

SAP Open Ecosystem
Sell On Premise Specific Terms and Conditions
("Sell On Premise Open Ecosystem Model")

Article 1 Definitions and Interpretation

1. Definitions

"Distributor" means any person or entity to which SAP markets and distributes certain Software in connection with the "SAP PartnerEdge Sell On Premise Distribution Model"; a list of available distributors is displayed on SAP's partner-dedicated website.

"EULA" means the "End User License Agreement (for SAP On Premise indirect sales)" which is made available on www.sap.com/company/legal.

"EULA Acceptance Form" means the "Acceptance Form for End User License Agreement (for SAP On Premise indirect sales)" which will be provided by SAP on a deal by deal basis.

"EUMA" means the "SAP Delivered Support Agreement" which sets out the terms and conditions under which SAP provides support to End Users and which will be provided by SAP on a deal by deal basis.

"EUMA Effective Date" means the date on that the last signature was affixed to the EUMA or in case SAP does not sign the EUMA, any other act through which SAP accepts the EUMA or the order of SAP Delivered Support for the Software.

"Initial Term" means the period starting on the EUMA Effective Date and ending one year later but excluding the date of the EUMA Effective Date.

"Maintenance Services" with regard to this Sell On Premise Open Ecosystem Model means SAP Delivered Support.

"OE Partner Product List" with regard to this Sell On Premise Open Ecosystem Model means the list of SAP software made available by SAP named "SAP Authorized Reseller Product List" applicable to the country in which End User is located which is published on SAP's partner-dedicated website or directly provided to Open Ecosystem Partner by SAP or Distributor.

"Product Family" means an SAP product family which may comprise of one or several SAP software products or services as further set out on SAP's partner-dedicated website.

"Program Requirements" means that the Open Ecosystem Partner has to fulfill certain minimum program requirements, some of which are general Open Ecosystem requirements, some of which are specific for the "Sell Engagement" and some of which are specific for the different "On Premise" Product Families, including, without limitation, upholding a Sell Authorization for at least one "On Premise" Product Family and other requirements as set out in detail in the Open Ecosystem Program Guide.

"SAP Delivered Support" means SAP's support offering to directly provide support to End Users subject to the terms and conditions set out in the EUMA.

"Sell Authorization" means that Open Ecosystem Partner needs to meet specific training and qualification requirements for each product included in an "On Premise" Product Family that Open Ecosystem Partner wants to resell as set out in detail in the Open Ecosystem Program Guide.

"SUR" means the software use rights agreements which include additional or supplemental terms and conditions under which Software is licensed and which is made available on www.sap.com/company/legal.

2. Any terms not defined in this Sell On Premise Open Ecosystem Model will have the meaning ascribed to them in any other part of the Agreement.

3. The headings in this Sell On Premise Open Ecosystem Model are for convenience only and are to be ignored in construing this Sell On Premise Open Ecosystem Model.

4. Any reference in this Sell On Premise Open Ecosystem Model to a defined document is a reference to that defined document as amended, varied, novated or supplemented from time to time.

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

Article 2 Engagement Model

1. Upon Open Ecosystem Partner meeting the Program Requirements for the first time and subject to Open Ecosystem Partner's compliance with all Program Requirements at all times during the term of this Sell On Premise Open Ecosystem Model, SAP hereby grants to Open Ecosystem Partner and Open Ecosystem Partner hereby accepts from SAP the right to:

- a) purchase those Software products from Distributors for which Open Ecosystem Partner achieved and continues to uphold a successful Sell Authorization;
- b) market and distribute the Software purchased from a Distributor in its own name, at its own risk and for its own account to End Users located in the Territory (as defined in the Sell On Premise Open Ecosystem Schedule); and
- c) position SAP Delivered Support for the Software purchased from a Distributor to End Users located in the Territory (as defined in the Sell On Premise Open Ecosystem Schedule), if available for the Software product.

2. Open Ecosystem Partner will use its best efforts to market and position SAP Delivered Support for the Software purchase from a Distributor to End Users located in the Territory.

