SAP MSP GENERAL TERMS AND CONDITIONS FOR SAP CLOUD SERVICES ("MSP GTC" or "GTC")
SAP MSP 一般條款與條件 (適用於 SAP 雲端服務) (以下稱「MSP GTC」或「GTC」)

1. DEFINITIONS
名詞定義

1.1. "**Affiliate**" means any legal entity in which 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 for as long as that interest is maintained.
「**關係企業**」係指 SAP SE、供應商或客戶直接或間接持有超過 50% 實體股份或表決權之任何法律實體。前述法律實體於維持上述利益期間內得視為關係企業。

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.
「**分配**」係指將根據單一訂購單購買之雲端服務訂閱分配予指定客戶提供供應商服務，或根據架構訂購單分配予供應商，名詞「分配」應根據情況作相應解釋。

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.
「**API**」係指 SAP 應用程式程式介面及其附隨貨相關紀錄文件、原始碼、工具、可執行應用程式、程式庫、副程式、小工具及其他 SAP 提供，或透過 SAP 工具或軟體 開發套件 (及所有據此所為之衍生作品及修改)，提供予供應商之素材，使其得以整合供應商服務與雲端服務，包括任何存取 API 之存取碼、認證金鑰或類似機制。

1.4. **"Authorized User"** means any individual to whom Provider or its Customer, as applicable, grants access authorization to use the Cloud Service that is an employee, agent, contractor, or representative of Provider, Customer, Provider or Customer's Affiliates, and/or Customer's or Customer's Affiliates' Business Partners.
「**授權使用者**」係指供應商或其客戶 (若適用) 授與存取授權使其可使用雲端服務的任何個人，其係為供應商、客戶、供應商或客戶之關係企業和/或客戶和客戶之關係企業的業務合作夥伴的員工、代理人、承包商或代表人。

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.
「**業務合作夥伴**」係指就客戶及其關係企業之內部業務營運相關事項，需要使用雲端服務之法律實體，其可能包含客戶及其關係企業之客戶、經銷商、服務提供商和/或供應商。

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.
當事人一方「控制權之變化」係指單一或一連串交易，而有下列情形：(i) 合約或根據合約簽訂之第一份訂購單生效日當時，控制當事人之自然人或實體，其取得該當事人 50% 以上股份或表決權 (以下稱「**控制權**」)，或 (ii) 導致一方當事人之資產全部或重要部分售出。

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.
「**Cloud MSP 支援**」係指 SAP 針對 Cloud BPO 支援附錄所述之 SAP 雲端服務，提供給供應商之現行技術支援服務。

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.
「**Cloud MSP 支援明細表**」係指 SAP Cloud BPO 支援明細表，該表附加於合約與每份訂購單。若 Cloud MSP 支援明細表以及補充條款所載支援條款有任何牴觸，應優先適用補充條款所載支援條款。

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.
「雲端服務」或**「SAP 雲端服務」**係指由 SAP 依訂購單提供以隨選方式進行保管、支援並營運之獨特解決方案。

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.
「客戶」係指供應商之客戶，為其自身內部業務營運，簽訂客戶合約，授權或使用供應商服務。客戶可能並非供應商或其關係企業。

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.
「客戶合約」係指依據客戶自供應商下訂之供應商服務，供應商與任何客戶所簽訂之書面合約。

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.
「資料」係指授權使用者簽訂雲端服務正式運作系統所涉及之任何內容、材料、資料與資訊，包括任何儲存衍生資料 (如供應商或客戶專屬報告)。資料不包括 SAP 機密資訊或 SAP 資料。

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.
「文件」係指 SAP 現有技術與功能文件，與位於 https://help.sap.com 之雲端服務，或由 SAP 視同雲端服務的一部分而提供予供應商之雲端服務相關，其中包含技術與功能規格，並不時依據合約更新。

1.14. "**Export Laws**" means all applicable import, export control and sanctions laws, including without limitation, the laws of Canada, the United States, the EU, and Germany.
「**出口法律**」係指所有適用的進口、出口管制和制裁法律，包括但不限於加拿大、美國、歐盟和德國的法律。

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.
「回饋意見」係指針對 SAP 業務和技術方向以及雲端服務之可能建立、修改、修正、改良或增強而提供之意見、評論或建議。

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.
「架構訂購單」係指根據以下目的，向供應商提供 SAP 雲端服務的訂購單：1) 用於其測試、開發及展示用途，或 2) MSP 商業補充條款或特定雲端服務的補充條款與條件中所載 (並受其額外要求所規範) 之特定雲端服務的正式運作使用。

1.17. **"Intellectual Property Rights"** means patents of any type, design rights, utility models or other similar invention rights, copyrights and related rights, trade secret, know-how or confidentiality rights, trademarks, trade names and service marks and 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, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.
「智慧財產權」係指任何類型的專利權、新式樣權、實用新型權或其他類似發明權、著作權和相關權利、營業秘密、專業知識或機密權、商標 (trade mark)、商號 (trade name) 和服務標誌，及任何其他無形財產權 (無論已註冊或未註冊)，亦包括任何前述權利於任何國家，依成文法或判例法，或依契約之申請 (或應用之權利) 和註冊，並無論其是否完善、是否當前存在或係將來提請、提交或取得均屬之。

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.
「最低義務條款」係指所有必須納入客戶合約之最低義務條款，如本 GTC 第 3.1 條所載。

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.

「**MSP**」係指「**管理服務供應商**」。若在先前簽訂的 MSP 合約中將 MSP 方案稱為 BPO 方案，則在適用情況下，任何對「BPO」的引用應解釋為「MSP」。對於本合約及本文所有附件，「MSP」和「BPO」應視為同義詞且得互換使用。

1.20. **"Order Form"** means the ordering document for a Cloud Service that is governed by the MSP Agreement and the documents listed in its Section 2.1.
「**訂購單**」係指受 MSP 合約及其第 2.1 條所列文件規範的雲端服務訂購文件。

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.
「**合作夥伴法規遵循補充條款**」係指附加在合約與每份訂購單之合作夥伴法規遵循補充條款，由 SAP 發布於其外部合約網站。若合作夥伴法規遵循補充條款以及 GTC 有任何牴觸，應優先適用合作夥伴法規遵循補充條款所載條款。

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.
「**價目表**」係指針對適用之 PMC 和 BPO 供應商列出適用之軟體、服務與價格或費用，而由 SAP 所發出之任何價目表。

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.
「**供應商服務**」係指供應商之託管線上服務，且其與 SAP 雲端服務搭配使用。其中可能包含供應商業務流程外包服務，其係由供應商承擔客戶業務流程之責任。供應商服務係由供應商透過網路遠端存取，提供予位於地域內客戶。

1.24. **"Representatives"** means a party's Affiliates, employees, contractors, sub-contractors, legal representatives, accountants, or other professional advisors.
「**代表人**」係指當事方的關係企業、員工、承包商、分包商、法務代表、會計師或其他專業顧問。

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.
「**殘留資訊**」係指曾存取機密資訊的人員未借助外力且非特意保留在其記憶的無形資訊，包括資訊所含之想法、概念、專業知識及技術，而只要該人員非出於複製記憶中相同資訊目的而刻意記憶有關資訊。

1.26. **"SAP"** means the SAP entity identified in the MSP Agreement that is a party to this Agreement.
「**SAP**」係指 MSP 合約內標明之 SAP 實體，為本合約之某一當事方。

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.
「**SAP 資料**」或「**雲端資料**」係指由 SAP 於依合約進行履約過程中 (獨立或與供應商合作) 所提供或開發之任何資料或資訊，其包含向供應商或其客戶提供任何支援或專業服務。SAP 資料包括但不限於文件、統計報告、使用測量及 SAP 內容，其描述、架構或賦予雲端服務中資料的意義，例如資料模型、中繼資料、表格說明，以及類似前述之資料和衍生物。SAP 資料不包括資料、供應商機密資訊或雲端服務。

1.28. **"SAP SE"** means SAP SE, the parent company of SAP.
「**SAP SE**」係指 SAP 之母公司 SAP SE。

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.
「**訂閱條款**」係指訂購單所載之雲端服務初始訂閱期限以及 (若適用) 任何續約訂閱期限。

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.

