a reasonably acceptable workaround. Partner must provide full and free support to Licensor as may be reasonably required from Licensor. Partner undertakes that the Partner and any End User will accept any new version, correction level or workaround unless the associated adaptation and change-over work would be unreasonable.

(bb) If the remedy finally fails, Partner may rescind the Agreement for the defective Software or reduce the corresponding payment. This right is subject to the prior expiration of a written notice setting a reasonable time limit for performance (unless Licensor refused to remedy the defect). The notice setting the time limit must be combined with a warning that the defect remedy will be rejected as a consequence of failure to meet that time limit.

(cc) Claims under Section 13 shall, subject to Section 13.1(a), be barred one year of the date of delivery of the Software. However, the time before the bar comes into effect is tolled while, with Partner's consent, Licensor is checking the existence of a defect or is remedying a defect, until Licensor 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.

(c) If the applicable Program Schedule grants Partner a term or subscription license (such as ASP License as defined in the applicable Program Schedule), the following Additional Terms for such licenses apply:

Partner may adequately reduce the use-based compensation during the time period during which the use of the Software is materially impaired due to a defect ("Use-based License"). In case defects repeatedly arise or defects prevent Partner from the contractually envisaged use not only for an immaterial period of time, Partner may terminate the Use-based License for cause. This right is subject to the prior expiration of a written notice setting a reasonable time limit for performance (unless Licensor refused to remedy the defect). The notice setting the time limit must be combined with a warning that Partner will terminate the Use-based License for cause as a consequence of failure to meet that time limit.

(d) Partner's claim for damages for any defect and reimbursement of wasted anticipatory expenditure for any defect is subject to the limitations on liability set out in Article 14.

13.2 Warranties of OEM

(a) Partner represents and warrants that within industry standards it has and will maintain sufficient facilities and adequate capital, resources, and personnel to market and support the Software and to perform its obligations under this Agreement. Further, Partner represents and warrants that it will comply with all legal requirements applicable in the Territory and that it knows the essential functional characteristics of the Software and bears the risk that the Software does not meet Partner's or any End User's wishes and requirements.

(b) Partner warrants that it knows the essential functional characteristics of the Software and bears the risk that the Software does not meet the Partner's or End User's wishes or requirements. In case of doubt, Partner should obtain advice from Licensor or independent third party experts before concluding any agreement. On Partner's request, Licensor may in its own free discretion supply details of the technical capabilities and requirements of the Software.

(c) Partner shall not make any representations or warranties as to the performance of the Software, support or other services on behalf of Licensor or otherwise make commitments on behalf of Licensor.

14. LIMITATION OF LIABILITY

14.1 Licensor or Partner shall be liable without limitation for damages in the event of (i) willful intent or gross negligence, (ii) an injury to life, body or health, (iii) an explicit assumption of a guarantee for the condition of the Software [*Beschaffenheitsgarantie*], (iv) in the event of fraudulently concealed defects, and (v) a violation of the Product Liability Act [*Produkthaftungsgesetz*].

14.2 Licensor or Partner shall be liable for damages caused by slight negligence only if such are due to a material breach of duty, which endangers the achievement of the objective of the Agreement, or to a failure to comply with duties, the very discharge of which is an essential prerequisite for the proper performance of the Agreement and on the observance of which the other Party may rely.

14.3 In the cases of Subsection 14.2, the liability is limited to the damage which can be typically foreseen for such type of agreements. This shall also apply to damage caused by the gross negligence of an agent or an employee of Licensor or Partner, who is not an officer or executive of Licensor or Partner.

14.4 In the cases of Subsection 14.2 and 14.3, Licensor's or Partner's liability shall be further limited as follows:

(i) Licensor's or Partner's liability is limited to the amount paid by Partner to Licensor for Software under this Agreement during the 12-months period immediately preceding the damaging event; and

(ii) in no event shall the Licensor or Partner be liable for indirect damages, consequential damages or loss of profit.

