



**Partner Development License Agreement for On-Premise SAP Software  
("Development License")**

**effective 00/00/2019 ("Effective Date")**

**between** **SAP SE**  
**Dietmar-Hopp-Allee 16**  
**69190 Walldorf**  
**Germany**  
**(hereinafter "SAP")**

**and** **Happy Partner, Ltd.**  
**1234 East Chester Pike**  
**Old Town Square, PA 00000**  
  
**(hereinafter: "Partner")**  
  
**SAP Partner Number: 123456**

This Development License defines Partner’s access and use of SAP Software available on the then current SAP Partner Price List for development purposes. Based on this Agreement, Partner is permitted to order SAP Software provided by SAP.

**1. Definitions**

- 1.1** "Order" or "Software Order Form" means the ordering document for the Software made available under this Agreement.
- 1.2** "Software" or "SAP Software" means any and all software products licensed to Partner under this Agreement, all as developed by or for SAP, SAP SE and/or any of their affiliated companies and delivered to Partner hereunder.

**2. Contract Documents**

- 2.1** This Development License and any Software Order Form issued under this Agreement are governed by and incorporates the following documents current in effect as of effective date of this Development License. All documents are listed in order of precedence, and collectively referred to as the "Agreement".

Agreement	Locations
Software Order Form	
This Development License	
On-Premise Software: Support Terms	<a href="https://www.sap.com/about/agreements.sap-on-premise-software-customers.html">https://www.sap.com/about/agreements.sap-on-premise-software-customers.html</a>
<b>Software Use Rights (US version)/ List of Prices and Conditions ("LPC") (DE version)</b>	<a href="https://www.sap.com/about/agreements.sap-on-premise-software-customers.html">https://www.sap.com/about/agreements.sap-on-premise-software-customers.html</a>
General Terms and Conditions for On-Premise SAP Software ("GTC"), version for <b>Germany / The United States</b>	<a href="https://www.sap.com/about/agreements.sap-on-premise-software-customers.html">https://www.sap.com/about/agreements.sap-on-premise-software-customers.html</a>

Copies of the most current contract documents are found at <http://www.sap.com/company/legal/index.epx>. Partner confirms that it has reviewed these documents prior to executing Development License.

Partner agrees that each electronic Software Order Form represents a binding contract between SAP and Partner.

- 2.2 Unless defined in other documents of this Agreement, all capitalized terms shall have the meaning as set forth in the GTC. All references to "Licensee" in other parts of the Agreement shall be references to Partner.
- 2.3 SAP reserves the right to replace the Support Schedules and the Software Use Rights by updated versions and notify Partner thereof, without materially reducing Partner's Use rights hereunder or the scope of SAP Support.

**3. License Grant**

- 3.1 Subject to Section 4 below, Partner is granted, a non-exclusive, non-transferable, subscription license to Use the Software, Documentation, **and SAP Materials within the Territory (regulated in US version)** provided by SAP to Partner for the term of the Agreement, for internal testing, demonstration and development, and to make Modifications and/or Add-ons to the Software in accordance with this Section 3.1 and Sections 4.1 through 4.8.
- 3.2 Partner shall not: (i) use the SAP Materials to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training); (ii) lease, loan, resell, sublicense or otherwise distribute the SAP **Materials (US version)/ Software (DE version)**; (iii) make any Use of or perform any acts with respect to the SAP **Materials (US version)/Software (DE version)** other than as expressly permitted in accordance with the terms of this Agreement; (iv) use Software components other than those software products licensed to Partner under this Agreement, even if it is also technically possible for Partner to access other Software components.
- 3.3 The Software, particularly the ABAP Workbench and SAP NetWeaver, contain software tools. These tools may not be transferred, either in whole or in part, into modified or created software. Partner must use these tools only to modify, extend, or create Add-ons to the Software or non-SAP software in accordance with the terms and conditions set forth herein. The Software contains function modules, which are stored in a function library. Some of these function modules carry an indicator expressly releasing them for transfer into modified or newly created software. Partner may only transfer these function modules into Modifications to the Software. The function modules must in principle not be altered or decompiled.
- 3.4 Affiliates of Partner may Use the Software in accordance with the license grant described herein, provided that each Affiliate shall adhere to the terms of this Agreement. Breach of the terms of this Agreement by an Affiliate shall be considered a breach by Partner itself.