「**稅捐**」係指所有交易稅、徵稅和類似費用 (以及任何相關的利息和處罰)，例如聯邦、州或地方銷售稅、增值稅、商品及服務稅、使用稅、財產稅、消費稅、服務稅或類似稅。

1.31. **"Territory"** means the country or countries defined in the Exhibit 1, subject to Section 11 of these GTC (Trade Compliance).
「**地域**」係指依據 GTC 第 11 條，而於附錄 1 所定義之國家 (貿易法規遵循)。

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.
「**商標**」係指 SAP、SAP SE 及其各自之關係企業或授權人之商標、服務標章、商號、服務名稱、專屬文字、符號或其他標誌。

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.
「**使用度量**」係指判斷雲端服務之允許存取及使用並計算應付費用之標準測量值，如訂購單所載。

2. USAGE RIGHTS AND RESTRICTIONS
使用權利與限制

2.1. Grant of Rights
授予權利

2.1.1. Provider Use Rights for Cloud Service
供應商使用雲端服務之權利

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 and Documentation, 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.
SAP 授予供應商一個非專屬且不可移轉之權利，以在地域範圍內根據合約使用雲端服務 (包括其實作及設定) 與紀錄文件，其僅得用於 (i) 雲端服務及供應商服務整合之開發，前提是該雲端服務係根據架構訂購單所訂購；(ii) 對潛在客戶展示說明供應商服務，前提是供應商係透過架構訂購單訂購該雲端服務；以及 (iii) 針對供應商服務提供客戶支援。雲端服務之允許使用及限制，同時亦適用於 SAP 資料與紀錄文件。供應商僅得為支援雲端服務之允許使用範圍，複製並散佈文件。

2.1.2. Cloud Service Subscription
雲端服務訂閱

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. 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.
SAP 授予供應商一個非專屬且不可移轉之權利，以在地域範圍內使用雲端服務，並須搭配供應商服務之提供，以支援客戶及其關係企業之內部業務營運。供應商將僅依據本合約提供客戶雲端服務的存取權，包括但不限於 MSP GTC 第 2.2 條、第 2.3 條和第 3.1 條所列限制。

2.1.3. License to SAP
授權予 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.
供應商授予 SAP 一個全球性、免授權金、非專屬之授權，得以 (i) 針對供應商服務及相關資料，進行使用、複製、再製、傳輸、發佈、公開演出、公開展示、散佈及存取；及 (ii) 針對每次供應商提供之資料及之標章、名稱、標誌，僅得為依據本合約提供和支援雲端服務，進行複製、再製、傳輸、展示及散佈。

2.1.4. Provider Affiliates
供應商關係企業

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.
作為供應商服務之一部分，SAP 授予供應商一個非專屬且不可移轉之權利，使供應商得以授權其關係企業針對客戶行銷。供應商將確保所授權行銷雲端服務訂閱之關係企業設立於地域範圍內，且遵守並依據未低於本合約保護 SAP 程度之書面條款，僅行銷雲端服務訂閱。供應商應就其關係企業任何違反前開合約條款的任何行為對 SAP 負責，供應商所負責任與其自身因違反本合約而應對 SAP 負責之程度相同。除設立於地域範圍內之供應商關係企業外，無 SAP 書面明文同意，不得使用其他實體行銷雲端服務。

2.2. **Restricted License**
授權限制

The Cloud Service may only be used to process Data for the purpose of providing the Provider Service.
雲端服務僅得基於提供供應商服務，用於處理資料。

2.3. **Database Restriction**
資料庫限制

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).
除透過在雲端服務與任何第三方執行階段資料庫 (該資料庫係自 SAP 或其關係企業或其任何個別轉售商或經銷商取得) 上運行的軟體應用程式間的應用程式層級 API 所為之通訊 (包括資料傳輸) 外，雲端服務將不會以任何方式直接或間接存取前述任何第三方執行階段資料庫。

2.4. **Provisioning**
佈建

SAP provides access to the Cloud Service as described in the Agreement. SAP makes the Cloud Service available and is responsible for its operation.
SAP 依本合約所述提供雲端服務之存取權限。SAP 會提供雲端服務並負責其營運。

2.5. **Security**
安全性

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.
SAP 將實施和維護適當的技術和組織措施，以保護 SAP 視同雲端服務的一部分而處理的個人資料，詳如符合資料保護法併入訂購單中之適用資料處理合約中所述。供應商應為其授權使用者對於雲端服務之使用，維持商業上合理之安全標準。未經 SAP 事先書面核准，供應商不得進行或授權對雲端服務的滲透性測試。SAP 將根據安全措施保護資料。「安全措施」係指發佈在 https://www.sap.com/about/trust-center/agreements/SecurityMeasures 之相關雲端服務技術和組織措施。

Provider is also responsible for the following security requirements:
供應商也應負責下列安全性需求：

a) monitoring technical details in applicable release notes, security notes, and Documentation;
監控適用版本註記、安全性附註和文件中的技術詳細資料；

b) maintaining proper security configurations, authentications, and authorizations for each Authorized User; and,
為每位授權使用者維護適當的安全性設定、驗證和授權；以及

c) enabling and configuring certain security features applicable to Provider's use of the Cloud Service.
啟用和設定適用於供應商使用雲端服務的特定安全性功能。

2.6. **Authorized Users**
授權使用者

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.
供應商得允許授權使用者存取雲端服務，其僅得用於與供應商服務相關之客戶及其關係企業的內部業務營運。但雲端服務使用須限於訂購單所載之使用度量與數量。雲端服務之存取憑證不得供多人使用，但若原始使用者無法再使用雲端服務，則可轉讓給他人。供應商應擔負授權使用者違約之責。

2.7. **Verification of Use**
使用驗證

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 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.
供應商將監控授權使用者對雲端服務之使用，並向 SAP 回報任何超出使用度量與數量之使用。在此情況下，供應商必須與 SAP 簽訂合約，紀錄額外用量與額外費用。這些費用應自「超量使用」開始日期之後產生。SAP 亦得進行監督，以確認是否符合使用度量、數量及本合約之規範。允許 SAP 將超出使用度量、數量和合約規定之使用情形的任何資料轉寄給供應商。

2.8. **Suspension of Cloud Service**
暫停提供雲端服務

SAP may suspend or limit use of the Cloud Service if:
倘有以下情況，SAP 得暫停或限制對雲端服務之使用：

a) continued use may result in material harm to the Cloud Service or its users; or
若繼續使用可能會對雲端服務或其使用者造成重大損害；或

b) to comply with laws and regulations applicable to SAP, its Affiliates or subcontractors.
為遵守適用於 SAP、其關係企業或分包商之法律法規。

SAP will promptly notify Provider of the suspension or limitation. SAP will limit a suspension or limitation in time and scope as reasonably possible under the circumstances.
SAP 並將立即通知供應商有關終止或限制服務。SAP 應於合理時間及範圍內提出終止或限制。

2.9. **Third Party Web Services**
第三方 Web 服務

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.
雲端服務可能整合第三方 (不含 SAP、SAP SE 或其關係企業) 所提供，並透過雲端服務存取之 Web 服務，且需遵守該第三方之條款與條件。上述第三方 Web 服務並非雲端服務之一部分，亦不受本合約所規範。SAP 無須對這些第三方 Web 服務的內容負責。

2.10. **Mobile Access to Cloud Service**
行動存取雲端服務

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.
授權使用者得自第三方網站，如 Android 或 Apple 之 App store，取得行動應用程式並透過其存取特定雲端服務。如客戶下載/存取該行動應用程式時，已向其提出條款與條件，則使用此類行動應用程式得受該條款與條件規範，不受本合約之限制。SAP 對第三方網站內容概不負責。

2.11. **On-Premise Components**
內部部署元件

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.
雲端服務得包含可供供應商下載和安裝 (包括更新) 的內部部署元件。系統可用性 SLA 不適用於這類元件。訂閱期間內，供應商僅得使用該內部部署元件，且使用目的僅得為支援雲端服務之允許使用範圍。

2.12. **China**
中國

Provider acknowledges and accepts that 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).
供應商確認並接受雲端服務係由位於中國大陸境外之非中國實體所提供，且供應商具有單獨確保供應商服務之使用遵守中國法律規定的義務。供應商及其客戶應負責於中國境內取得連線雲端服務之網路，SAP 依本合約不提供任何形式之電信服務 (且一概否認任何對此效果所為之陳述或保證)。

2.13. **Delegation**
委任

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.
供應商得委託關係企業合格人員執行供應商之責任。縱供應商得委託責任，供應商仍對 SAP 直接負責。供應商之關係企業不得冒充為 SAP 授權合作夥伴，或與 SAP 建立任何直接關係。

3. MINIMUM TERMS; ENFORCEMENT OF RIGHTS
最低義務條款；權利之執行

3.1. **Minimum Terms**
最低義務條款

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.
每位客戶皆必須直接向供應商執行客戶合約。客戶合約必須根據供應商提供雲端服務存取權之國家內適用法律和法規，對每位客戶建立拘束力。客戶合約之條款必須未低於本合約保護 SAP 程度，包括但不限於此第 3.1 條、適用訂購單以及補充條款之必要條款。最低義務條款將包含供應商稽核客戶對 SAP 資料使用之權利。針對雲端服務之功能或效能，供應商將不會為任

何與本合約相衝突之陳述或保證。客戶合約將授予 SAP、SAP SE、SAP SE 關係企業與分包商處理及使用資料之非專屬權利，惟僅用於依合約之規定提供和支援雲端服務。每份客戶合約均應指定 SAP 為第三方受益人。

3.2. **Enforcement of Rights**
權利之執行

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.
若任何第三方未經授權存取、行銷或販售雲端服務，供應商應與 SAP 就執行及保護 SAP 權利方面進行合作。基於 SAP 之請求，供應商將暫時停止販售雲端服務給前開任何未經授權之第三方，直到 SAP 滿意該未經授權活動之處理結果為止。

