SAP MSP GENERAL TERMS AND CONDITIONS FOR SAP CLOUD SERVICES ("MSP GTC" or "GTC")

1. DEFINITIONS

1.1. "**Affiliate**" means any legal entity in which SAP and/or SAP SE or Provider or Customer, directly or indirectly, holds more than 50% of the entity's shares or voting rights. Any legal entity will be considered an Affiliate as long as that requirement is fulfilled.

1.2. "**Allocation**" means allocating the subscriptions to the Cloud Service purchased under a single Order Form to the provision of Provider Services to a named Customer or, in the case of the Frame Order Form, to the Provider, and the term "Allocated" shall be construed accordingly.

1.3. **"APIs**" means SAP application programming interface and accompanying or related Documentation, source code, tools, executable applications, libraries, subroutines, widgets and other materials made available by SAP or through SAP tools or SAP Software Development Kit (and all derivative works or modifications thereof) to Provider that allow Provider to integrate the Provider Service with the Cloud Service, including any access code, authentication keys or similar mechanisms to enable access of the APIs.

1.4. **"Authorized User"** means any individual to whom Provider or its Customer, as applicable, grants access authorization to use the Cloud Service.

1.5. **"Business Partner"** means a legal entity that requires use of a Cloud Service in connection with Customer's and its Affiliates' internal business operations. These may include customers, distributors, service providers and/or suppliers of Customer and its Affiliates.

1.6. **"Change of Control"** of a party means a transaction or series of transactions (i) where 50% or more of a party's shares or voting rights ("**Control**") is acquired by persons or entities other than those who Control such party on the Effective Date of the Agreement or the first Order Form signed under the Agreement, or (ii) resulting in the sale of all or substantially all of a party's assets.

1.7. **"Cloud MSP Support"** means the then-current technical support services SAP provides to Provider for the SAP Cloud Services as described in the Cloud MSP Support Schedule.

1.8. **"Cloud MSP Support Schedule"** means the SAP Cloud MSP Support Schedule that is incorporated in the Agreement and each Order Form. To the extent there is any inconsistency between the Cloud MSP Support Schedule and the support terms described in a Supplement, the support terms in the Supplement will prevail.

1.9. **"Cloud Service"** or **"SAP Cloud Service"** means any distinct, hosted, supported and operated on-demand solution provided by SAP under an Order Form.

1.10. **"Customer"** means Provider's customer that is licensing or using the Provider Service only for its own internal business operations and that has signed a Customer Agreement. A Customer may not be the Provider or its Affiliates.

1.11. **"Customer Agreement"** means a written agreement entered into between Provider and any Customer pursuant to which Customer orders the Provider Service from Provider.

1.12. **"Data"** means any content, materials, data and information that Authorized Users entered into the production system of a Cloud Service (including any stored derivatives of entered data such as Provider or Customer-specific reports). Data does not include SAP's Confidential Information or SAP Materials.

1.13. **"Documentation"** means SAP's then-current technical and functional documentation, relating to the Cloud Services located at https://help.sap.com or which SAP makes available to Provider as part of the Cloud Service, including technical and functional specifications as updated by SAP from time to time in accordance with the Agreement.

1.14. "**Export Laws**" means all applicable import, export control and sanctions laws, including without limitation, the laws of the United States, the EU, Switzerland and Germany.

1.15. **"Feedback"** means input, comments or suggestions regarding SAP's business and technology direction, and the possible creation, modification, correction, improvement or enhancement of the Cloud Service.

1.16. **" Frame Order Form"** means the Order Form executed to provide Cloud Services to Provider for 1) their testing, development and demonstration purposes or 2) productive use of specific Cloud Services identified in (and subject to the additional requirements of) the MSP Commercial Supplement or Supplemental Terms and Conditions for specific Cloud Services.

1.17. **"Intellectual Property Rights"** means patents of any type or other title to or right in an invention, copyrights and related rights, sui generis database rights, right of authorship, trademarks, design or other industrial right, any other intangible property

rights, whether registered or unregistered, including applications (or rights to apply) and registrations for any of the foregoing, in any country, and all rights to exploit or use it.

1.18. **"Minimum Terms"** means all of the minimum terms required to be included in Customer Agreement as set forth in Section 3.1 of this GTC.

1.19. **"MSP"** means "**Managed Service Provider**". In the event that the MSP program was referred to as the BPO program in the previously signed MSP Agreement, any reference to "BPO" shall be interpreted to mean "MSP," where applicable. The terms "MSP" and "BPO" shall be considered synonymous and interchangeable for all provisions within this Agreement and all attachments hereto.

1.20. **"Order Form"** means the ordering document for a Cloud Service that is governed by the MSP Agreement and the documents listed in the Order Form.

1.21. **"Partner Compliance Supplement"** means the Partner Compliance Supplement that is incorporated into the Agreement and each Order Form and published by SAP on its external agreements website. To the extent there is any inconsistency between the Partner Compliance Supplement and these GTCs, the terms in the Partner Compliance Supplement will prevail.

1.22. "**Price List**" means any price list(s) issued by SAP as applicable to PMC and MSP providers setting out the available software, services and the prices or fees.

1.23. **"Provider Service"** means Provider's hosted online service, utilized in conjunction with the SAP Cloud Service. This may include Provider's business process outsourcing service whereby Provider assumes responsibility for Customers' business processes. Provider Service is provided by Provider to Customers located in the Territory through remote access via the Internet.

1.24. **"Representatives"** means a party's Affiliates, employees, contractors, sub-contractors, legal representatives, accountants, or other professional advisors.

1.25. **"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.

1.26. **"SAP"** means the SAP entity identified in the MSP Agreement that is a party to this Agreement.