**4. Add-ons and Modifications**

- 4.1 Add-ons developed by Partner without SAP's participation, and all rights associated therewith, shall be the exclusive property of Partner subject to SAP's rights in and to the Software and SAP Materials.
- 4.2 The ownership of Modifications and any Intellectual Property Rights embodied therein, shall vest with SAP, SAP Affiliates or their licensors. Partner irrevocably assigns to SAP all Partner's rights, title and interest ("Assigned Intellectual Property Rights") in and to the Modifications, including the right to register or file proprietary rights based on the Modifications. Partner further agrees to provide to SAP promptly upon SAP's request all pertinent facts and documents relating to such Modifications, and to perform promptly such lawful acts and to sign promptly such further applications, assignments, statements, and other lawful documents as SAP may reasonably request to effectuate fully this assignment.
- 4.3 Subject to SAP's underlying Intellectual Property Rights in the Software **and SAP Materials (US version)**, SAP grants to Partner a worldwide, non-exclusive, fully paid up, royalty free, perpetual, irrevocable license to the Assigned Intellectual Property Rights in the Modifications to make, have made, use, reproduce, display, distribute, create derivative works of, lease, sell,

offer for sale, import, export or otherwise transfer through standard tiers of distribution (a “Full License”) to any Partner created code included in the Modifications, subject to SAP’s ownership of the underlying and/or unmodified code, solely for purposes of exercising its rights granted under Section 3.1 of this Development License.

- 4.4** Partner grants SAP a Full License to any Partner Background Materials in the Modifications, provided that such Partner Background Materials are used only in connection with the Modification or derivative works thereof. “Background Materials” shall mean any pre-existing works in which the Intellectual Property Rights are owned by either party to this Agreement, which have been prepared by that party outside the scope of this Agreement or which were licensed from a third party and provided to that party.
- 4.5** SAP retains the right to independently develop its own Modifications or Add-ons to the Software, and Partner agrees not to take any action that would limit SAP’s sale, assignment, licensing or use of its own Software or Modifications or Add-ons thereto.
- 4.6** A Modification and/or an Add-on must not (and subject to other limitations set forth herein):
- unreasonably impair, degrade or reduce the performance or security of the Software;
  - enable the bypassing or circumventing any of the restrictions set forth in this Agreement and/or provide a customer with access to the Software to which such customer is not directly licensed;
  - make available any information concerning SAP software license terms, Software, or any other information related to SAP Materials;
  - permit mass data or metadata extraction from a Software to a non-SAP software (e.g. in order to replace functionality of the Software), including use, modification, saving or other processing of such data in the non-SAP software.
- 4.7** Partner acknowledges that even minor modifications or other changes to the Software may lead to significant, unpredictable faults in the performance of the modified Software. Therefore, Partner will be solely responsible towards its customers for any of its Modifications and Add-ons to the Software. Partner shall inform customers accordingly.
- 4.8** Important Notice: In case Partner would like to use a third party database (including but not limited to Oracle and/or Microsoft databases) together with the Software licensed from SAP hereunder, it is Partner’s responsibility to secure all appropriate rights from the applicable licensor(s).

Partner must advise its customers that prior to licensing Partner-developed Add-ons, customers must have obtained the necessary license rights to SAP or third party software and/or database to use Partner-developed Add-ons together with or running on top of the SAP products and/or third party databases. This may include the requirement to obtain a full use license for SAP Netweaver or the appropriate other licenses applicable to the respective underlying Software. Partner will not misrepresent any SAP license requirements or restrictions to customers and will inform SAP as soon as practicable about any known misuse of SAP software by end customers.