4. MODIFICATIONS
修改

4.1. **Scope**
範圍

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.
SAP 得修改雲端服務 (包括支援服務、維護時間範圍和重大升級時間範圍)，然 SAP 不應於訂閱期限內嚴重降低該雲端服務之核心功能。

4.2. **Modification Notices**
修改通知

SAP shall provide Provider with reasonable advance notice of modifications to the functionality of the Cloud Service in accordance with Section 16.4, except for any change to a Maintenance Window or Major Upgrade Window which shall be in accordance with the Service Level Agreement.
依據第 16.4 條之規定，SAP 應事先於合理時間內，就雲端服務功能之修改通知供應商，然而，服務層級合約所陳之維護時間範圍或重大升級時間範圍之任何變更除外。

4.3. **Provider Termination**
供應商終止

If a modification materially degrades the Cloud Service and SAP does not provide equivalent functionality, Provider may terminate its subscription to the affected Cloud Service by providing written notice to SAP within one month of SAP's notice. If SAP does not receive timely notice, Provider is deemed to have accepted the modification.
若修改嚴重降低雲端服務的功能，且 SAP 未提供同等功能，供應商得於 SAP 發出適用通知後一個月內，透過向 SAP 提供書面通知的方式來終止其對受影響之雲端服務的訂閱。若 SAP 未及時收到通知，即視同供應商已接受修改。

5. Pricing, PAYMENT AND TAXES
定價、付款及稅捐

5.1. **Pricing of the Provider Service**
供應商服務定價

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.
供應商將獨立建議其客戶對雲端服務之應付價格。除 SAP 事前以書面約定外，雲端服務之定價可不自供應商服務中單獨列出。

5.2. **Payment**
付款

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.
供應商將在發票日期後三十 (30) 日內，向 SAP 支付所有應付費用。除非 SAP 另行通知供應商，否則 SAP 將依適用訂購單所載向供應商開立發票。採購單僅為了方便行政管理，SAP 得在沒有相應採購單的情況下開立發票並收取款項。

5.2.2. Unpaid fees when due will accrue interest at the rate of 3% above the Prime Loan Rate of Bank of Taiwan applicable per annum, but not to exceed the maximum amount as allowed by law. After prior written notice, SAP may suspend Provider's and its Customers' use of the SAP Cloud Service until payment is made.
到期未支付之費用，應依臺灣銀行基本放款利率加碼百分之三之年利率計算利息，但不得超過法律所允許之最高額度。迄至供應商完成付款前，SAP 經以事前書面通知後，得暫停供應商及其客戶使用雲端服務之權限。

5.2.3. Provider cannot withhold, reduce or set-off fees owed nor reduce Usage Metrics during the Subscription Term, regardless of any termination, non-payment, or other conduct of the Customer. 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.
無論客戶是否終止、未付款或有其他任何行為，供應商均不得拒付、減少或抵銷所欠費用，亦不得於訂閱期限內減少使用度量。此亦適用於 SAP 對於違反最低義務條款之特定客戶，暫停其存取 SAP 雲端服務之情形。無論任何建置或其他服務完成與否，皆不影響付款。

5.3. **Fee Increases**
費用調增

Except where agreed otherwise in the respective Order Form, the following rules shall apply to fee increases:
除非在個別訂購單另有約定，否則下列規則適用應於費用調漲：

At the beginning of each renewal of the Subscription Term ("**Renewal Subscription Term**"), SAP may increase fees to reflect annual increases in consumer prices or costs. This increase will not exceed the greater of the percentage stated in the most recent consumer price index selected by SAP or 3.3% per annum. The increase is applied on a cumulative, year-over-year basis beginning on either the start of the preceding Subscription Term or date of last increase, whichever is later. Not raising fees is not a waiver of SAP's right to do so. SAP may increase fees if Provider elects to reduce the SAP Cloud Service, Usage Metrics or volume for any Subscription Renewal Term. Except for fee increases applied under this Section 5.3, SAP Cloud Service fees for Subscription Renewal Terms will be equal to the fees for the immediately preceding Subscription Term for the same SAP Cloud Service, Usage Metrics and volume.
每次訂閱期限續約 (以下稱「**續約訂閱期限**」) 起始時，SAP 得提高費用以反映該年增加的消費者物價或成本。此定價調增比例，不得超過 SAP 選擇的最新消費者物價指數百分比，或每年 3.3% 之比例，兩者以較大者為準。費用調增係採和去年同期相比累計的方式，自前一個訂閱期限起始日或最後一次調增的日期開始累計，兩者以日期較近者為準。SAP 不調增費用，並不構成 SAP 放棄調增費用之權利。若供應商選擇減少任何訂閱續約期間的 SAP 雲端服務、使用度量或數量，SAP 得調高費用。除依第 5.3 條規定所增加之費用外，訂閱續約期間內之 SAP 雲端服務費用，將與提供相同雲端服務、使用度量與數量之最近前一期訂閱期間費用相等。

5.4. **Taxes**
稅捐

All fees and other charges are subject to applicable Taxes, which will be charged in addition to fees under the Agreement.
所有費用及其他費用均需繳納適用稅捐，其係於依本合約應收取之費用外再額外收取。

6. Orders
訂單

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.
供應商必須執行訂購單，為客戶訂購任何雲端服務訂閱。訂購單將根據 SAP 針對雲端服務訂閱之要求，包含此等資訊。供應商會使用 SAP 所不時規定之表單，向 SAP 訂購雲端服務，並會完整填寫該表單及遵守 SAP 之最低訂購要求，且遵循當時適用於特定雲端服務之任何有效訂購流程。如有適用，供應商同意採用 SAP 所提供用於下單之電子方式。

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.

供應商根據訂購單訂購之所有雲端服務皆應分配予訂購單所指定之客戶，而非分配予供應商使用 (根據架構訂購單訂購之雲端服務除外)。經供應商要求而為指定客戶操作其所訂閱雲端服務之授權使用者，亦屬客戶分配之一部分，但供應商之使用乃是代表客戶所為 (架構訂購單除外)。除非另行以書面方式明示議定，否則供應商根據架構訂購單訂購之所有雲端服務皆僅能基於非正式運作之用途分配予供應商，亦不得用於將雲端服務交付予任何客戶。

6.1.3. All orders under any Order Form are non-cancellable and fees are non-refundable.
根據任何訂購單之所有訂購均不可取消，一切費用亦無法退還。

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.
若供應商違反本合約，或 SAP 合理認為其智慧財產權未受客戶尊重，SAP 保留自行合理決定拒絕訂購單之權利。

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.
供應商可透過簽訂附錄或新增訂購單的方式 (視適用情況而定)，在雲端服務訂閱期間內訂購新增使用度量，該等附錄或訂購單將構成原始訂購單的一部分。各附錄或新增訂購單之訂閱期間應適用原始訂購單當時所載之訂閱期間，所有費用應據此按比例計算。客戶第一份訂購單及其後每次簽訂之附錄或新增訂購單，均應有相同之訂閱續約期間。

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.
訂閱期間係依本訂購單所載。每份訂購單之初始有效期限如條文內所定義訂閱期限。除非在訂購單中另有約定，初始訂閱期間結束時，訂購單應自動續約，續約期限之長度與前一個期限相等 (若該期限為三十六 (36) 個月或以下)，或係一年 (若該期限大於三十六 (36) 個月)。但若任一當事方根據第 6.1.7 條終止訂購單者，不在此限。

6.1.7. An Order Form cannot be terminated during the Subscription Term, except in accordance with these GTCs. Provider may terminate an Order Form at the end of the then-current Subscription Term by giving notice at least one month in advance of the expiration of the then-current Subscription Term. SAP may terminate an Order Form at the end of the then-current Subscription Term by giving notice at least six months' notice prior to the expiration of the then-current Subscription Term.
除非根據 GTC 之規定，否則訂閱期間不得終止訂購單。供應商得藉由在當時訂閱期間到期前至少一個月前事先通知，於當時訂閱期間結束時終止訂購單。SAP 得藉由在當時訂閱期間到期前至少六個月前事先通知，於當時訂閱期間結束時終止訂購單。

7. SUPPORT
支援

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.
依 SAP Cloud MSP 支援附錄及本合約所述，SAP 將提供供應商雲端服務之支援。供應商應提供客戶有關 SAP 雲端服務之支援。

8. INTELLECTUAL PROPERTY AND CONFIDENTIALITY
智慧財產權及保密

8.1. SAP Ownership
SAP 所有權

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:
除依合約所明示授予供應商之任何權利外，SAP、SAP SE、其關係企業或授權人擁有以下各項及其任何衍生作品的所有智慧財產權：

a) the Cloud Service;
雲端服務；

b) SAP Materials;
SAP 資料；

c) Documentation; and
文件；以及

d) any services, design contributions, related knowledge or processes, whether or not developed for Provider.
任何服務、設計貢獻、相關知識或流程，無論是否針對供應商而開發。

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.
供應商應簽署此等紀錄文件並採取其他合理必要的步驟，以確保 SAP 或 SAP SE 對此等權利的所有權。