1.27. **"SAP Materials"** or "**Cloud Materials**" means any materials or information provided, developed or made available by SAP (independently or with Provider's cooperation) in the course of performance under the Agreement, including in the delivery of any support or Professional Services to Provider or its Customers. SAP Materials include but are not limited to the Documentation, statistical reports, usage measurements, and SAP content that describes, structures, or gives meaning to data in the Cloud Service such as data models, metadata, table descriptions, and similar materials and derivatives of the foregoing. SAP Materials do not include the Data, Provider Confidential Information, or the Cloud Service.

1.28. **"SAP SE"** means SAP SE, the parent company of SAP.

1.29. **"Subscription Term"** means the initial subscription term and if applicable any renewal subscription term of a Cloud Service identified in the Order Form.

1.30. "**Taxes**" means all transactional taxes, levies and similar charges (and any related interest and penalties) such as federal, state or local sales tax, value added tax, goods and services tax, use tax, property tax, excise tax, service tax or similar taxes.

1.31. **"Territory"** means the country or countries defined in the Exhibit 1, subject to Section 11 of these GTC (Trade Compliance).

1.32. **"Trademarks"** means the trademarks, service marks, trade names, service names, proprietary words, symbols and other logos of SAP, SAP SE, and their respective Affiliates or licensors.

1.33. **"Usage Metric"** means the standard of measurement for determining the permitted use and calculating the fees due for a Cloud Service as set forth in an Order Form.

2. USAGE RIGHTS AND RESTRICTIONS

2.1. Grant of Rights

2.1.1. Provider Use Rights for Cloud Service

SAP grants to Provider a non-exclusive, non-transferable right in the Territory to use the Cloud Service (including its implementation and configuration), in accordance with the Agreement, solely to (i) develop an integration between the Cloud Service and the Provider Service, provided purchases the Cloud Service through the Frame Order Form; (ii) demonstrate the Provider Service to potential Customers, provided Provider purchases the Cloud Service through the Frame Order Form; and

(iii) provide support for the Provider Service to Customers. Permitted uses and restrictions of the Cloud Service also apply to SAP Materials and Documentation. Provider may reproduce and distribute Documentation solely to support- permitted use of the Cloud Service.

2.1.2. Cloud Service Subscription

SAP grants to Provider a non-exclusive, non-transferable right in the Territory to use the Cloud Service solely in conjunction with the provision of the Provider Service to support Customers' and their Affiliates' internal business operations, in accordance with the Agreement, in particular the product-specific Supplement, and the Documentation. Provider will provide access to the Cloud Service to Customers only in accordance with the Agreement, including, without limitation, the restrictions listed in Sections 2.2, 2.3 and 3.1 of these MSP GTCs.

2.1.3. License to SAP

Provider grants SAP a worldwide, royalty free, non-exclusive license to (i) use, copy, reproduce, transmit, publish, publicly perform, publicly display, distribute and access the Provider Service and associated Data; and (ii) copy, reproduce, transmit, display, and distribute Data and Provider-provided marks, names, and logos, in each case solely to provide and support the Cloud Service and as set out in the Agreement.

2.1.4. Provider Affiliates

SAP grants to Provider a non-exclusive, non-transferable right to authorize Provider's Affiliates to market the Cloud Service to Customers as part of the Provider Service. Provider will ensure that any Affiliate it authorizes to market subscriptions to the Cloud Service is established in the Territory and only markets subscriptions to the Cloud Service in compliance with, and pursuant to written terms no less protective of SAP, than the terms of this Agreement. Provider shall be liable to SAP for any breach of the terms of such agreement with the Provider Affiliates to the same extent as Provider would be liable to SAP under this Agreement for such a breach by Provider. No entities other than Provider Affiliates established in the Territory may be used for marketing the Cloud Service without SAP´s express written consent.

2.2. **Restricted License**

The Cloud Service may only be used to process Data for the purpose of providing the Provider Service.

2.3. **Database Restriction**

Other than communication (including data transfers) via application level APIs between a Cloud Service and software applications running on any third party runtime database acquired from SAP or its Affiliates, or any of their respective resellers or distributors, the Cloud Service will not access, directly or indirectly, in any manner whatsoever, any third party runtime database(s).

2.4. **Provisioning**

SAP provides access to the Cloud Service as described in the Agreement. SAP makes the Cloud Service available and is responsible for its operation.

2.5. **Security**

SAP will implement and maintain appropriate technical and organizational measures to protect the personal data processed by SAP as part of the Cloud Service as described in the Data Processing Agreement incorporated in the Order Form in compliance with applicable data protection law. Provider will maintain reasonable security standards for its Authorized Users' use of the Cloud Service. Provider will not conduct or authorize penetration tests of the Cloud Service without advance written approval from SAP. SAP will protect Data in accordance with the Security Measures. "Security Measures" means the technical and organizational measures for the relevant Cloud Service published on https://www.sap.com/about/trust-center/agreements/SecurityMeasures.

Provider is also responsible for the following security requirements:

a) monitoring technical details in applicable release notes, security notes, and Documentation;

b) maintaining proper security configurations, authentications, and authorizations for each Authorized User; and,

c) enabling and configuring certain security features applicable to Provider's use of the Cloud Service.

2.6. **Authorized Users**

Provider may permit Authorized Users to access the Cloud Service solely for Customer's and its Affiliates' internal business operations in conjunction with the Provider Service. Cloud Service usage is limited to the Usage Metrics and volumes stated in the Order Form. Access credentials for the Cloud Service may not be used by more than one individual, but may be transferred from one individual to another if the original user is no longer permitted to use the Cloud Service. Provider is responsible for breaches of the Agreement caused by Authorized Users.