3. SAP will inform its Distributors located in the Territory:

- a) once Open Ecosystem Partner has fulfilled the Program Requirements for the first time by displaying the Open Ecosystem Partner as "Open Ecosystem Partner" on SAP's partner-dedicated website; and
- b) if Open Ecosystem Partner ceases to fulfill the Program Requirements or if this Sell On Premise Open Ecosystem Model is terminated, rescinded or ends in any other way by either showing the Open Ecosystem Partner as "non-operational" on or delisting the Open Ecosystem Partner from SAP's partner-dedicated website.

4. Open Ecosystem Partner is solely responsible for accurately and completely representing the Software and the Maintenance Services. Open Ecosystem Partner assumes all financial and legal liability for the quality, reliability and accuracy of all representations and warranties made by Open Ecosystem Partner, its employees, agents and consultants beyond what is contained in the Documentation. Open Ecosystem Partner will at any presentation give the SAP Group and its licensors appropriate credit for the ownership of the Software, Documentation and other SAP Materials.

5. Open Ecosystem Partner must not deliver or recommend any software or other products that are incompatible with the Software.
6. Open Ecosystem Partner will be solely responsible for setting its own prices vis-à-vis the End User for the distribution of the Software.

Article 3 Advertising Materials

1. Open Ecosystem Partner may add its own material to the information supplied by either indirectly by Distributor or directly by SAP, solely for the purposes of Open Ecosystem Partner's own marketing activities. Any material which is added must be clearly marked as Open Ecosystem Partner's material.
2. All marketing and promotional materials developed by or for Open Ecosystem Partner, including, but not limited to, print advertisement, broadcast or telecast commercials, product brochures, sales aids, manuals, displays, and publicity concerning the Software distributed hereunder and related services must be of first quality.

Article 4 Protection of rights

Open Ecosystem Partner is not entitled to:

1. Use the Software;
2. make any modifications, add-ons or other derivative work to the Software; and
3. copy or otherwise reproduce temporarily or permanently in whole or in part the Software, not even for back-up purposes.

Article 5 License

1. Use rights for the Software that Open Ecosystem Partner ordered via a Distributor from SAP for a specific End User will be granted directly by SAP to the End User via the EULA Acceptance Form, the EULA and the SUR.
2. Open Ecosystem Partner must inform the End User of and include express provisions in its agreement with the End User stating that:
 - a) the use of the Software is subject to the terms and conditions of the EULA Acceptance Form, the EULA and the SUR;
 - b) SAP will neither deliver any Software nor the applicable license key until SAP received End User's duly signed EULA Acceptance Form; and
 - c) SAP has the right not to grant a license as long as any of the adverse conditions as set out in this Article 5 (License) no. 4 to 6 is present.
3. Open Ecosystem Partner must ensure that:
 - a) each End User accepts the then-current license terms by signing the then-current EULA Acceptance Form; and
 - b) the person signing the EULA Acceptance Form is duly authorized to represent and has the full legal capacity to legally bind the End User.
4. Open Ecosystem Partner is prohibited from making any changes to the EULA Acceptance Form, the EULA and the SUR. Open Ecosystem Partner must further ensure that End User does not change the EULA Acceptance Form, the EULA and the SUR.
5. If the relevant End User has not duly signed the EULA Acceptance Form or if the content of the EULA Acceptance Form, the EULA or the SUR was unduly changed or is incomplete, SAP will not accept the corresponding Software order for such End User and will, thus, neither deliver any Software nor the applicable license key. Open Ecosystem Partner will indemnify SAP against any and all losses, actions, claims, expenses, demands and liabilities which may be incurred by or made against SAP if the EULA Acceptance Form, the EULA and/or the SUR were unduly changed or are incomplete.
6. SAP's obligation to grant license rights to an End User is suspended where and for as long as certain adverse conditions are present as provided for in Article 5 (SAP's obligation to deliver) of Part 1 of the Open Ecosystem GTCS.