8.2. **Provider Ownership**
供應商所有權

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.
基於 SAP 在第 8.1 條所述之智慧財產權，供應商對於供應商服務、設計貢獻、相關知識或流程以及以及任何依據前開所構思或創作之衍生作品，均享有智慧財產權 (以下稱「**供應商智慧財產權**」)。所有未明文授予 SAP 之供應商智慧財產權，均由供應商保留其權利。

8.3. **SAP Partner Logo; Trademarks**
SAP 合作夥伴標誌；商標

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.
根據 SAP PartnerEdge 合作夥伴品牌及標誌使用指南 (以下稱「**指導原則**」)，依規定，SAP 授予供應商一個可撤回、非專屬、不可再授權、不可移轉之權利，以使用 SAP 合作夥伴標誌 (以下稱「**SAP 合作夥伴標誌**」)。SAP 依本合約並不提供任何其他商標之授權。基於 SAP 之請求，供應商將提供 SAP 合作夥伴標誌之樣本使用。

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.
SAP 合作夥伴標誌之使用須遵守指導原則，或 SAP 提供之其他商標使用規定。供應商將不會使用任何商標之全部或一部作為供應商之標章、名稱、標誌及/或網域名稱。

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.
供應商同意不會註冊任何會造成與商標混淆之相似商標 (無論其全部或一部)。供應商將不會爭執 SAP 合作夥伴標誌之有效性。供應商將於合理範圍內與 SAP 進行合作，並由 SAP 自費防禦並保護 SAP 合作夥伴標誌。 供應商理解商標 (包括 SAP 合作夥伴標誌) 所含商譽之價格，及 SAP 為前述商譽之專屬受益人。

8.3.4. Provider will not rebrand the Cloud Service under its own marks, names or logos without SAP's prior written consent.
未經 SAP 事前書面同意，供應商不會以自身標章、名稱或標誌重新命名雲端服務。

8.4. **Confidential Information**
機密資訊

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.

機密資訊之定義。在本文情境中，「機密資訊」係指所有資訊，其中揭露方防止向他人不受限制地揭露、揭露方或其代表向資料接收方或其代表提供的資訊，且揭露方或其代表在揭露時以書面或其他有形形式指為機密及/或專屬。

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.
處理機密資訊。當機密資訊未在揭露時為書面或其他有形形式，且以口頭或視覺方式揭露時，揭露方同意在揭露時將其視為機密或專屬資訊，並以書面方式摘要說明該機密資訊內容，於該口頭或視覺揭露後三十 (30) 個曆日內交付此等摘要。在揭露時未為書面或其他有形形式，且於本合約生效日期前揭露之任何事項，得於本合約生效日期起三十 (30) 個曆日內，減縮為書面形式。

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.
附加條款。1) 雙方不得將非秉持誠信原則視為機密或專屬之資訊視為機密或專屬資訊。2) 若雙方發現任何商業機密或其他機密資訊經故意或意外披露，將於 90 天內告知對方。一旦發出任何此等通知，雙方將秉持誠信原則，將披露資訊標示為機密資訊。

8.4.4. Use of Confidential Information. The receiving party will:
使用機密資訊。接收方將：

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;
嚴格保密揭露方的所有機密資訊，採取措施以保護揭露方的機密資訊，該等措施實質上應與接收方保護自己的機密資訊時所採取之步驟相似，且不得低於合理的照護標準；

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.
不會向除揭露方代表人以外的任何人揭露或顯示揭露方之任何機密資訊，除非必須使用該機密資訊以行使揭露方權利或履行本合約所定義務者，以及負有實質上類似於本 8.4 條所載保密責任之人員外。

c) not use or reproduce any Confidential Information of the disclosing party for any purpose outside the scope of the Agreement; and
不得基於合約範圍之外的任何目的使用或複製揭露方的任何機密資訊；以及

d) retain any and all confidential, internal, or proprietary notices or legends which appear on the original and on any reproductions.
保留原始和任何重製物件上出現的任何和所有機密、內部或專屬聲明或圖例。

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.
供應商不得向任何第三方揭露有關合約、其條款與條件、定價或任何其他相關事實的任何資訊。本合約締結前已揭露之當事人機密資訊，亦受第 8.4 條之保護。

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.
強制揭露。接收方得在法律、法規、法院命令或主管機關要求的範圍內揭露方之機密資訊；惟需要進行此揭露之接收方應盡合理努力，就此需要揭露事宜，事先通知揭露方 (但以該通知屬法律所許可者為限)，並依揭露方要求，由揭露方付費，對此必

要揭露之異議，提供合理協助。接收方及其代表人應盡商業上合理努力，僅揭露依法要求揭露之機密資訊部分，並要求所有據此揭露之機密資訊應予保密。

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.
例外。上述對機密資訊之使用或揭露限制，不適用於下列機密資訊：(i) 由接收方獨立開發，而未參照揭露方之機密資訊者；(ii) 因接收方不作為或疏忽，且該機密資訊已為大眾所普遍知悉者；(iii) 接受方於資訊揭露時已預先知悉其不受機密限制者；或 (iv) 接收方自有權提供上述機密資訊之第三人處合法取得且不受任何限制者；或 (v) 揭露方以書面同意解除上述限制者。

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.
公開。任一方皆不得在未經其他人事先書面同意之情況下，在公開活動中使用另一方的名稱，除非供應商同意 SAP 得在各方同意之情況下，在客戶或合作夥伴清單中或每季電訪其投資者時使用供應商名稱作為 SAP 行銷內容的一部分 (包括電話調查和敘述、新聞測試稿、現場採訪、SAPPHIRE 參與)。供應商同意，SAP 得為行銷或其他商業目的，與其關係企業共享供應商之資訊，且供應商已獲得適當授權，得與 SAP SE 及其關係企業分享供應商員工之聯絡資訊。

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:
機密資訊的銷毀和歸還。一旦揭露方提出要求，接收方應立即銷毀或歸還揭露方的機密資訊，包括其副本和重製物件。銷毀或歸還機密資訊的義務應不適用於：

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;
若與機密資訊相關的法律訴訟禁止其歸還或銷毀，則在訴訟結束或做出最終判決之前；

b) to Confidential Information held in archive or back-up systems under general systems archiving or backup policies; or
根據一般系統歸檔或備份政策保存在封存或備份系統中的機密資訊；或者

c) to Confidential Information the receiving party is legally entitled or required to retain.
接收方依法有權或要求保留的機密資訊。

8.4.9. **Residuals**
殘留資訊

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. Further, either party shall be free to use for any purpose the Residuals resulting from access to or work with Confidential Information disclosed hereunder. Neither party shall have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of Residuals
倘無使用另一方之機密資訊，任一方皆有權獨立開發可能與另一方軟體或服務競爭之軟體或服務。任一方得基於任何目的自由使用因存取或使用揭露方之機密資訊所生之殘留資訊。雙方均無義務限制或約束此等人員之指派，針對因使用殘留資訊所生任何成果，亦無義務支付費用或權利金。然而，本款規定不應被視為任一方之著作權或專利權同意授予另一方。本合約中

任何內容都不應解釋為禁止或限制任一方，對於與另一方披露之機密資訊相似或具競爭性之產品或服務，進行開發、製造、使用、行銷、授權或經銷之權利，但以該方為該等行為並未違反本合約為限。各方茲確認，另一方可能已擁有或已開發若干與其他披露方機密資訊相似或競爭之產品或服務。除此之外，任一方得基於任何目的自由使用因存取或使用揭露之機密資訊所生之殘留資訊。雙方均無義務限制或約束此等人員之工作範圍，或就因使用殘留資訊所產生的任何成果而支付權利金

8.5. **Feedback**
回饋意見

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.
供應商得自行決定並選擇向 SAP 提供回饋意見。在這種情況下，SAP、SAP SE 及其關係企業得自行決定保留並自由使用、合併或以其他方式利用此等回饋意見，而無須受回饋意見來源的限制、補償或歸屬。

8.6. **Acceptable Use Policy.** Unless stated otherwise in the Agreement, , Provider (or any third-party acting on its behalf) shall not:
可接受的使用政策。除本合約另有規定外，供應商 (或代表其之任何第三方) 不得：

a) copy, translate, disassemble, decompile, make derivative works, or reverse-engineer the Cloud Service or SAP Materials (or attempt any of the foregoing);
複製、翻譯、反編譯、反組譯雲端服務或 SAP 資料、製作其衍生作品或對其進行反向還原工程 (或嘗試上述任何操作)；

b) enter, store, or transfer any content or data on or via the Cloud Service that is unlawful or infringes any Intellectual Property Rights;
在雲端服務上或透過雲端服務輸入、儲存或傳輸任何非法或侵犯任何智慧財產權的內容或資料；

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;
將雲端服務或 SAP 資料用於訓練、開發或強化機器學習、人工智慧模型或類似技術，除 SAP 明確允許者不在此限；

d) circumvent or endanger its operation or security of the Cloud Service; or
規避或危害其雲端服務的營運或安全；或者

e) remove SAP's copyright and authorship notices.
移除 SAP 的著作權和著作人聲明。

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.
超出合約授予範圍使用雲端服務或 SAP 資料，包括為開發、商業化或提供任何複製、模擬或與雲端服務或任何 SAP 資料競爭的產品或服務。為免疑義，此不限制供應商獨立開發其產品或服務之權利，惟前提是此等開發不依賴雲端服務或 SAP 資料。