2.7. **Verification of Use**

Provider will monitor use of the Cloud Service by Authorized Users and report any use in excess of the Usage Metrics and volume to SAP in writing. In this case, Provider must sign an agreement with SAP that documents the additional use and additional fees. Such fees shall accrue from the date the excess use began. SAP may monitor use to verify compliance with Usage Metrics, volume and the Agreement. SAP will be permitted to forward any data regarding use in excess of the Usage Metrics, volume and the Agreement to Provider.

2.8. **Suspension of Cloud Service**

If (i) it is sufficiently probable that the continued use of the Cloud Service in breach of contract by the Authorized Users, or a third party using their access data may result in material harm to the Cloud Service, its users, other SAP customers, or the rights of third parties, in such a way that immediate action is required to avoid damages, or (ii) as required by mandatory applicable law, SAP can temporarily limit or suspend Provider's or Customer's use to the Cloud Service to prevent damages. SAP will inform Provider about the limitation or suspension without undue delay. If circumstances allow, Customer shall be informed in advance in writing or by email. SAP will limit a suspension or limitation in time and scope as reasonably possible under the circumstances.

2.9. **Third Party Web Services**

The Cloud Service may include integrations with web services made available by third parties (other than SAP, SAP SE or its Affiliates) that are accessed through the Cloud Service and subject to terms and conditions with those third parties. These third party web services are not part of the Cloud Service and the Agreement does not apply to them. SAP is not responsible for the content of these third party web services.

2.10. **Mobile Access to Cloud Service**

Authorized Users may access certain Cloud Services through mobile applications obtained from third-party websites such as Android or Apple app stores. The use of mobile applications may be governed by the terms and conditions presented upon download/access to the mobile application and not by the terms of the Agreement. SAP is not responsible for these third party websites.

2.11. **On-Premise Components**

The Cloud Service may include on-premise components that can be downloaded and installed (including updates) by Provider. The System Availability SLA does not apply to these components. Provider may only use the on-premise components during the Subscription Term and solely to support permitted use of the Cloud Service.

2.12. **China**

The Cloud Service is provisioned at the location outside of mainland China, by non-Chinese entities, and it is solely Provider's obligation to ensure use of the Provider Service comply with Chinese laws. Provider and its Customers are solely responsible for obtaining Internet connection to the Cloud Service from within China and SAP is not providing any form of telecommunication service under the Agreement (and any representation or warranty to such effect is disclaimed).

2.13. **Delegation**

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

3. MINIMUM TERMS; ENFORCEMENT OF RIGHTS

3.1. **Minimum Terms**

Each Customer must have executed a Customer Agreement directly with Provider. The Customer Agreement must be binding on each Customer under applicable laws and regulations in the countries in which Provider is providing access to the Cloud Services. The Customer Agreement must contain terms no less protective of SAP than the Agreement including without limitation the terms required under this Section 3.1, the applicable Order Form, and the Supplement. The Minimum Terms will include Provider's rights to perform audits on Customer's usage of the SAP Materials. Provider will not make any representations or warranties regarding the functionality or performance of the Cloud Service that conflict with the Agreement.

The Customer Agreement will grant SAP, SAP SE and its Affiliates and subcontractors a non-exclusive right to process and use Data to provide and support the Cloud Service as set forth in the Agreement. SAP shall be named as a third-party beneficiary to each Customer Agreement.

3.2. **Enforcement of Rights**

If any third party is accessing, marketing or selling, the Cloud Service without authorization, Provider will cooperate with SAP in enforcement and protection of SAP's rights. At the request of SAP, Provider will temporarily stop selling the Cloud Service to any such third party unless and until such unauthorized activity is resolved to SAP's satisfaction.

4. MODIFICATIONS

4.1. **Scope**

SAP may modify the Cloud Service (including support services, Maintenance Windows and Major Upgrade Windows), provided that SAP shall not materially degrade the core functionality of the Cloud Service during the Subscription Term.

4.2. **Modification Notices**

SAP shall provide Provider with adequate advance notice of modifications to the functionality of the Cloud Service in accordance with Section 16.2, except for any change to a Maintenance Window or Major Upgrade Window which shall be in accordance with the Service Level Agreement.

4.3. **Provider Termination**

If a modification materially impairs Provider's justified interests so that Provider can no longer reasonably be expected to adhere to the Agreement, Provider may terminate its subscription to the affected Cloud Service by providing written notice to SAP within 1 month of SAP's applicable notice. If SAP does not receive timely notice, Provider is deemed to have accepted the modification.

5. PRICING, PAYMENT AND TAXES

5.1. **Pricing of the Provider Service**

Provider will independently establish the price payable by its Customers for the Cloud Service. Pricing for the Cloud Service may not be itemized separately from the Provider Service, unless otherwise agreed to in writing by SAP in advance.

5.2. **Payment**

5.2.1. Provider will pay to SAP all fees due within thirty (30) days of date of invoice. SAP will invoice Provider as specified in the applicable Order Form, unless Provider is notified otherwise by SAP. Purchase orders are for administrative convenience only. SAP may issue an invoice and collect payment without a corresponding purchase order.

5.2.2. Any fees not paid when due shall accrue interest at the statutory interest rate. If Provider is still in default of payment after a reasonable extension period set by SAP has passed SAP may suspend Provider's and its Customers' use of the SAP Cloud Service until payment is made. SAP shall provide Provider with prior notice before any such suspension.

5.2.3. Provider is entitled to offset only claims that are uncontested or ordered by a court of law and to withhold payment or retain possession only to secure claims that are uncontested or ordered by a court of law. This also applies in case SAP suspends access to the SAP Cloud Service for a particular Customer for breach of the Minimum Terms. Payments to SAP are not dependent upon completion of any implementation or other services.