14.5 In the cases of Subsection 14.2, and 14,3 the limitation period for Partner's or Licensor's claims for damages shall be two (2) years from the point in time the claim arose and Licensor or Partner became aware thereof. Regardless of Licensor's or Partner's awareness, the limitation period shall be three (3) years from the damaging event. For claims for damages based on defects the limitation period of Section 13.1 shall apply.

14.6 Partner shall take adequate precautionary measures against the loss or damage of data and programs, in particular by making, at least once daily, back-up copies of all programs and data in machine-readable form. To the extent that the loss or damage of data and programs would have been avoidable by adherence to the obligation to take proper and regular data backup measures, Licensor's liability shall be limited to the costs necessary to restore the data if data had been protected in an adequate manner by Licensee. Any liability on Licensor's part for loss and damage of data shall further be subject to the limitations of this Section 14.

14.7 The above limitations of liability of this Section 14 shall also apply in case of Partner's claim for damages against Licensor's employees or agents.

14.8 The limitations and exclusions in Section 14.4 shall not apply to (i) unauthorized use or disclosure of Confidential Information, (ii) breach or violation of the other party's Intellectual Property Rights, (iv) fees owed under this Agreement, (v) Partner's obligations under Section 8.2 of this Agreement, or (vi) any other liability which cannot be excluded or limited by applicable law.

14.9 This Section 14 shall apply to all claims for damages, irrespective of their legal cause, including claims based on tort.

15. GOVERNING LAW

The laws of Germany govern this Agreement (as well as any non-contractual obligations arising out of or in connection with this Agreement) exclusively without giving effect to a possible further reference to the laws of another jurisdiction contained in its conflicts of laws principles. Each party agrees that the proper venue for any legal action will be the appropriate state or federal court located in Karlsruhe / Germany. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

16. SEVERABILITY; INJUNCTIVE RELIEF

16.1 The terms of this Agreement are severable. If any term hereof is held invalid, illegal, or unenforceable for any reason whatsoever, such term shall be enforced to the fullest extent permitted by applicable law, and the validity, legality, and enforceability of the remaining terms shall not in any way be affected or impaired thereby.

16.2 Both parties acknowledge that remedies at law may be inadequate to provide Licensor or Partner with full compensation in the event of Partner's material breach of Licensor, SAP AG or their respective Affiliates' Intellectual Property Rights or Confidential Information under Sections 7.1 through 7.5 or Licensor's material breach of Section 7.5 with respect to Partner's Confidential Information, and that the non-breaching party shall therefore be entitled to seek injunctive relief in the event of any such material breach.

EXHIBIT D
PARTNER QUALIFICATION REQUIREMENTS

REQUIRED QUALIFICATION:

Qualification must begin within 120 days of the Effective Date of this Agreement for the number of support personnel as described under "recommended trainings".

Partner must take and pass all required web assessment exams for the applicable Software on the OEM Partner Portal: http://partner.sap.com.`

Any training/qualification is at the OEM's expense.

RECOMMENDED TRAININGS:

All relevant trainings can be found on the OEM Partner Portal: https://websmp103.sap-ag.de/~form/handler?_APP=00200682500000002702&_EVENT=DISPLAY&_HIER_KEY=201100035870000001792&_HIER_KEY=501100035870000019833&_HIER_KEY=601100035870000249181&

NOTES:

Level 1 Core Qualification: Courses and exams are found on the OEM Partner Portal > Education > Select Role > Select Level 1.

Core training on products not listed above can be found at Licensor Education: http://www.sap.com/education

Versions: Training is typically available for current and prior versions. Qualifications are only available for the latest product version, which may or may not be the product version detailed in this Agreement.