9. THIRD PARTY CLAIMS
第三方索賠

9.1. **Claims Brought Against Provider**
對供應商提出之索賠

9.1.1. SAP will defend Provider against claims brought against Provider and its Affiliates by a third party owner of intellectual property alleging that Provider's use of the Cloud Service in the Territory in accordance with the Documentation and the terms and conditions of the Agreement constitutes a direct infringement or misappropriation of that third party's patent claim, copyright, or trade secret right. SAP will pay Provider damages finally awarded against Provider (or the amount of any settlement SAP enters into) with respect to these claims.
倘智慧財產權之第三方所有人對供應商或其關係企業，主張其於領域內依據文件與本合約之條款與條件使用雲端服務，直接侵害或盜用其專利主張、著作權或營業秘密權，SAP 應就前開第三人對供應商及其關係企業提出之索賠加以辯護。SAP 將支付供應商有關上開索賠請求最終獲判賠償損害之金額 (或 SAP 達成之任何和解金額)。

9.1.2. SAP's obligations under Section 9.1.1 will not apply if the claim results from (i) Provider's breach of the Agreement, (ii) use of the Cloud Service in conjunction with any product or service not provided by SAP, (iii) use of the Cloud Service provided for no fee; or (iv) Provider's failure to timely notify SAP in writing of any such claim if SAP is prejudiced by Provider's failure to provide or delay in providing such notice.
因 (i) 供應商違反本合約之規定；或 (ii) 與任何非 SAP 提供之產品或服務結合使用雲端服務；或 (iii) 使用免費取得之雲端服務；或 (iv) 客戶未能及時以書面形式將任何此等索賠通知 SAP (若 SAP 因客戶未能或延遲提供此類通知而受到損害)，所致生之損害，SAP 概不承擔第 9.1.1 條下的任何義務。

9.1.3. If a third party makes a claim or in SAP's reasonable opinion is likely to make such a claim, SAP may, at its sole option and expense, (i) procure for Provider the right to continue using the Cloud Service under the terms of the Agreement, or (ii) replace or modify the Cloud Service to be non-infringing without material decrease in functionality. If these options are not reasonably available, SAP or Provider may terminate Provider's subscription to the affected Cloud Service upon written notice to the other.
若第三方提出索賠，或 SAP 合理認為可能提出索賠，則 SAP 得以自己之費用：(i) 為供應商取得繼續依合約條款使用雲端之權利；或 (ii) 於不顯著減少服務功能之前提下，取代或修改相關雲端服務，使其成為非侵害。如上述選項皆非合理可行，SAP 或供應商得基於另一方書面通知，終止供應商對該受影響雲端服務之訂閱。

9.1.4. SAP expressly reserves the right to cease such defense of any claim(s) if the applicable Cloud Service is no longer alleged to infringe or misappropriate the third party's rights.
若不再對適用的雲端服務主張侵害或盜用第三方權利，SAP 明示保留終止對任何索賠之抗辯事宜之權利。

9.2. **Claims Brought Against SAP.** Provider will defend SAP against claims brought against SAP, SAP SE, its Affiliates and subcontractors by any third party arising from or in any way related to the items set forth in Sections 9.2(a) through to 9.2(d). Provider will pay SAP damages finally awarded against SAP, SAP SE, its Affiliates and subcontractors (or the amount of any settlement Provider enters into) with respect to these claims:
對 SAP 提出之索賠。倘任何第三人基於第 9.2 條第 (a) 款至第 9.2 條第 (d) 款，或任何與上開各款相關事項，對 SAP、SAP SE 及其關係企業和分包商提出索賠，供應商將對此加以抗辯。就上述索賠，若 SAP、SAP SE 及其關係企業與分包商最終承擔損害賠償金 (或供應商達成任何和解金額)，供應商應使 SAP、SAP SE 及其關係企業與分包商免責。

a) the Data;
資料；

b) Taxes (other than its income and payroll taxes) and related costs paid or payable by SAP attributable to those Taxes;
SAP 已支付或應付稅捐 (除其所得稅及薪資稅)及其他相關費用；

c) Provider or its Affiliates' breach of Sections 2.1.4, 2.2, 3.1, and 11 through 13 of these GTC; and
供應商或其關係企業違反 GTC 第 2.1.4 條、第 2.2 條、第 3.1 條及第 11 條至第 13 條；以及

d) a claim that (i) the Provider Service infringes, misappropriates or violates any patent, copyright or trade secrets of any third party, or (ii) Provider's combining (or its authorizing others to combine) the Cloud Service with any products or service not provided by SAP infringes, misappropriates or violates any patent, copyright or trade secrets of any third party, or (iii) Provider's use of the Cloud Service in violation of the Agreement, infringes, misappropriates or violates any patent, copyright or trade secrets of any third party.
主張 (i) 供應商服務侵害、盜用或違反任何第三方之專利權、著作權或商標權；或 (ii) 供應商結合 (或授權其他人結合)雲端服務與非 SAP 提供之產品或服務，侵害、盜用或違反任何第三方之專利權、著作權或商標權；或 (iii) 供應商違反合約使用雲端服務，侵害、侵害或違反任何第三方之專利權、著作權或商標權。

9.3. **Third Party Claim Procedure.**
第三方索賠程序

All third party claims under Section 9 shall be conducted as follows:
所有根據第 9 條提出之第三方索賠應依下列方式進行：

a) The party against whom a third party claim is brought (the "**Named Party**") will timely notify the other party (the "**Defending Party**") in writing of any claim. The Named Party shall reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the Defending Party subject to Section 9.3(b).
遭第三方提出索賠的當事方 (以下稱「**指定方**」) 將及時以書面形式將任何索賠通知他方當事人 (以下稱「**抗辯方**」)。根據第 9.3 (b) 條之規定，指定方應在辯護中合理合作，並得透過抗辯方合理接受的律師出庭 (自費)。

b) The Defending Party will have the right to fully control the defense.
抗辯方將有權完全控制辯護方式。

c) Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the Named Party.
索賠之任何和解將不包括指定方的財務或特定履約義務，亦不包括指定方承擔的責任。

9.4. **Exclusive Remedy**
排他性補救措施

The provisions of Section 9 state the sole, exclusive, and entire liability of the parties, their Affiliates, Business Partners and subcontractors to the other party, and is the other party's sole remedy, with respect to covered third party claims and to the infringement or misappropriation of third party Intellectual Property Rights.
第 9 條之條款載明雙方、其關係企業、事業夥伴及分包商對於另一方的唯一、專屬和全部責任，並就合約涵蓋之第三方索賠以及侵犯或濫用第三方智慧財產權，為對另一方之唯一補償。

10. TERM AND TERMINATION
期間和終止

10.1. **Term**
期限

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.
除有此處規定之提前終止情事，本合約應自 MSP 合約生效日開始，並應於 MSP 合約所述期間內持續生效。

10.2. **Termination**
終止

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, 9.1.3 or 14.3.1(b) (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, 12 or 16.5 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.
一方當事人得於下列情況下終止本合約：(i) 提前 30 日以書面通知他方當事人嚴重違反合約之任何條款之情事，但若違約方在此等 30 日期間內補正違約行為則除外；或 (ii) 依第 4.3 條、第 9.1.3 條或第 14.3.1(b) 條所允許 (在以上各種情況下，自接收通知後三十日終止生效)；或 (iii) (x) 另一方提出破產申請，無償付能力，或為債權人利益轉讓其權利，或以其他方式嚴重違反其第 8.4 條、第 11 條、第 12 條或第 16.5 條之規定，或 (y) 供應商未能 (1) 遵守 SAP 提出之資訊請求，以便進行盡職調查及任何後續盡職調查更新請求和/或稽核，或 (2) 符合 SAP 合作夥伴盡職調查規定，則可立即終止。

10.3. **Wind Down**
緩衝期間

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:
除 SAP 依據第 10.2 條所為之終止外，只要供應商持續遵循合約條款與條件，雲端服務訂閱應於合約終止後仍屬有效，其將不會自動終止且應持續有效。SAP 將給予供應商緩衝期間至合約終止後，但此緩衝期間不應超過本合約期滿日後 3 年 (以下稱「緩衝期間」)。緩衝期間內，除下列規定情事外，本合約將持續適用：

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
若雲端服務之訂閱續約期結束日，落在緩衝期間以後，則雲端服務之訂閱期間並不會自動延展；且

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.
針對本合約終止後仍有效之訂閱，供應商得新增訂購使用度量，但可能不會就新客戶之雲端服務簽訂任何新的訂購單。儘管如上所述，SAP 仍得就任何第三方供應 SAP 之雲端服務訂閱，指明其在緩衝期間可能不會續約。

10.4. **Refund and Payment**.
退款與付款

For termination by Provider under Section 10.2 or 14.3.3, Provider will be entitled to:
倘供應商依據第 10.2 條或第 14.3.3 條規定終止，供應商將有權：