5.3. **Fee Increases**

Except where agreed otherwise in the respective Order Form SAP may increase fees as follows:

5.3.1. SAP may, after prior notification of the Provider and with a notice period of two (2) months, adjust the ongoing fee at its own discretion with effect from the beginning of each renewal of the Subscription Term ("Renewal Term") as follows:

5.3.2 SAP may change the fee to the extent that the index referred to below in Section 5.3.3. has changed (Adjustment Range). If this is the first fee adjustment, the adjustment range is determined by the index development between the index level published at the time of signing the Order Form and the index level last published at the time of the adjustment declaration. If a fee adjustment has already taken place earlier, the adjustment range is defined by the index development between the index level last published at the time of the previous adjustment declaration and the index level last published at the time of the new adjustment declaration.

5.3.3 For the determination of the adjustment range, the index of monthly nominal salaries of fulltime employees in Switzerland in the information technology services sector ("Schweizerischer Nominallohnindex des Bundesamtes für Statistik der Löhne für den Wirtschaftszweig "Erbringung von

Dienstleistungen der Informationstechnologie" (NOGA Lohnindex Gruppe JC 62-63)") (currently published by the Swiss Federal Statistics Office (Bundesamt für Statistik, "BfS") is to be used. If that index is discontinued, the applicable index will be the index published that most closely reflects changes in average gross monthly salaries in that sector.

5.3.4 If the Provider does not terminate the Order Form at the end of the previous contract term at the latest one month before the end of the previous contract term (special right of termination), the changed fee shall be deemed agreed for the renewal period in the event of automatic renewal of the Cloud Services. SAP shall point this out in the adjustment notification.

5.4. **Taxes**

All fees and other charges are subject to applicable Taxes, which will be charged in addition to fees under the Agreement.

6. ORDERS

6.1.1. Provider must execute an Order Form to order any subscription to a Cloud Service for a Customer. The Order Form will include such information as required by SAP for Cloud Service subscriptions. Provider will order a Cloud Service from SAP by using and filling out completely such forms and minimum order requirements as SAP may prescribe from time to time and must comply with any then-current order process for the specific Cloud Service. Where applicable, Provider agrees to use the electronic means provided by SAP for placing orders.

6.1.2. All Cloud Services ordered by Provider under an Order Form shall be Allocated to the Customer named in that Order Form and not to Provider, except for those Cloud Services ordered under the Frame Order Form. Authorized Users required by Provider to operate the subscribed Cloud Services for that named Customer are part of the Allocation to Customer, and usage by Provider is on behalf of the Customer, with the exception of the Frame Order Form. All Cloud Services ordered by Provider under then Frame Order Form shall be Allocated to Provider for non-productive use and not for delivering Cloud Services to any Customer, unless otherwise expressly agreed.

6.1.3. All orders under any Order Form are non-cancellable and fees are non-refundable.

6.1.4. SAP reserves the right to reject an Order Form in its sole and reasonable discretion, if Provider is in violation of this Agreement, or SAP reasonably believes that SAP´s Intellectual Property Rights may not be respected by the Customer.

6.1.5. Provider may order additional Usage Metrics during the term of a Cloud Service subscription by executing an addendum or additional Order Form, as applicable, which shall then become an integral part of the original Order Form. The Subscription Term of each addendum or additional Order Form shall be coterminous with the then-current Subscription Term set out in the original Order Form, and all fees shall be prorated accordingly. The first Order Form for a Customer and each addendum or additional Order Form shall have the same Subscription Renewal Term.

6.1.6. The Subscription Term is as stated in the Order Form. Each Order Form initially runs for the Subscription Term defined therein. Except as otherwise agreed in an Order Form, at the end of the initial Subscription Term the Order Form shall automatically renew for terms equal in length to the immediately preceding Subscription Term (if such term is thirty-six (36) months or less) or for one (1) year (if such term is longer than thirty-six (36) months), unless the Order Form is terminated by one of the parties in accordance with section 6.1.7.

6.1.7. Ordinary termination of the Order Form is excluded during the Subscription Term. Provider may terminate an Order Form by giving notice at least one month in advance of the expiration of the current Subscription Term. SAP may terminate an Order Form by giving notice at least six months prior to the expiration of the current Subscription Term. Extraordinary termination rights and the right to termination for cause remain unaffected.

7. SUPPORT

Support for the Cloud Service will be provided by SAP to Provider as described in the SAP Cloud MSP Support Schedule and the Agreement. Provider shall provide support to Customers for the SAP Cloud Service.

8. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

8.1. **SAP Ownership**

Except for any rights expressly granted to Provider under the Agreement, SAP, SAP SE, their Affiliates or licensors own all Intellectual Property Rights in and any derivative works of:

a) the Cloud Service;

b) SAP Materials;

c) Documentation; and

d) any services, design contributions, related knowledge or processes, whether or not developed for Provider.

Provider shall execute such documentation and take such other steps as is reasonably necessary to secure SAP's or SAP SE's title over such rights.

8.2. **Provider Ownership**

Subject to SAP's underlying Intellectual Property Rights as described in Section 8.1, Provider owns all Intellectual Property Rights in and related to the Provider Service, design contributions, related knowledge or processes, and any derivative works of them conceived or created by Provider ("**Provider IP**"). All rights to the Provider IP not expressly granted to SAP are reserved by Provider.

8.3. **SAP Partner Logo; Trademarks**

8.3.1. SAP grants to Provider a revocable, nonexclusive, non-sublicensable, non-transferable license to use the SAP partner logo ("**SAP Partner Logo**") as set forth in the SAP PartnerEdge Branding and Logo Usage Guideline for Partners (the "**Guidelines**"). No other license to any other Trademark is provided by SAP under this Agreement. Upon SAP's request, Provider will provide sample uses of the SAP Partner Logo.

8.3.2. Use of the SAP Partner Logo must conform to the Guidelines or such other SAP trademark use requirements that SAP may provide. Provider will not use any Trademark, in whole or in part, as part of any Provider mark, name, logo, and/or domain name.

8.3.3. Provider agrees not to register any Trademark (in whole or in part), or any mark confusingly similar to a Trademark. Provider will not contest the validity of the SAP Partner Logo. Provider will reasonably cooperate with SAP, at SAP's expense, in the defense and protection of the SAP Partner Logo. Provider acknowledges the value of the goodwill in the Trademarks, including the SAP Partner Logo, and that SAP is the exclusive beneficiary of such goodwill.

8.3.4. Provider will not rebrand the Cloud Service under its own marks, names or logos without SAP's prior written consent.

8.4. **Confidential Information**

8.4.1. Definition of Confidential Information. As used herein, "Confidential Information" means all information which disclosing party protects against unrestricted disclosure to others, furnished by the disclosing party or its representatives to the receiving party or its representatives in writing or in other tangible form that the disclosing Party or its representatives designates as confidential and/or proprietary at the time of disclosure.

8.4.2. Handling of Confidential Information. Where the Confidential Information has not been reduced to written or other tangible form at the time of disclosure, and such disclosure is made orally or visually, the disclosing party agrees to identify it as confidential or proprietary at the time of disclosure and to summarize the Confidential Information in writing and deliver such summary within thirty (30) calendar days of such oral or visual disclosure. Any disclosures not reduced to written or other tangible form at the time of disclosure, and which were disclosed prior to the Effective Date of this Agreement may be reduced into writing within thirty (30) calendar days of the Effective Date of this Agreement.

8.4.3. Additional Provisions. 1) Neither party shall identify information as confidential or proprietary that is not in good faith believed to be confidential or proprietary. 2) The Parties will notify each other within 90 days from disclosure if they discover that any trade secret or other confidential information has been unintentionally or accidentally disclosed. Upon any such notice, the parties will work in good faith to so mark the disclosed information as confidential.

8.4.4. Use of Confidential Information. The receiving party will:

a) maintain all Confidential Information of the disclosing party in strict confidence, taking steps to protect the disclosing party's Confidential Information substantially similar to those steps that the receiving party takes to protect its own Confidential Information, which shall not be less than a reasonable standard of care;

b) not disclose or reveal any Confidential Information of the disclosing party to any person other than its Representatives whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under obligations of confidentiality substantially similar to those in this Section 8.4.

c) not use or reproduce any Confidential Information of the disclosing party for any purpose outside the scope of the Agreement; and

d) retain any and all confidential, internal, or proprietary notices or legends which appear on the original and on any reproductions.

Provider shall not disclose any information about the Agreement, its terms and conditions, the pricing or any other related facts to any third party.

Confidential Information of either party disclosed prior to execution of the Agreement will be subject to Section 8.4.

8.4.5. Compelled Disclosure. The receiving party may disclose the disclosing party's Confidential Information to the extent required by law, regulation, court order or regulatory agency; provided, that the receiving party required to make such a disclosure uses reasonable efforts to give the disclosing party reasonable prior notice of such required disclosure (to the extent legally permitted) and provides reasonable assistance in contesting the required disclosure, at the request and cost of the disclosing party. The receiving party and its Representatives shall use commercially reasonable efforts to disclose only that portion of the Confidential Information which is legally requested to be disclosed and shall request that all Confidential Information that is so disclosed is accorded confidential treatment.

8.4.6. Exceptions. The restrictions on use or disclosure of Confidential Information will not apply to any Confidential Information that: (i) is independently developed by the receiving party without reference to the disclosing party's Confidential Information, (ii) has become generally known or available to the public through no act or omission by the receiving party, (iii) at the time of disclosure, was known to the receiving party free of confidentiality restrictions, or (iv) is lawfully acquired free of restriction by the receiving party from a third party having the right to furnish such Confidential Information, or (v) the disclosing party agrees in writing is free of confidentiality restrictions.

8.4.7. Publicity. Neither party will use the name of the other party in publicity activities without the prior written consent of the other, except that Provider agrees that SAP may use Provider's name in customer or partner listings or quarterly calls with its investors or, at times mutually agreeable to the parties, as part of SAP's marketing efforts (including reference calls and stories, press testimonials, site visits, SAPPHIRE participation). Provider agrees that SAP may share information on Provider with its Affiliates for marketing and other business purposes and that it has secured appropriate authorizations to share Provider employee contact information with SAP SE and its Affiliates.

8.4.8. Destruction and Return of Confidential Information. Upon the disclosing party's request, the receiving party shall promptly destroy or return the disclosing party's Confidential Information, including copies and reproductions of it. The obligation to destroy or return Confidential Information shall not apply:

a) if legal proceedings related to the Confidential Information prohibit its return or destruction, until the proceedings are settled or a final judgment is rendered;

b) to Confidential Information held in archive or back-up systems under general systems archiving or backup policies; or

c) to Confidential Information the receiving party is legally entitled or required to retain.

8.4.9. **Residuals**

Either party has the right to independently develop software or services that would compete with the other party's software or services without the use of the other party's Confidential Information. Either party will be free to use for any purpose the Residuals resulting from access to or work with the disclosing party's Confidential Information. Neither party will 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, nothing in this subsection will be deemed to grant to either party a license under the other party's copyrights or patents. Nothing in this Agreement shall prohibit or restrict either party's right to develop, make, use, market, license or distribute products or services similar to or competitive with those of the other party disclosed in the Confidential Information as long as it shall not thereby breach this Agreement. Each party acknowledges that the other may already possess or have developed products or services similar to or competitive with those of the other party disclosed in the Confidential Information.

8.5. **Feedback**

Provider may at its sole discretion and option provide SAP with Feedback. In such instance, SAP, SAP SE and its Affiliates may in their sole discretion retain and freely use, incorporate or otherwise exploit such Feedback without restriction, compensation or attribution to the source of the Feedback.

8.6. **Acceptable Use Policy.** Unless stated otherwise in the Agreement, Provider (or any third-party acting on its behalf) shall not:

a) copy, translate, disassemble, decompile, make derivative works, or reverse-engineer the Cloud Service or SAP Materials (or attempt any of the foregoing) (except as permitted by mandatory law or expressly stated otherwise in the Agreement);

b) use the Cloud Service in breach of applicable law, in particular enter, store, or transfer any content or data on or via the Cloud Service that is unlawful or infringes any Intellectual Property Rights;

c) use the Cloud Service or SAP Materials for training, developing, or enhancing machine learning, artificial intelligence models, or similar technologies, except where expressly permitted by SAP;

d) circumvent or endanger its operation or security of the Cloud Service; or

e) remove SAP's copyright and authorship notices.

f) use Cloud Services or SAP Materials in a manner that exceeds the rights granted under the Agreement, including for the purpose of developing, commercializing, or making available any product or service that replicates, simulates, or competes with the Cloud Service or any SAP Materials. For the avoidance of doubt, this shall not curtail Provider's right to independently develop their own products or services, provided such development does not rely on Cloud Service or SAP Materials.

9. THIRD PARTY CLAIMS

9.1. If a third party claims that Provider's or its Customers use of the Cloud Service or SAP Materials in accordance with the terms and conditions of the Agreement infringes its intellectual property rights, Provider must fully inform SAP in writing without delay. If Provider ceases to use the contractual Cloud Service or SAP Materials to mitigate loss or for other just reason, Provider must notify the third party that such cessation does not imply any recognition of the claimed infringement. Provider shall conduct court proceedings with the third party only with SAP's agreement or shall authorize SAP to assume sole conduct of the dispute. This applies mutatis mutandis in cases where a third party makes claims against SAP that are due to acts by Provider, the Authorized Users, or third-party provider access.

10. TERM AND TERMINATION

10.1. **Term**

This Agreement begins on the Effective Date of the MSP Agreement and shall continue for a term as described in the MSP Agreement, unless otherwise earlier terminated as set forth herein.

10.2. **Termination**

A party may terminate the Agreement: (i) for cause upon 30 days' written notice of the other party's material breach of any provision of the Agreement, unless the breaching party has cured the breach during such 30 day period; (ii) as permitted under Section 4.3 or 14.3 (with termination effective thirty days after receipt of notice in each of these cases), or (iii) immediately if (x) the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or otherwise materially breaches Sections 8.4, 11 or 12 or (y) Provider fails to (1) comply with information requests required by SAP to carry out due diligence checks and any subsequent due diligence renewal requests and/or audits, or (2) meet SAP's partner due diligence requirements.

10.3. **Wind Down**

If this Agreement is terminated other than due to a termination by SAP under Section 10.2 and so long as Provider continues to comply with the terms and conditions of the Agreement, those Cloud Services subscriptions that were still valid at the point in time when the Agreement is terminated will not automatically terminate but will remain in place and SAP will grant Provider a wind-down period after the termination of the Agreement but such wind down period shall not exceed 3 years from the termination date of the Agreement ("Wind-Down Period"). During the Wind-Down period, the Agreement will continue except as set out below:

a) the Subscription Term of a Cloud Service will not extend automatically if the Subscription Renewal Term would end later than the Wind-Down Period; and

b) Provider may order an increase to a Usage Metric for those subscriptions that were still valid upon the termination date of the Agreement but may not execute any new Order Form for Cloud Services for a new Customer. Notwithstanding the foregoing, SAP may designate that the subscription for any Cloud Service supplied to SAP by a third party may not renew during the Wind-Down Period.

10.4. **Refund and Payment**.

For termination by Provider under Section 10.2 or 14.3.2, Provider will be entitled to:

a) a pro-rata refund in the amount of the unused portion of prepaid fees for the terminated subscription calculated as of the effective date of termination (unless such refund is prohibited by Export Regulations); and

b) a release from the obligation to pay fees due for periods after the effective date of termination.

10.5. **Consequences of Termination for Provider's Breach**

If the Agreement is terminated due to Provider's breach, then SAP may elect for the Agreement to continue as described in Section 10.3 above or may terminate the Agreement (including all Order Form(s) issued hereunder) without any Wind-Down Period, or just the applicable Order Form and approach the Customer directly about commencing a direct relationship solely for the Cloud Service with SAP or transfer the relationship to another SAP partner. Termination of the Agreement or any Order Form shall not relieve Provider of its outstanding payment obligations.

10.6. **Effect of Expiration or Termination.**

Upon the effective date of expiration or termination of the Agreement or, if applicable, after the expiration of the Wind-down Period:

a) Provider's right to use the Cloud Service and all Confidential Information, or identify itself as an SAP partner, will end;

b) Confidential Information of the disclosing party will be retained, returned or destroyed as required by the Agreement or applicable law; and

c) the parties agree that communications to Customers and any publications/press releases regarding such termination will be mutually agreed upon, in writing, prior to distribution.