EXHIBIT E
Data Protection Exhibit

It is not the intention under this Agreement for Licensor to process personal data of Partner or End Users. Rather, processing of Partner or End User personal data will take place only in exceptional circumstances as an incidental effect of Licensor's performing its contractual duties. To the extent Licensor does process personal data of Partner or End User and such processing constitutes commissioned data processing by Licensor under EU Directive 95/46/EC (hereinafter referred to as the "Data Protection Directive") and/or applicable national data protection laws of the EU/EEA Member States, Exhibit E shall apply.

Commissioned Processing of Personal Data

This Exhibit stipulates the rights and obligations of Partner and Licensor in connection with personal data processed by Licensor on behalf of Partner under the Agreement. This exhibit shall be an integral part of the Agreement.

1.   Obligations of Partner
1.1   As between Licensor and Partner, Partner shall be solely responsible for the permissibility of the processing of personal data as well as for safeguarding the rights of the data subjects. Partner shall enter into appropriate data protection agreements with End Users that procure that Partner is authorized to engage Licensor as a sub-processor of personal data controlled by End User, in accordance with the terms of this Exhibit E.
1.2   Partner shall give commissions related to the processing of personal data and parts thereof to Licensor in writing, by facsimile or via e-mail or implied by making use of the Software and/ or providing ASP Services.
1.3   Partner shall make available the personal data for processing to Licensor and the results of the processing shall be transferred back by Licensor to Partner by using a defined transfer procedure or in accordance with the functionality implemented in the Licensor Software.
1.4   Partner shall inform Licensor without delay, if Partner detects errors or irregularities when examining the results of the processing of personal data.

2.   Obligations of LICENSOR
2.1   Licensor shall process the personal data and other operating data of Partner exclusively in accordance with Partner's instructions and/or End User's instructions relayed to Licensor by Partner which may include (without limitation) the correction, erasure and/or the blocking of such data. The personal data shall not be used by Licensor for any other purpose. Licensor shall not preserve such personal data longer than instructed by Partner. The statutory preservation periods remain unaffected.
2.2   For processing personal data, Licensor shall only use personnel which provably committed themselves to observe data secrecy and secrecy of telecommunications pursuant to sec 5 German Federal Data Protection Act *[Bundesdatenschutzgesetz]* and sec 88 German Act on Telecommunication *[Telekommunikationsgesetz]*.
2.3   Licensor shall implement all technical and organisational measures to comply with the requirements pursuant to sec 9 German Federal Data Protection Act. In particular, Licensor shall take and regularly check the following protection measures:
- *Physical access control*: Licensor shall install an access control system.
- *Access control*: Licensor shall control and log access to data processing systems.
- *Access limitation control*: Licensor shall define, implement and monitor a concept for user rights, rules for passwords and login procedures.
- *Transmission control*: Licensor shall ensure personal data transmission in encrypted form or by a secure alternative procedure. Transmissions must be logged and guidelines for personal data transmissions must be laid down in writing.
- *Input control*: Licensor shall implement a detailed logging system for input, modification and deletion of personal data.
- *Job control*: Licensor shall define in writing and establish control mechanisms to ensure that data are processed strictly in accordance with the instructions of the Provider.
- *Availability control*. Licensor shall run a state of the art backup system and define a restore operation procedure to protect personal data from accidental destruction or loss.
- *Data separation*: Licensor shall ensure by technical means and defined organisational procedures that personal data collected for different purposes (e.g. different Providers) can be processed separately. Technical means can be separated computer systems or demonstrably logical separation. Access by one Partner to the data of any other partner must be prevented.
2.4   If the security measures implemented by Licensor do not meet the legal requirements, Licensor shall notify Partner without delay.
2.5   Licensor shall notify Partner, if Licensor considers an instruction given by Partner to be in violation of data protection regulations. Licensor shall not be obliged to perform a comprehensive legal examination.
2.6   Licensor shall inform Partner immediately in case of serious disruptions of the operating process, suspected data protection violations or other irregularities in connection with the processing of Partner's Data.
2.7   At Partner's written request and at Partner's expense, Licensor shall reasonably support Partner in dealing with requests from individual data subjects and/or a supervisory authority with respect to the processing of personal data controlled by Partner. Licensor shall notify Partner about inspections and measures of a supervisory or any other competent authority.
2.8   Upon expiry or termination of the Agreement, Licensor shall in accordance with the terms of the Agreement and Partner's instructions, either (i) return to Partner or all personal data controlled by Partner and all of Partner's media under Licensor's power of disposal and any copies or reproductions thereof; or (ii) erase and/or destroy such personal data and media and confirm the erasure and/or destruction to Partner in writing.

3.   Subcontractors
3.1   Licensor is authorized to engage subcontractors for the processing of personal data in such manner that they shall act as sub-commissioned processors of personal data (*Unter-Auftragsdatenverarbeiter*) for Partner. Licensor shall pass on to -commissioned processors of personal data all Licensor's obligations as commissioned data processor vis-à-vis Partner and obligate sub-commissioned processors of personal data to obey all relevant data protection rules.

3.2   Licensor may engage sub-contractors that may provide support, including access to personal data, in connection with performing its contractual obligations under the Agreement and which are not to be regarded as sub-commissioned processors of personal data. Such support may be provided by sub-contractors engaged by Licensor. In such cases Licensor shall be obliged to provide in the sub-contracting agreement with such support provider for appropriate contractual provisions in accordance with applicable

data protection laws and to take the appropriate control measures, in order to ensure the protection and security of the personal data processed hereunder.

4.   Monitoring Rights of Partner

4.1   Partner shall have all necessary right to verify in accordance with sec 11 para 2 sentence 4 German Federal Data Protection Act that Licensor processes the personal data duly. These monitoring rights shall be carried out in coordination with Licensor. After notifying Licensor the monitoring can be carried out, in particular, during Licensor's usual business hours on Licensor's premises where the personal data processing is performed. To the extent that any personal data controlled by End User is processed by Licensor, the End User shall have the same monitoring rights as OEM under this Exhibit.

4.2   Licensor shall ensure that Partner has the monitoring rights set forth in Section 4.1 also vis-à-vis sub-commissioned processors of personal data (Unter-Auftragsdatenverarbeiter) retained by Licensor.

4.3   Licensor shall reasonably support Partner throughout these verification processes and provide Partner with the required information.

4.4   Licensor shall contractually safeguard Partner's powers of disposal and monitoring rights under this agreement vis-à-vis Licensor's subcontractors who may come into contact with the Data. Where applicable data protection law requires the Partner to enter into a direct contractual relationship with Licensor's subcontractors, Partner hereby authorizes and empowers Licensor to enter into the necessary agreements with Licensor's subcontractors on Partner's behalf.

4.5   Services rendered by Licensor in connection with Partner's monitoring rights shall be at Partner's expense.

5.   Special Confidentiality Obligation; Obligation to Observe Data Secrecy

5.1   Licensor undertakes to treat the personal data, which have become known to Licensor, confidential and to use such data exclusively for the commissioned data processing.

5.2   Any data media provided and any copies or reproductions made thereof shall remain property of Partner. Licensor shall store these with due care, ensuring that they are not accessible to third parties. Licensor may not make copies or reproductions thereof without Partner's consent, unless this is necessary to achieve the purposes pursued with the commissioned data processing. On Partner's request, Licensor must immediately return to Partner all data media of Partner under Licensor's power of disposal and any copies or reproductions thereof or destroy them in accordance with the laws on data protection and confirm the destruction to Partner in writing.

5.3   Licensor undertakes to impose on its employees, who may obtain knowledge of personal data, the same obligations as entered into above by Licensor.

6.   Applicable Law

For each instance where personal data are processed under this Exhibit, the provisions of this data protection exhibit shall be governed by the law of the EU / EEA Member State in which the respective controller of the personal data (Partner and/or End User) is established.