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
自終止生效日起算，針對終止訂閱項目按比例退還預付費用之未使用部分的金額 (除非出口法規禁止此等退款)，

b) a release from the obligation to pay fees due for periods after the effective date of termination.
並得免支付終止生效日以後剩餘期間之費用。

10.5. **Consequences of Termination for Provider's Breach**
供應商違約之合約終止後果

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.
倘本合約係因供應商違約而終止，SAP 得不提供緩衝期間，選擇依上述第 10.3 條所述繼續合約，或得終止合約 (包含依此開立之訂購單)，或僅終止適用之訂購單及措施，並直接處理客戶專為雲端服務而與 SAP 開始之直接關係，或移轉此關係予 SAP 合作夥伴。本合約或任何訂購單之終止，不應免除供應商支付未清償款項之義務。

10.6. **Effect of Expiration or Termination.**
到期或終止之效力

Upon the effective date of expiration or termination of the Agreement or, if applicable, after the expiration of the Wind-down Period:
本合約到期或終止生效日期起 (如有適用) 緩衝期間屆滿後：

a) Provider's right to use the Cloud Service and all Confidential Information, or identify itself as an SAP partner, will end;
供應商就雲端服務及所有機密資訊之使用權利，或將自身視為 SAP 合作夥伴之權利均將消滅；

b) Confidential Information of the disclosing party will be retained, returned or destroyed as required by the Agreement or applicable law; and
揭露方之機密資訊將依本合約或適用法律之要求予以保留、歸還或銷毀；

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.
當事人同意任何與終止相關之客戶通訊及出版品/新聞稿，均應於散佈前取得相互書面同意後為之。

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.
存續效力。本合約第 1、5.2、5.4、8 至 9、10.3 至 10.4、10.5、10.6 至 10.7、11、12、15 及 16 條將於本合約期滿或終止後仍存續有效。

11. Trade compliance
貿易法規遵循

11.1. SAP and Provider shall comply with all applicable import, export control and sanctions laws, including without limitation, the laws of the United States, the EU, and Germany ("Export Laws") in the performance of this Agreement. SAP Confidential Information is subject to Export Laws. Provider, its Affiliates, and Authorized Users shall not directly or indirectly export, re-

export, release, or transfer Confidential Information in violation of Export Laws. Provider shall not use the Cloud Service from Crimea/Sevastopol, Cuba, Iran, the People's Republic of Korea (North Korea) the so-called Luhansk Peoples Republic (LNR) and Donetsk Peoples Republic (DNR) or Syria. Provider will take all precautions to ensure that any permitted distributor, reseller and Customer complies with the Export Laws.
SAP 和供應商履行合約時，應遵守所有適用的進口、出口管制和制裁法律，包括但不限於美國、歐盟和德國的法律 (以下稱「出口法律」)。SAP 機密資訊應受出口法律所規範。供應商、其關係企業和授權使用者不得違反出口法律直接或間接出口、轉出口、發行或傳輸機密資訊。供應商不得使用來自克里米亞/塞瓦斯托波爾、古巴、伊朗、朝鮮民主人民共和國 (北韓)、盧甘斯克人民共和國 (LNR)、頓內次克人民共和國 (DNR) 或敘利亞的雲端服務。供應商將採取所有防範措施，以確保任何允許之經銷商、轉售商及客戶遵守出口法律。

11.2. Export Assistance. Provider will support SAP in obtaining any required export and import authorization and/or approval by providing such information as requested by SAP. The availability of the Cloud Service and SAP Materials may require prior export and/or import authorizations and this process may delay or prevent the delivery of Cloud Service or SAP Materials, including support services. This section also applies to any Cloud Service or support services that SAP delivers to the Customer directly.
出口協助。供應商將依 SAP 請求提供相關資訊，以支援 SAP 取得任何出口及進口所需之許可及/或核准。雲端服務及 SAP 資料之可得性可能需要事前出口及/或進口之許可，且此程序可能延後或妨礙雲端服務或 SAP 資料 (包括支援服務)之交付。本條亦適用於任何 SAP 直接交付客戶之雲端服務或支援服務。

11.3. Required Authorization. It is Provider's sole responsibility to obtain any required authorization and/or approval from the competent authorities to comply with any applicable Export Regulations with respect to the Provider Service.
必要之許可為符合任何與供應商服務相關而可適用之出口法規，供應商應單獨負擔自主管機關取得必要許可及/或核准之責任。

12. partner COMPLIANCE supplement
合作夥伴法規遵循補充條款

Provider agrees to comply in full with the Partner Compliance Supplement throughout the term of the Agreement.
供應商同意在合約期限內，完全遵守合作夥伴法規遵循補充條款。

13. provider and personal DATA
供應商及個人資料

13.1. As between the parties to this Agreement, 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.
就本合約雙方而言，供應商保留資料本身及與其相關所有權利。SAP 得使用供應商所提供之商標，但僅限根據本合約提供及支援雲端服務之用。供應商應負責提供資料，並將其輸入雲端服務。供應商授予 SAP (包含 SAP SE、其關係企業與分包商)處理及使用資料之非專屬權利，惟僅用於提供和支援雲端服務且依合約之規定進行。

13.2. Provider will collect and maintain all personal data contained in the Data in compliance with applicable data privacy and protection laws.
供應商將在遵守適用的資料隱私規範和資料保護法的情況下，收集並維護資料中包含的所有個人資料。

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. Export and retrieval may be subject to technical limitations, in which case SAP and Provider will find a reasonable method to allow Provider access to the Data.
供應商得於訂閱期間內隨時存取資料。供應商得以標準格式匯出和檢索資料。匯出和檢索可能受限於技術，在此情況下，SAP 和供應商將找出容許供應商存取資料之合理方式。

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.
在訂閱期間屆滿之前，供應商得使用 SAP 自助匯出工具 (如適用)，自雲端服務執行資料最終匯出作業。

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.

訂閱期限終止或到期後，除適用法律要求或合約允許資料保存外，SAP 應於 120 天內刪除託管雲端服務之伺服器中所存放的資料。保存的資料受本合約之保密條款規範。

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.
當遇有與資料相關第三方訴訟，SAP 應與供應商及其客戶合作，並遵循處理資料之相關適用法律 (二者均由供應商自行負擔費用)。

13.7. 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:
SAP 將提供訂閱期限終止或過期後 1 個月內的雲端服務有限存取權，嚴格僅供供應商匯出資料之用 (以下稱「擷取期間」)。擷取期間受以下條款所規範：

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;
供應商同意，即使存取權在技術上不僅限於匯出資料，供應商於擷取期間也不應將雲端服務作任何其他目的之用；

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
若供應商於擷取期間將雲端服務用於匯出資料以外之任何其他用途，供應商同意針對整個擷取期間根據當時有效之價目表，按比例向 SAP 支付費用。

c) Provider's access during the Retrieval Period shall continue to be governed by its obligations under the Agreement.
供應商於擷取期間之存取權應持續受其合約義務所規範。

14. WARRANTIES AND DISCLAIMER
保固和免責聲明

14.1. Compliance with Law
法規遵循

Each party warrants its current and continuing compliance with all laws and regulations applicable to it in connection with:
雙方保證自即日起將持續遵循與下列事項有關之所有適用法律和法規：

a) in case of SAP, the operation of SAP's business as it relates to the Cloud Service, and
有關 SAP 方面，係指涉及雲端服務之 SAP 業務運作，及

b) in case of Provider and its Customers, the Data and its use of the Cloud Service.
有關供應商及其客戶方面，係指雲端服務之資料及其使用。

14.2. Performance Warranty
履約保證

SAP warrants that the Cloud Service will substantially conform to the specifications contained in the Documentation during the Subscription Term for the Cloud Services.
SAP 保證雲端服務於訂閱期間中完全符合該等雲端服務文件內所含之規格。

14.3. Remedy
補救措施

14.3.1. Provided Provider notifies SAP in writing with a specific description of the Cloud Service's non-conformance with the warranty in Section 14.2 within the warranty period without undue delay and SAP validates the existence of such non-conformance, SAP will, at its option:
若供應商在保固期內無不當延誤地以書面方式通知 SAP 有關雲端服務不符第 14.2 條保證之具體描述，且 SAP 驗證此類不符情形之存在性，SAP 將選擇：

a) correct or replace the non-conforming Cloud Service, or
更正或替換不合規的雲端服務，或

b) if SAP fails to correct the non-conformance after using reasonable commercial efforts, terminate the access to the non-conforming Cloud Service.
若 SAP 在已盡合理商業努力後仍無法更正此等不合規情形，SAP 將終止不合規的雲端服務之存取權。

14.3.2. This does not apply to trivial or non-material cases of non-conformance and is Provider's sole and exclusive remedy under the warranty in Section 14.2. The written notification of any non-conformance by Provider must include sufficient detail for SAP to analyze the alleged non-conformance. Provider must provide commercially reasonable assistance to SAP in analyzing and remediating any non-conformance of the Cloud Service.
這不適用於輕微或非重大的不合規情形，並且供應商得依第 14.2 條之保證享有唯一且專屬之補償。供應商對於任何不合規所為之書面通知，必須包含足夠的詳細資訊，俾利 SAP 得據以分析其所聲稱之不合規。供應商必須對 SAP 提供商業上合理之協助，以分析和糾正雲端服務之任何不合規情形。

14.3.3. SAP will, with regard to the Cloud Services, consult with Provider to define a reasonable amount: (i) by which Provider may reduce the subscription fees for the non-conforming Cloud Services in case Provider has not already paid them; or (ii) if Provider has already paid the subscription fees for the non-conforming Cloud Services, which SAP will refund to Provider to reflect the non-conformance.
SAP 將針對雲端服務聯繫供應商，以定義下列情況之合理金額：(i) 若供應商尚未支付不合規雲端服務之訂閱費用，供應商可以減少之該等費用，或 (ii) 若供應商已支付不合規雲端服務之訂閱費用，SAP 將退款予供應商以反映不合規之情形的費用。

14.4. **System Availability**
系統可用性

14.4.1. SAP warrants to maintain an average monthly system availability for the production system of the Cloud Service as defined in the applicable service level agreement or Supplement ("SLA").
SAP 保證依適用之服務層級合約或補充條款 (以下稱「SLA」) 所定義，維持雲端服務生產系統的每月平均系統可用性。

14.4.2. Provider's sole and exclusive remedy for SAP's breach of the SLA is the issuance of a credit in the amount described in the SLA. Provider will follow SAP's posted credit claim procedure. When the validity of the service credit is confirmed by SAP in writing (email permitted), Provider may apply the credit to a future invoice for the Cloud Service or request a refund for the amount of the credit if no future invoice is due.
因 SAP 違反 SLA 而給予供應商的唯一且專屬之補救措施，係提供 SLA 所載之金額發放扣抵額度。供應商將遵循 SAP 發佈之扣抵請求程序。SAP 以書面 (可使用電子郵件) 確認服務扣抵為有效時，供應商得對雲端服務將來開立之發票申請扣抵，若日後並無發票到期，亦可請求退還扣抵金額。

14.5. **Warranty Exclusions**
擔保之除外條款

The warranties in Sections 14.1 and 14.2 will not apply if:
第 14.1 條和第 14.2 條所定之保證不適用於下列情形：

a) the Cloud Service is not used in accordance with the Agreement or Documentation,
未根據本合約或紀錄文件使用雲端服務，

b) any non-conformity is caused by Provider or its Customer(s), another third party, or by any product, database, content or service not provided by SAP, or
任何不合規情形係由供應商或其客戶、另一個第三方或任何未由 SAP 提供的產品、資料庫、內容或服務所造成的，或

c) the Cloud Service was provided for no fee.
免費取得雲端服務。

14.6. **Disclaimer**
免責聲明

Except as expressly provided in the Agreement, neither SAP nor its subcontractors make any representation or warranties, express or implied, statutory or otherwise, regarding any matter, including the merchantability, suitability, originality, or fitness for a particular use or purpose, non-infringement or results to be derived from the use of or integration with any products or services provided under the Agreement, or that the operation of any products or services will be secure, uninterrupted or error free. Provider agrees that it is not relying on delivery of future functionality, public comments or advertising of SAP or product roadmaps in obtaining subscriptions for any Cloud Service.
除本合約明確規定外，SAP 和分包商概不會就任何事宜提供任何明示、暗示、法定或其他方式的聲明或擔保，包括但不限於適售性、合適性、獨創性、特定用途或目的之適用性、不侵權或在使用或整合依本合約提供之產品或服務時所產生的結果，

或任何產品或服務的作業安全可靠、不會中斷或不發生任何錯誤。供應商同意，其取得任何雲端服務之訂閱，並非基於未來發佈之功能、公開評論或 SAP 廣告或產品規劃圖。

14.7. **Provider Representation**
供應商陳述

Provider will not make any representations or warranties as to the performance of the Cloud Services on behalf of SAP or otherwise make commitments on behalf of SAP. Provider represents and warrants that it has and will maintain sufficient facilities and adequate capital, resources, and personnel to market and support the Provider Service and to perform its obligations under this Agreement.
供應商將不會針對雲端服務或代表 SAP 為任何陳述或保證，或以其他方式代表 SAP 做出承諾。供應商陳述並保證，其已並將維護充足設備、適當資本、資源及人員，以行銷及支援供應商服務，並履行本合約之義務。

15. LIMITATION OF LIABILITY
責任限制

15.1. **No Cap on Liability**
無責任上限

Neither party's liability is capped for damages resulting from:
任一方當事人對以下原因造成的損害均無責任上限：

a) Provider's obligations under Section 9.2 of this GTC;
依據 GTC 第 9.2 條規定之供應商義務；

b) death or bodily injury arising from either party's gross negligence or wilful misconduct;
因任一方重大過失或恣意不當行為導致人身傷亡；

c) Provider's or its Affiliate's unauthorized use, license or disclosure of any Cloud Service or SAP Materials and/or any failure by Provider to pay any fees due under the Agreement;
供應商或其關係企業未經授權的使用、授權或揭露任何雲端服務或 SAP 資料和/或供應商未依本合約支付任何應付費用；

d) Provider's breach of the Customer licensing requirements set forth in this Agreement, including the Minimum Terms;
供應商違反本合約規定之客戶授權要件，包括最低義務條款；

e) fraud or fraudulent misrepresentation; or
詐欺或具詐欺性質之不實陳述；或

f) any other liability which cannot be excluded or limited by applicable law.
根據適用法律，無法排除或限制之任何其他責任。

15.2. **Liability Cap**
責任上限

Except as set forth in Section 15.1 above, and regardless of the basis of liability (whether arising out of liability under breach of contract, tort (including but not limited to negligence), misrepresentation, breach of statutory duty, breach of warranty, claims by third parties arising from any breach of this Agreement), the maximum aggregate liability of either party (or its parent, respective Affiliates or SAP's subcontractors) to the other or any other person or entity for all events (or series of connected events) arising in any 12 month period will not exceed the annual subscription fees paid for the applicable Cloud Service associated with the damages for that 12 month period. Any "12 month period" commences on the Subscription Term start date or any of its yearly anniversaries.
不論責任依據 (不論由於違約、侵權 (包括但不限於過失)、不實陳述、違反法定義務、違反保證、因違反此合約引起第三方索賠)，任一方 (或其母公司、各自關係企業或 SAP 的分包商) 對他方或任何其他人員或實體在 12 個月內關於所有事件 (或一連串相關事件) 之責任上限，不會超出相關雲端服務所需支付的年度訂閱費用，而造成該 12 個月期間之損害，但上述第 15.1 條之規定除外。「12 個月期間」係自訂閱期間之起始日或其任一年之周年日起算。

15.3. **Exclusion of Damages**
損害賠償之排除

In no case will:
任何情況下：

a) either party (or its respective Affiliates or SAP's subcontractors) be liable to the other party for any special, incidental, consequential, or indirect damages, loss of goodwill or business profits, work stoppage or for exemplary or punitive damages; and
任一方當事人 (或其各自的關係企業或 SAP 分包商) 對他方當事人之任何特殊、附隨、衍生或間接性之損害、商譽或業務利潤之損失、停工損失，或懲戒性或懲罰性之損害賠償，均無須負責；且

b) SAP be liable for any damages caused by any Cloud Service provided for no fee.
SAP 針對免費取得雲端服務所生之任何損害賠償，概不負責。

15.4. **Extension to Group Members**
延伸至集團成員

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.
依據本第 15 節對於 SAP 之責任與義務的任何限制，還應適用於 SAP SE 及其任何關係企業和各自授權人的利益。

16. MISCELLANEOUS
雜項

16.1. **Severability.** If any provision of the Agreement is held to be wholly or in part invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Agreement.
可分離性。若本合約之任何條款的全部或部分被判定為無效或無法執行，則該無效或無法執行部分將不影響本合約之其他條款。

16.2. **Waivers.** A waiver of any breach of the Agreement is not deemed a waiver of any other breach.
豁免。縱免除對本合約任何違約部分之責任，亦不及於其他違約部分。

16.3. **Counterparts; Electronic Signature.** The Agreement may be signed in counterparts, each of which is an original and together constitute one Agreement. Electronic signatures that comply with applicable law are deemed original signatures.
正本；電子簽名。本合約可以採用多份簽署，每份均為正本，並共同構成一份合約。遵循相關法律之電子簽章均視為原始簽章。

16.4. **Notices.** All notices will be in writing and given when delivered to the address set forth in an Order Form. Notices made by SAP to Provider may be in the form of an electronic notice to Provider's authorized representative or administrator. SAP may provide notice of modifications to the Cloud Service 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 or made available via the SAP Support Portal.
通知。所有通知於送達訂購單中所載地址時應採書面形式。SAP 向供應商發出的通知得採用電子通知的形式發送給供應商的授權代表人或管理員。SAP 得依第 4 條之規定，透過紀錄文件、發行說明或出版物提供雲端服務修改通知。由 SAP 所提供與雲端服務的營運、託管或支援相關的系統通知和資訊，也可以在雲端服務中提供，或透過 SAP 支援入口網站提供。

16.5. **Assignment.** 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 party. A Change of Control of Provider will be deemed an assignment of this Agreement. Provider will provide to SAP written notice at least sixty (60) days prior to any proposed assignment or transfer. Any attempted assignment or transfer of this Agreement in violation of this Section is void. SAP may assign the Agreement to SAP SE or any of its Affiliates.
轉讓。未經 SAP 事先書面同意，供應商不得轉讓、委外或以其他方式轉移本合約 (或其中所載之權利或義務) 予任第三方。供應商之控制權如有變化，將被視為本合約之轉讓。針對任何轉讓或移轉之提議，供應商將於六十 (60) 日前以書面方式通知 SAP。違反本條規定而轉讓或移轉本合約，一概無效。SAP 得轉讓本合約予 SAP SE 或其任一關係企業。

16.6. **Subcontracting.** SAP may subcontract parts of the Cloud Service to third parties. SAP is responsible for breaches of the Agreement caused by its subcontractors.
分包。SAP 得將部分雲端服務分包給第三方。SAP 應擔負其分包商違約之責。

16.7. **Relationship of the Parties.** The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created by the Agreement.