10.7. **Survival**. Sections 1, 5.2, 5.4, 8, 9, 10.3, 10.4, 10.5, 10.6, 10.7, 11, 12,15 and 16 will survive the expiration or termination of the Agreement.

11. TRADE COMPLIANCE

Each Cloud Service, Documentation and SAP Materials are subject to Export Laws. SAP and Provider shall comply with Export Laws in the performance of the Agreement. Provider, its Affiliates, and Authorized Users shall not use, directly or indirectly export, re-export, release, or transfer the Cloud Service, Documentation or SAP Materials in violation of Export Laws. Provider may not permit the use of the Cloud Service, Documentation or SAP Materials to any end user with whom transactions are prohibited by Export Laws. Provider, its Affiliates, and Authorized Users shall not access nor use the Cloud Service, Documentation or SAP Materials in or from any country or region in which SAP products and services are not available for use, direct or indirect export, re-export, release or transfer, as listed on https://www.sap.com/about/agreements/export-statements.html.

Upon SAP's request, Provider shall provide information and documents necessary to support SAP in obtaining an export authorization for the provisioning of the Cloud Service, Documentation and/or SAP Materials. Upon written notice to Provider SAP may terminate Provider's subscription to the affected Cloud Service if Export Laws prohibit SAP from providing the Cloud Service, Documentation and/or SAP Materials to Provider. Provider is solely responsible for compliance with Export Laws related to Data, including obtaining any required export authorizations for Customer Data. Provider will take all precautions to ensure that any permitted distributor, reseller and Customer complies with the Export Laws.

12. PARTNER COMPLIANCE SUPPLEMENT

Provider agrees to comply in full with the Partner Compliance Supplement throughout the term of the Agreement.

13. CUSTOMER, PROVIDER AND PERSONAL DATA

13.1. As between the Parties, Provider retains all rights in and related to the Data. SAP may use Provider-provided trademarks solely to provide and support the Cloud Service and for the purposes of this Agreement. Provider shall be responsible for the Data and entering it into the Cloud Service. Provider grants to SAP (including SAP SE, its Affiliates and subcontractors) a non-exclusive right to process and use Data to provide and support the Cloud Service and as set out in the Agreement.

13.2. Provider will collect and maintain all personal data contained in the Data in compliance with applicable data privacy and protection laws.

13.3. During the Subscription Term, Provider can access the Data at any time. Provider may export and retrieve the Data in a standard format with such structures, or descriptions giving meaning to data as are technically necessary to interpret that data for Provider's and its Affiliates' permitted use of the Cloud Services. Export and retrieval may be subject to technical limitations (as e.g. described in the documentation), in which case SAP and Provider will find a reasonable method to allow Provider access to the Data.

13.4. Before the Subscription Term expires, Provider may use SAP's self-service export tools (as available) to perform a final export of Data from the Cloud Service.

13.5. SAP will delete the Data remaining on servers hosting the Cloud Service within 120 days from termination or expiration of the Subscription Term unless retention is permitted under the Agreement or required by applicable law. Retained data is subject to the confidentiality provisions of the Agreement.

13.6. In the event of third party legal proceedings relating to the Data, SAP will cooperate with Provider and its Customers and comply with applicable law (both at Provider's expense) with respect to handling of the Data.

13.7. Upon Provider's reasonable written request received by SAP at least 1 month prior to end of the Subscription Term, SAP will provide limited access to the Cloud Service for no more than 1 month past termination or expiry of the Subscription Term strictly as needed for Provider to export Data ("Retrieval Period"). The Retrieval Period is subject to the following:

a) Provider agrees that even if access is not technically limited to exporting Data, Provider shall not utilize the Cloud Service for any other purpose during the Retrieval Period;

b) If Provider uses the Cloud Service for anything other than exporting Data during the Retrieval Period, Provider agrees to pay SAP's then-current prorated price list rates for the entire Retrieval Period; and

c) Provider's access during the Retrieval Period shall continue to be governed by its obligations under the Agreement.

14. WARRANTIES AND DISCLAIMER

14.1. Warranties

SAP warrants, for the Subscription Term, that the Cloud Service meets the specifications agreed in the Supplement and the Documentation and that the Cloud Service, where used by Provider as contractually agreed, does not infringe any third- party right. SAP will remedy any defects as to quality and defects in title in the Cloud Service in accordance with section 14.2. If SAP has failed to remedy the defect at the end of an additional time period of a reasonable length set in writing by Provider, and the suitability of the Cloud Service is consequently reduced to a more than just insignificant degree, Provider has the right of termination, which must be communicated in writing. If the suitability of the Cloud Service for use in accordance with the Agreement is reduced to a more than just insignificant degree, Provider is entitled to reduce the remuneration by an appropriate amount. Section 15. (Limitation of Liability) applies for wasted expenditure and damage compensation due to defects.

Provider must give notice of every breach to SAP in writing without delay and with a detailed description of the reason. Warranties for the Cloud Service apply accordingly to the support services.

14.2. Remedies

SAP shall remedy defects in the Cloud Service by providing Provider with either a Cloud Service, that is free of defects or, at its election, by eliminating the defects. One of the ways SAP may eliminate a defect is to indicate to Provider a reasonable way to avoid the effect of the defect. In the event of defects in title, SAP shall elect to (i) procure for Provider the right to use the Cloud Service in accordance with the contract, or (ii) replace the Cloud Service or change it such that the accusation of breach no longer stands, whereby Provider's contractual use is not unreasonably impacted, or (iii) terminate the Order Form to this extent and reimburse the Provider's remuneration paid in advance for the term remaining after the date of termination, and to pay wasted expenditure and/or damages subject to the limitations of section 15. (Limitation of Liability).

14.3. SLA

14.3.1 Unless stated otherwise in the applicable product-specific Supplement, SAP will maintain an average monthly system availability for the production system of the Cloud Service as defined in the applicable service level agreement referenced in the Order Form ("SLA"). In the event of SAP's breach of the SLA, Provider may claim a service credit as detailed in the SLA in the form of a contractual penalty (Article 160 et seqq. Swiss Code of Obligations). Provider will follow SAP's posted credit claim procedure. Once the validity of the service credit is confirmed by SAP in writing (email permitted), the credit will be applied to a future invoice for the Cloud Service or Provider may request a refund for the amount of the credit if no future invoice is due. Service credits paid will be offset against any damages claims and any claims for wasted expenditures.

14.3.2. In the event SAP fails to meet the SLA (i) for 4 consecutive months, or (ii) for 5 or more months during any 12 months' period, or (iii) at a system availability level of at least 95% for 1 calendar month, Provider may terminate its subscriptions for the affected Cloud Service by providing SAP with written notice within 30 days after the failure. Termination will become effective at the end of the calendar month in which SAP received the termination notice.

15. LIMITATION OF LIABILITY

15.1. SAP is liable in contract, tort, or otherwise for loss or wasted expenditure subject always as follows:

15.1.1. In cases of liability for personal injury or liability under the Swiss Product Liability Act (Produktehaftpflichtgesetz), and for damages caused by intent or gross negligence, SAP shall be fully liable.

15.1.2. In all other cases, SAP's liability shall be limited according to sections 15.1.3 and 15.1.4 below.

15.1.3. Liability in cases under section 15.1.2 is limited to CHF 100'000 per incident, and to a total per contract year of CHF 300'000.

15.1.4. To the extent permitted by law, SAP excludes liability for indirect and consequential loss such as loss of profit, unachieved savings, interruptions to business or third-party damage.

15.2. Contributory fault (e.g. breach of section 4 duties) may be claimed.

15.3. Any limitations to the liability and obligations of SAP according to this Section 15 will also apply for the benefit of SAP SE and any of its Affiliates and their respective licensors.

16. MISCELLANEOUS

16.1. Amendments and additions to the Agreement and any contractually relevant notices as well as notices influencing a legal relation, such as termination notices, reminders, or notices to set time limits, require written form. The foregoing provision also applies to any waiver of the written-form requirement. The written form requirement can be met by exchange of letters or in the following electronic formats: facsimile transmission, e-mail transmission with scanned signatures, SAP Store, Docusign™ or any equivalent electronic process provided by SAP.

16.2 SAP may provide notice of modifications under section 4. via Documentation, release notes or publication. System notifications and information from SAP relating to the operation, hosting or support of the Cloud Service can also be provided within the Cloud Service, to the contact person named in the Order Form or made available via the SAP Support Portal.

16.3 Without SAP's prior written consent Provider may not assign, delegate or otherwise transfer the Agreement (or any of its rights or obligations) to any third parties. SAP may assign the Agreement to SAP SE or any of its Affiliates.

16.4 SAP may subcontract parts of the Cloud Service to third parties. SAP is responsible for breaches of the Agreement caused by its subcontractors.

16.5 Any delay in performance (other than for the payment of amounts due) caused by conditions beyond the reasonable control of the performing party is not a breach of the Agreement. The time for performance will be extended for a period equal to the duration of the conditions preventing performance.

16.6 The Agreement and any claims (including any non-contractual claims) arising out of or in connection with this Agreement will be governed by the substantive laws of Switzerland. The United Nations Convention on Contracts for the International Sale of Good and any conflicts of law principles will not apply.

16.7 **The sole place of jurisdiction for all differences arising out of or in connection with the Agreement shall be Zurich, Switzerland.**

16.8 Records. Provider will maintain accurate and transparent books, records and accounts in accordance with record retention policies sufficient to accurately account for transactions and to demonstrate compliance with applicable laws and regulations. Financial books, records, and statements shall be kept in reasonable detail, accuracy and fairly reflect the disposition of assets and transactions. The contents of the books and records and related supporting documentation should be sufficient such that a third party could assess the business purpose of the transaction, including (as applicable) the identification of any third parties involved. Provider must accurately document all transactions related to this Agreement and prevent side agreements contradicting the terms of the Agreement and the commitments made by Provider towards SAP, whether oral or written. Where Provider becomes aware of any such side commitments, Provider must promptly notify SAP of such commitments in writing.

17. CHANGES TO TERMS

17.1. Notwithstanding anything in this Agreement, SAP reserves the right to change the Price List without prior written notice. Any change to the Price List will become effective on the date indicated in the Price List or if no such date is indicated, upon the earliest of (i) it being published on SAP's partner-dedicated website or (ii) it otherwise being provided to Provider. With regard to any order for an SAP Cloud Service, the Price List that was effective on that point in time when Provider places a completely and correctly filled-out order for the relevant SAP Cloud Service with SAP is decisive. Existing quotes provided by SAP to Provider will be honored for the time that the quote is valid or in case the quote does not contain a validity date for the time during which the quote can reasonably be expected to be accepted.

17.2. Any change of any or all parts of the Agreement that SAP reasonably believes to be beneficial to Provider may, at SAP's discretion, become effective after three months upon notice by SAP ("**Change Period**"). Such changes include, but are not limited to, increased discounts, promotions and program enhancements. If the justified interests of Provider are negatively affected by any of these changes, Provider is entitled to terminate this Agreement in writing at least five days prior to and with effect on the expiration of the applicable Change Period. If Provider elects to terminate within the applicable Change Period, the Wind-Down Period (as defined in the MSP GTCs) shall commence on the expiration of the applicable Change Period.