**5. Fees and Fee Increase**

- 5.1** Fees for the SAP Software made available under this Agreement are outlined in the then current SAP Partner Price List. Fees for SAP Software licensed under this Agreement shall be paid annually in advance. All payments hereunder are non-refundable. Payments are due thirty (30) calendar days from the date of the invoice. **Any fees not paid when due shall accrue interest at the applicable statutory interest rate (DE version).**
- 5.2** The fee applicable for a renewal subscription term corresponds to the fees for the preceding subscription term of a Software Order Form, provided SAP may amend the remuneration for Software subscriptions over the preceding term of an Order Form at its discretion with effect from the start of a renewal subscription term as follows: (a) the change applied to the fee must not be greater than the change in the index at (b) below (“discretionary applicable change”). (b) the index used to determine the discretionary applicable change is the index of mean

monthly salaries of fulltime employees in Germany in the information technology services sector (“Index der durchschnittlichen Bruttomonatsverdienste der vollzeitbeschäftigten Arbeitnehmer in Deutschland für den Wirtschaftszweig Erbringung von Dienstleistungen der Informationstechnologie”, currently published by the German Federal Statistics Office in quarterly figures at “Fachserie 16, Reihe 2.4, Gruppe J 62”). If publication of that index is discontinued, the applicable index for determination of the discretionary applicable change will be the index published by the Federal Statistics Office that most closely reflects changes in the mean monthly salaries of the sector named above.

For the first fee adjustment under the Order Form, the discretionary applicable change is the change from the index published at the date of the execution of the Order Form to the index that has most recently been published when the new Fee adjustment is made. If the fee has already been adjusted in the past, the discretionary applicable change is the change from the index that had been most recently published when the previous fee adjustment was made to the index that has most recently been published when the new Fee adjustment is made.

## **6. Support**

SAP will provide support for the Software licensed under this Development License as set forth in the SAP Enterprise Support Schedule or the SAP Standard Support for Business One Schedule, as applicable. SAP Support is included in the subscription fee to the Software and is provided for the subscription term of the Software.

The availability of SAP Enterprise Support or the SAP Standard Support for Business One for this Development Licenses is limited in its duration for a specific SAP software release and terminates at the end of the mainstream maintenance phase for that release. The current valid and offered maintenance durations and phases for individual releases are published at [support.sap.com/releasestrategy](http://support.sap.com/releasestrategy).

## **7. Term and Termination**

- 7.1** The term of this Agreement shall run from the Agreement Effective Date until the end of the then current calendar year (the “Initial Term”). Thereafter, the Agreement shall automatically renew for additional twelve (12) month terms (each a “Renewal Term”) unless terminated by either party by giving thirty (30) days’ notice to the end of a calendar year. **This Agreement may be terminated for cause in accordance with the GTC (US version) / This Agreement may be terminated for cause. (DE version)**
- 7.2** The term of Software Order Forms shall be co-terminus with the term of the Agreement. Partner may reduce the number of users ordered under a Software Order Form by giving thirty (30) days prior written notice to the end of the Initial term or any Renewal term. In case the number of users under a Software Order Form is reduced to zero, the Software Order Form shall be deemed terminated.
- 7.3 A Software Order Form may be terminated for cause in accordance with the GTC. (US version) / An Order Form may be terminated for cause (DE version).**
- 7.4** This Agreement is only valid in combination with at least one (1) valid SAP partnership agreement. This Agreement and all Software Order Forms under this Agreement shall terminate automatically upon termination or expiration of its SAP partner status. In this case Partner shall not be entitled to any refund of any fees paid to SAP prior to such termination.
- 7.5** For clarification: Termination of this Agreement hereunder shall be deemed termination of all Software Order Forms under this Agreement.
- 7.6** Termination of respective subscriptions to the SAP Software shall not relieve Partner of its outstanding payment obligations existing at the time of such termination. Any fees previously paid by Partner are non-refundable.