當事人間關係。雙方當事人皆為獨立立約人，依本合約之規範，雙方當事人間不存在任何合夥、特許經營、合資、代理、信託或僱傭關係。

16.8. **Force Majeure.** 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.
不可抗力。因履約之一方當事人無法合理控制之原因所造成之任何遲延履行 (到期款項之支付義務除外)，應不構成違約。履行期限應延長至與妨礙履約事由存續時間相等之期間。

16.9. **Entire Agreement.** The Agreement constitutes the complete and exclusive statement of the agreement between SAP and Provider in connection with the parties' business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements) are merged in and superseded by the Agreement and the parties disclaim any reliance on them. The Agreement may be modified solely in writing signed by both parties, except as permitted under (a) Section 4 or Section 17 of these MSP GTCs, or (b) as permitted elsewhere in the Agreement, or (c) as mutually agreed by the parties in writing. Terms and conditions of any Provider-issued purchase order shall have no force and effect, even if SAP accepts or does not otherwise reject the purchase order.
完整合約。針對本合約系爭事項相關之當事人商業關係，本合約構成 SAP 與供應商間完整且排他之合約聲明。先前所有陳述、討論和文書 (包括任何保密協議) 已合併於本合約並由本合約取代，雙方於此放棄依賴該等陳述、討論和文書。除 (a) MSP GTC 第 4 條或第 17 條允許；或 (b) 合約其他地方允許；或 (c) 雙方以書面同意之情況外，本合約僅於雙方書面簽署後始得修改。任何供應商簽發的採購單之條款與條件均無效力，即使 SAP 接受或未以其他方式拒絕採購單亦同。

16.10. **Non-Exclusivity**. This is a non-exclusive relationship. Each party may have similar agreements with others.
非排他性。此為不具排他性之關係。每一方得與其他人訂定相似之合約。

16.11. **governing Law.** This Agreement and any claims (including any non-contractual claims) arising out of or in connection with this Agreement and its subject matter will be construed, and the legal relations between the parties hereto will be determined, in accordance with the laws of Taiwan (R.O.C.). The United Nations Convention on Contracts for the International Sale of Goods and any conflicts of laws principles and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement.
準據法。本合約以及由本合約及其標的所引起或與之相關的任何索賠 (包括任何非合約索賠) 將受下列法律解釋，且雙方當事人之法定關係將依據下列法律確立：臺灣 (中華民國) 法律。本合約不適用「聯合國國際貨物買賣契約公約」(United Nations Convention on Contracts for the International Sale of Goods) 及任何法律衝突原則，和「電腦資訊交易統一法」(Uniform Computer Information Transactions Act)。

16.12. **Jurisdiction and Mandatory Venue.** The parties submit to the exclusive jurisdiction of Taiwan Taipei District Court. The parties waive any objections to the venue or jurisdictions identified in this provision. The mandatory, sole and exclusive venue, place or forum for any disputes arising from the Agreement (including any dispute regarding the existence, validity or termination of the Agreement) shall be Taiwan Taipei District Court.
司法管轄權和強制管轄地。雙方當事人同意接受臺灣臺北地方法院之專屬管轄權。雙方當事人放棄對本條款中列載之法院或司法管轄地提 出任何異議。因本合約產生的任何爭議 (包括與本合約之存在、有效性或終止有關的任何爭議) 應受到臺灣臺 北地方法院強制、唯一且排他之管轄。

16.13. **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.
記錄。供應商將根據紀錄保留政策，維護正確且透明之帳簿、紀錄及帳目，足供正確解讀交易往來，並證明其遵循相關法規。財務帳簿、紀錄及報表應維持合理程度的詳細資料及正確性，並可公正地反映出資產及交易之配置。帳簿、紀錄及相關輔助文件應足使第三人可評估交易之商業目的，包括 (如有適用) 任何相關第三人之識別。供應商應正確記錄所有與本合約相關之交易，並避免附約與本合約條款，或與任何供應商對 SAP 所為之口頭或書面承諾相違背。當供應商知悉任何此類額外承諾，供應商應即刻以書面將此承諾告知 SAP。

16.14. **Governing language.** This Agreement may be executed in the English language alone or may be executed in both the Chinese and English languages. In the event that both the Chinese and English versions are executed, and there are different interpretations of the same provision or actual contradictions, the meanings of the English version shall prevail.

準據語言。本合約可能僅以英文簽署，或以中文和英文簽署。若同時簽署中文版及英文版且中英文版中就相同條款之解釋有所歧義或兩者互相抵觸時，應以英文版為準。

17. changes to terms
條款變更

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 on the date the new Price List is provided to Provider (via publication on SAP's partner dedicated website or otherwise). The price for the relevant SAP Cloud Services as set out in an existing Order Form shall not be affected by such a change to the Price List. Existing offers provided by SAP to Provider will be honored during the offer validity period set out in the Order Form.
縱使本合約有任何不同規定，SAP 保留不經書面通知而變更價目表之權利。對於價目表之任何變更，應於價目表所列之日期生效，或者，如無該日期，則於新價目表 (透過 SAP 之合作夥伴專用網站或其他管道公佈) 提供予供應商之日。現有訂購單所載相關 SAP 雲端服務之價格不應受此等價目表變更影響。SAP 所提供予供應商之現有優惠將在訂購單所載優惠有效期間內適用。

17.2. SAP reserves the right to change specific provisions of the Agreement (in particular by replacing parts of it with an updated version), including, without limitation, the MSP Agreement, the MSP GTCs, and any other guide or agreement concluded under or in connection with any part of the Agreement, as may be reasonably required and consistent with updates and changes to SAP's program and policies.
SAP 保留變更合約特定條款之權利 (特別是透過使用更新版本替換其部分內容)，包括但不限於 MSP 合約、MSP GTC，以及在合約的任何部分或與其相關的任何指南或合約中訂立的其他條款，這些變更需在合理需求範圍內進行，並與 SAP 的方案和政策更新一致。

17.3. SAP will give Provider at least three months' prior notice in writing or in any other documented form of changes to any or all parts of this Agreement as set out in Section 17.2. Unless otherwise stated in the notice, the notice will become effective after three months ("**Change Period**") and shall apply to new Order Forms entered into after the applicable notice period, unless section 17.4 applies. If the justified interests of Provider are negatively affected by any of these changes, Provider is entitled to terminate this Agreement with effect on the expiration of the applicable Change Period. If Provider does not terminate within the applicable Change Period, the changes are deemed to be accepted by Provider. If Provider elects to terminate within the applicable Change Period, the Wind-Down Period shall commence on the expiration of the applicable Change Period.
SAP 將提供予供應商至少提前三個月之書面通知或任何其他紀錄形式之通知，以知會有關如第 17.2 條所述對於本合約之任何或所有部份之變更。除該通知內另有規定外，通知應於三個月 (以下稱「**變更期間**」) 後生效，且應適用於相關通知期間後簽署之新訂購單，除非適用第 17.4 條。若供應商之正當利益因任何該等變更受到不利影響，供應商有權終止本合約，而該終止應自變更期滿時生效。如供應商未在適用之變更期內終止，相關變更則視為已為供應商所接受。如供應商選擇在適用之變更期內終止，緩衝期間應於變更期滿時起始。

17.4. Any change that SAP reasonably believes to be beneficial to Provider may, at SAP's discretion, become effective upon notice by SAP. Such changes include, but are not limited to, increased discounts, promotions and program enhancements. Should Provider believe a change not to be beneficial, Provider must notify SAP in writing within five days of receipt of such notice that Provider does not agree with SAP's assumption and state the reasons why the change would not be beneficial to Provider. In such case, Section 17.3 applies.
如按 SAP 之單方判斷，SAP 合理認為任何變更係有利於供應商，該變更應於 SAP 通知之時生效。該等變更包括但不限於：提高折扣、促銷及程式之增強。若供應商認為變更並非有利，供應商應於收到該通知後五日內，以書面知會 SAP，表明供應商不同意 SAP 之假設並列出何以變更對供應商並非有利。在此情況下，則適用第 17.3 條。