Article 6 SAP Delivered Support Agreement/EUMA

1. Conclusion of the SAP Delivered Support Agreement/EUMA
 - a) If an End User wants to order SAP Delivered Support and provided SAP offers SAP Delivered Support for the relevant Software product(s), the End User will need to conclude a EUMA directly with SAP.
 - b) Open Ecosystem Partner must inform the End User that:
 - i. SAP will not deliver any SAP Delivered Support until SAP received End User's duly signed EUMA; and
 - ii. SAP has the right not to provide SAP Delivered Support as long as any of the adverse conditions as set out in this Article 6 (SAP Delivered Support Agreement/EUMA) no. 1c) is present.
 - c) Open Ecosystem Partner must ensure that the person signing the EUMA is duly authorized to represent and has the full legal capacity to legally bind the End User. Open Ecosystem Partner is prohibited from making any changes to the EUMA. Open Ecosystem Partner must further ensure that End User does not change the EUMA.
 - d) If the relevant End User has not duly signed the EUMA or if the content of the EUMA was unduly changed or is incomplete, SAP will not accept the corresponding SAP Delivered Support order for such End User and will, thus, not provide SAP Delivered Support. Open Ecosystem Partner will indemnify SAP against any and all losses, actions, claims, expenses, demands and liabilities which may be incurred by or made against SAP if the EUMA was unduly changed or is incomplete.
2. Payment of fees for SAP Delivered Support
 - a) For the Initial Term, Open Ecosystem Partner must collect - at its own risk - all fees for SAP Delivered Support from each End User for which a EUMA was concluded and pay such fees directly to the Distributor. For that purpose, Open Ecosystem Partner must invoice each End User the exact amount of fees for SAP Delivered Support stated in the EUMA that the relevant End User signed.
 - b) After the Initial Term, SAP will invoice each End User directly for SAP Delivered Support.

Article 7 Term and Termination for convenience

1. Term. This Sell On Premise Open Ecosystem Model comes into effect as of the Effective Date defined in the Sell On Premise Open Ecosystem 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 Sell On Premise Open Ecosystem 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 Sell On Premise Open Ecosystem Model with three months' prior written notice if Open Ecosystem Partner:

- a) did not meet all of the Program Requirements for the first time within six months after the Effective Date defined in the Sell On Premise Open Ecosystem Schedule; or
- b) does not comply with any of the Program Requirements.

Article 8 Model-specific Effect of Termination

1. If this Sell On Premise Open Ecosystem Model is terminated, rescinded or ends in any other way, Open Ecosystem Partner's right to:

- a) purchase Software from Distributors;
- b) market and distribute the Software; and
- c) position SAP Delivered Support,

to End Users located in the Territory under this Sell On Premise Open Ecosystem Model as set out in Article 2 (Engagement Model) immediately ends.

2. However, Open Ecosystem Partner will be allowed to distribute each Software product ordered from a Distributor for a specific End User for that SAP accepted Distributor's order before this Sell On Premise Open Ecosystem Model was terminated, rescinded or ended in any other way ("**Accepted Software**") without undue delay to the End User for whom the Software product was ordered. Obligations existing or arising under subsisting individual orders remain unaffected. SAP is entitled to refuse to accept orders if SAP has reasonable grounds to believe that the End User cannot go live with the Software during the term of this Sell On Premise Open Ecosystem Model.

3. Notwithstanding anything in Article 8 (Effect of Termination) of Part 1 of the Open Ecosystem GTCS, Open Ecosystem Partner will be allowed to use the SAP Logo and other SAP trademarks which he was authorized to use as set out in Article 4 (Trademark License) of Part 1 of the Open Ecosystem GTCS solely in connection with the Documentation in order to distribute the Accepted Software without undue delay to the specific End User for whom the Accepted Software was ordered.

4. SAP will inform its Distributors about the termination of this Sell On Premise Open Ecosystem Model by either showing the Open Ecosystem Partner as "non-operational" on or delisting the Open Ecosystem Partner from SAP's partner-dedicated website.