**7.7** Subject to either Party terminating this Agreement for convenience, Partner may use the Software ordered by Partner to support existing End-Users for a limited period of time (“Wind-down Usage”) subject to the terms of this Agreement. Wind-down Usage shall run for a maximum period of one (1) year after the effective date of termination. Wind-down Usage is subject to Partner continuing to pay to SAP the fees for the Software stipulated in the relevant Order Form(s). Partner must request Wind-down Usage latest fifteen (15) days prior the effective date of termination.

Wind-Down Usage is not permitted if Partner is in breach of this Agreement or its partnership agreement.

## **8. TAX**

Partner and SAP will comply with all applicable tax laws and regulations. All amounts payable by Partner to Licensor do not include, service, use, property, excise, service, customs duties, value added or similar transaction taxes (“Tax(es)”) now or hereafter levied. Partner will bear such taxes with the exception of income or corporation taxes attributable to SAP. If Partner is required to withhold income or corporation tax or a similar tax from any payment to SAP under this Agreement, Partner will be entitled to withhold or deduct such tax from the gross amount to be paid. However, Partner will reduce any such withholding tax payable to the lowest possible rate subject to compliance with all applicable laws and double taxation treaties. Partner will in the case of any withholding of tax provide SAP a receipt from the relevant authority to which such withholding tax has been paid and all other information and documents in order to enable SAP to apply for a tax credit against its income tax. Should the Partner fail to furnish SAP such receipt within a reasonable period, Partner will be liable to pay SAP the amount so deducted upon demand.

## **9. Liability Cap (If DE version, this section applies)**

**9.1 SAP’s liability in contract, tort, and other- wise for loss including but not limited to wasted anticipatory expenditure, is subject to the provisions in Sections 9.2 and 9.3 below.**

**9.2 In cases of intent, SAP’s liability extends to the full loss; in cases of gross negligence, SAP’s liability is limited to the amount of foreseeable loss that would have been prevented through the exercise of due care; in cases of absence of a guaranteed quality, SAP’s liability is limited to the amount of foreseeable loss that would have been prevented by the presence of the guaranteed quality.**

**9.3 In other cases than in Section 9.2 above: SAP is not liable except for breach of a major obligation (Kardinalpflicht) and only up to the limits in the following subsection. A breach of a major obligation in the meaning of this section 9.3 is assumed where the duty itself is a necessary prerequisite for the contractual performance, or where the breach of the relevant duty jeopardizes the purpose of the contract and where Partner could legitimately rely upon its fulfillment. Liability in cases under this Section 9.3 is limited to the annual subscription fees paid for the applicable SAP Software directly causing the damage for that twelve month period.**

## **10. Previous Agreements ( US version regulated in section 9 / DE version regulated in section 10)**

As of the Effective Date, Partner agrees to cease exercising its use rights to On-Premise SAP Software under any existing development license agreements and/or partner agreement schedules/exhibits entered into with SAP Affiliates and to this extent declares the willingness to terminate such other existing development license agreements and/or partner agreement schedules/exhibits if requested by the respective SAP Affiliate. Partner acknowledges that such SAP Affiliate will either a) terminate such development license agreements and/or partner agreement schedules/exhibits to the end of their then current term or b) approach Partner to terminate such contracts by mutual agreement.



**11. Not Applicable GTC Sections**

**2.1.1, 2.2, 4.2, 5.1(i), 6.3.1, 6.3.2, 12.9 (US version) / 2.2.1, 2.2.2, 2.3.1 – 2.3.5, 4.1.5, 4.1.6, 8.1 and 10.7 (DE version)**

**12. Electronic Signature**

Signatures sent by electronic means (facsimile, scanned and sent via e-mail, or signed by electronic signature service where legally permitted) shall be deemed original signatures.

Accepted By:  
**SAP SE (SAP)**

Accepted By:  
**Happy Partner, Ltd**

NOT FOR SIGNATURE

NOT FOR SIGNATURE

Name: SAP Signer 1

Name:

Title: SAP Signer 1

Title:

Date:

Date:

NOT FOR SIGNATURE

Name: SAP Signer 2

Title: SAP Signer 2

Date: