

2.2 Unless defined in other documents in this Agreement, all capitalized terms shall have the meaning as set forth in the GTC. All references in the documents above to “Customer” shall be references to Partner.

2.3 SAP reserves the right to replace the Support Schedules and the **List of Prices and Conditions DE version / Software Use Rights US version** 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 Software provided under the Agreement shall only be used for a) internal training of Users, b) project-specific customer training but only in the context of customer training for Partner software, c) performance benchmarking on SAP certified hardware, d) testing, and e) demonstration of Software to prospective customers, also in combination with Partner’s products and services. Benchmarking against competing third party products is expressly prohibited.

3.2 Software made available under the Agreement may not be used: a) to run Partner’s and its Affiliates’ internal business operations (including customer back-up and passive disaster recovery), b) to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training), c) to lease, loan, resell, sublicense or otherwise distribute the Software, other than distribution to Affiliates subject to the terms of the Agreement, d) to distribute or publish keycode(s), e) make any Use of or perform any acts with respect to the Software other than as expressly permitted in accordance with the terms of this Agreement, f) for preparation of or customer implementation and g) for any development purposes, including proof of concepts in case they include any development.

3.3 For the purposes of this Agreement only, Partner shall be permitted to outsource the Software to a services provider to run the Software or have the Software run on information technology devices made available by such services provider, subject to the following conditions: (i) Partner and such services provider execute a written agreement that includes provisions requiring such services provider’s compliance with the terms of this Agreement prior to such access, including without limitation non-disclosure of SAP Confidential Information; (ii) under no circumstances may such services provider use the Software in connection with such services provider’s own business operations; (iii) Partner shall be responsible for any additional Software, migration tools, or third party software needed to effect such transition; and (iv) Partner expressly agrees to indemnify SAP, its officers, employees, agents and subcontractors from and against all claims, liabilities, losses, damages and costs (including reasonable attorney fees) suffered by SAP arising from a breach by the services provider of the conditions of this Agreement. Upon SAP request, Partner shall provide written confirmation to SAP that items (i)-(iv) are fulfilled.

4. Fees and Fee Increase

4.1 Pricing for the 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.

4.2 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.

5. Support

5.1 SAP will provide support for the Software licensed under this Test and Demonstration License as set forth in the SAP Standard Support Schedule or the SAP Standard Support Schedule for Business One, as applicable. SAP Support is included in the subscription fees.

5.2 Under the Agreement, Partner receives during the mainstream maintenance phase a reduced scope of SAP Standard Support. In particular, mission-critical support and other services provided only for production systems are not available for test and demonstration licenses. The availability of SAP Standard Support for test and demonstration 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 currently valid and offered maintenance durations and phases for individual releases are published at www.service.sap.com/releasestrategy.

6. Term and Termination

6.1 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 DE version / This Agreement may be terminated for cause in accordance with the GTC US version**

6.2 The term of Software Order Forms shall be co-terminus with the term of this 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.

6.3 **An Order Form may be terminated for cause DE version / A Software Order Form may be terminated for cause in accordance with the GTC US version**

6.4 In addition to SAP’s rights under the Agreement, SAP may terminate this Agreement with immediate effect if Partner fails to pay any fees due hereunder within thirty (30) days of SAP’s written notice of Partner’s failure to pay an invoice when due.

6.5 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

6.6 For clarification: Termination of this Agreement hereunder shall be deemed termination of all Software Order Forms under this Agreement.

6.7 Termination of respective subscriptions to the SAP Software shall not relieve Partner of its outstanding payment obligations existing at the time of such termination, unless terminated for material SAP breach of the Agreement. Any fees previously paid by Partner are non-refundable.

7. 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.

8. Liability Cap (only regulated in DE version and not in US version)

- 8.1** 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 8.2 and 8.3 below.
- 8.2** 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.
- 8.3** In other cases than in Section 8.2 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 8.3 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 8.3 is limited to the annual subscription fees paid for the applicable SAP Software directly causing the damage for that twelve month period.

8. Previous Agreements (regulated in section 9 DE version / regulated in section 8 US version)

As of the Effective Date, Partner agrees to cease exercising its use rights to Software under any existing test and demonstration license agreements and/or partner agreement schedules/exhibits entered into with SAP subsidiaries and to this extent declares the willingness to terminate such other existing test and demonstration license agreements and/or partner agreement schedules/exhibits if requested by the respective local SAP subsidiary. Partner acknowledges that such SAP subsidiaries will either a) terminate such test and demonstration 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.

9. Non-Applicable GTC Sections (regulated in section 10 DE version / regulated in section 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

SAMPLE AGREEMENT – NOT FOR SIGNATURE



10. Electronic Signature (regulated in section 11 DE version / regulated in section 10 US version)

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

(Partner)

NOT FOR SIGNATURE

NOT FOR SIGNATURE

Name:

Name:

Title:

Title:

Date:

Date:

NOT FOR SIGNATUR

Name:

Title:

Date: