

## **SAP Hybris Commerce Cloud Supplemental Terms and Conditions**

This Supplement is part of an agreement for SAP Cloud Services between SAP and Customer and applies only to the SAP Hybris Commerce Cloud product(s) (and the related services named in the Fees section of this Supplement) (the “**Cloud Service**”).

### **1. DEFINITIONS**

- 1.1. Cores** means the number of production environment application cores in whole CPUs that are available for use by the Cloud Service. When counting physical Cores, each Core of a physical CPU that runs at least parts of the Cloud Service, including those that are temporarily assigned or scheduled to cover peak processing, is considered and counted. If the Cloud Service will run in a pure virtual environment each virtual Core that runs at least parts of the Cloud Service, including those that are temporarily assigned or scheduled to cover peak processing, is counted.
- 1.2. Distributed Code** means HTML tags, JavaScript code, object code, plugins, SDKs, APIs, or other code provided by SAP for use as part of the Cloud Services.
- 1.3. Domain** means an Internet Protocol (IP) resource, such as computer hosting a web site, the web site itself or any other service communicated via the Internet. Domain names must be formed by the rules and procedures of the Domain Name System (DNS) and registered with the DNS.
- 1.4. Hosting Platform** means a hosted infrastructure to run the Cloud Service.
- 1.5. SAP Hybris Commerce Cloud Services Description** means the document describing the managed services provided by SAP as part of the Cloud Service located at <https://www.sap.com/about/agreements/policies/service-specifications.html> (and made available to Customer upon request).
- 1.6. Named Domain** means a Domain identified by Customer in the Cloud Service set up process where Cloud Services are permitted to be used and may include one or more Root Domains or Subdomains.
- 1.7. Page Views** means, with respect to SAP Hybris Commerce Cloud, Configure, Price and Quote, SAP Hybris Conversion and SAP Hybris Merchandising, a single view of a mobile or browser application, email, or web page of an internet site, including application screen views, application screen states, mobile web pages, and social network pages. Page views occur each time a web page is loaded or refreshed on Named Domain(s), an application is loaded, or when targeted content renders or is shown through an opened or viewed email. With respect to SAP Jam Communities, edition for Hybris solutions, the definition of “page views” is found in the Supplemental Terms and Conditions for SAP Jam Communities found here: [https://www.sap.com/about/cloud-trust-center/cloud-service-level-agreements/cloud-services.html?tag=language:english&search=Supplement&sort=title\\_asc](https://www.sap.com/about/cloud-trust-center/cloud-service-level-agreements/cloud-services.html?tag=language:english&search=Supplement&sort=title_asc)
- 1.8. Revenues** means Customer’s and its Affiliates’ total annual sales revenue for products or services that are purchased through Cloud Service platforms by customers (B2B and B2C) in each trailing 12 month period, less VAT, delivery and any returns.
- 1.9. Root Domain** means the combination of the top-level domain (i.e. com, net, or org) combined with the second-level domain (i.e. the domain to the left of the top level domain) (e.g. *exampleinc.com*). If only the root domain is identified as the Named Domain then all Subdomains and subfolders of the root domain are included within the scope of the Named Domain.
- 1.10. Surge Event** means an event of extraordinary activity on any Customer platform hosted by SAP under the Agreement that will cause usage to exceed the capabilities of the infrastructure included in an edition of the Cloud Service with a Usage Metric of Cores.
- 1.11. Web Presence** means a target group-specific reproduction of content on the Internet that is distinct in terms of product range, graphical layout or Domain from other Internet presences in

the Cloud Service. Content that has been personalized for individual users (e.g. prices and recommendations) does not constitute a separate Internet presence.

## **2. CLOUD SERVICE**

- 2.1** The Cloud Service is available in three editions: Standard; Professional and Enterprise, plus additional add-on services. The Cloud Service software functionality delivered with the each edition is specified in the SAP Hybris Commerce Technical and Functional Specifications document located at: <http://www.sap.com/about/agreements/policies/service-specifications.html>.
- 2.2** The Cloud Service includes services and infrastructure as described in the SAP Hybris Commerce Cloud Services Description.
- 2.3** If Customer installs or enables any applications or web services of third parties for integration with the Cloud Service, SAP may allow those third-party providers to access Customer Data as required for the interoperation of the third party applications or web services with the Cloud Service. SAP is not responsible for any negative effects on the Cloud Service, nor any disclosure, modification or deletion of Customer Data, caused by the third party applications or web services or third party providers.
- 3. FEES.** Except as specified below, the Usage Metrics for the Cloud Service are Cores and Revenues as specified in the Order Form.
- 3.1 Cores.** Each edition subscription using Cores as the Usage Metric requires subscription to a base subscription which includes six Cores for a flat monthly fee. SAP Hybris Commerce Cloud, telco accelerator, cores includes six Cores in the base subscription, and additional individual Cores in blocks of four Cores may be added. SAP Hybris Commerce Cloud, travel accelerator, cores includes six Cores in the base subscription, and additional individual Cores in blocks of four Cores may be added. SAP Hybris citizen engagement accelerator, cloud edition, includes six Cores in the base subscription, and additional individual Cores in blocks of four Cores may be added. SAP Hybris Commerce Cloud, additional Cores includes blocks of four Cores.
- 3.2 Revenues.** Subscriptions to SAP Hybris Commerce Cloud using Revenues as the Usage Metric are measured in units of 10 million euro (converted to local currency using SAP standard exchange rates). The Usage Metric for SAP Configure, Price and Quote for product configuration add-on for SAP Hybris Commerce Cloud and SAP Configure, Price and Quote for solution sales configuration add-on for SAP Hybris Commerce Cloud is Revenues, in units of 50 million euro (converted to local currency using SAP standard exchange rates). For purposes of these two Cloud Services, Revenues means Customer's and its Affiliates' total annual sales revenues for products or services which were generated using SAP Hybris Commerce Cloud, Configure, Price and Quote add-on in each trailing 12 month period, less VAT, delivery and any returns.
- 3.3 Flat Fee.** The Usage Metric for the following services is a Flat Fee per month: SAP Hybris Commerce Cloud, data hub; SAP Hybris Commerce Cloud, infrastructure services; SAP Hybris Commerce Cloud, development environment; SAP Hybris Commerce Cloud, staging environment; and SAP Hybris Commerce Cloud, production environment.
- 3.4 Page Views.** The Usage Metric for SAP Hybris Merchandising and SAP Hybris Conversion, and SAP Jam Communities, edition for SAP Hybris solutions is Page Views per month. Additional Page Views per month may be required for use in excess of the number of Page Views per month included in the base subscription to each edition as specified in the SAP Hybris Commerce, Cloud Feature Specification document. Subscriptions to additional Page Views are available in blocks of 10 million Page Views.
- 3.5 Surge Event.** Customer has the option to obtain a subscription SAP Hybris Commerce Cloud surge event during the Subscription Term. The Usage Metric for SAP Hybris Commerce Cloud surge event is Cores, measured in units of four Cores.

**3.6 Infrastructure in base subscription.** SAP Hybris Commerce Cloud includes the infrastructure resources set forth in the table below:

<b>VPNs</b>	<b>1</b>	<b>Usage Metric = Tunnel</b>
<b>Storage</b>	<b>400</b>	<b>Usage Metric = GB</b>
<b>Bandwidth</b>	<b>20</b>	<b>Usage Metric = Mbps</b>

**3.7 Additional Infrastructure.** The amount of RAM and the number of servers SAP deploys for Customer’s environment is determined by a sizing exercise based on SAP’s reference architectures for the overall usage volume estimate provided by Customer. Customer may subscribe to optional additional storage (Usage Metric = GB), additional memory (Usage Metric = GB), additional bandwidth (Usage Metric = Mbps), additional MPLS (Usage Metric = Flat Fee per month) and servers (Usage Metric = Flat Fee per month). Servers are available in the following sizes: small (1 core, 4 GB RAM, 40 GB disk storage), medium (2 Cores, 8 GB RAM, 40 GB disk storage) and large (4 Cores, 16 GB RAM, 40 GB disk storage).

**4. CUSTOMER DATA**

**4.1. Customer Obligations/Responsibilities.**

- (a)** Customer may integrate Customer’s third party payment gateway with the Cloud Service to provide payment status information, provided Customer may not provide to or store in the Cloud Service any other information stored on such Customer payment gateway (including credit card information).
- (b)** For Standard and Professional editions of the Cloud Service, Customer will maintain the Cloud Service application framework on a currently supported version. Customer must determine which SAP-supplied software updates to apply to its environments. SAP will not manage Customer applications in the Cloud Service which are running on unsupported versions of the SAP Hybris software. The foregoing terms do not apply to SAP Hybris Merchandising, SAP Hybris Conversion, and SAP Jam Communities, edition for SAP Hybris solutions.
- (c)** For the Enterprise edition of the Cloud Service, Customer must upgrade the hosted SAP Hybris software annually to the latest version (from initial go live) as part of the included Platinum Upgrade Service.

**4.2. Responsibility for Customer Data.** SAP reserves the right to remove or require Customer to remove any Customer Data (or third party information) which SAP reasonably believes breaches any applicable laws or regulations or any third party’s rights. SAP will notify Customer if it removes any Customer Data (or third party information) in accordance with this clause.

**5. AVAILABILITY.** Except for SAP Hybris Conversion, SAP Hybris Merchandising and SAP Jam Communities, edition for Hybris solutions, the Service Level Agreement for SAP Cloud Services referenced in the Order Form and the SAP System Availability Warranty in the GTC are superseded by the following, only as expressly noted:

**5.1 “Available” or “Availability”** means that in relation to the production environment of the Hosting Platform, the raw web page code (html or similar and excluding content, third party service calls and custom code developed by Customer or its implementation firm which can potentially increase page load times) loads to a user’s browser in three seconds or less as measured by the reporting tools within the SAP network) to Customer for 99.9% of the time (7x24) in any calendar month, excluding Scheduled Maintenance (or a change to the Managed Services) as specified in the SAP Hybris Commerce Cloud Services Description (“**Service Level Objective**”).

- 5.2** Customer shall provide SAP with notice ten days prior to any maintenance to be performed by Customer which may impact the performance of the Cloud Service by opening a ticket with SAP through SAP support channels set forth in the SAP Hybris Commerce Cloud Services Description.
- 5.3** In addition to the SLA warranty exclusions stated in the GTC, the Service Level Objective shall not apply to the Cloud Service to the extent any failure to achieve the Cloud Service Level Objective has been caused by a Surge Event for which Customer has not added sufficient infrastructure resources to its production environment.
- 5.4** If Customer reasonably anticipates a Surge Event, it will give SAP a written notice (email acceptable) to SAP's technical account manager at least thirty days in advance of the anticipated Surge Event. If Customer fails to give the Surge Event notice, the performance of the Cloud Service may be negatively affected unless Customer has included adequate resources in its Hosted Platform to support the level of usage associated with the Surge Event.
- 5.5** SAP Hybris Merchandising, SAP Hybris Conversion and SAP Jam Communities, edition for SAP Hybris solutions are subject to Service Level Agreement for SAP Cloud Services and respective maintenance windows as referenced in the Order Form. The Supplemental Terms and Conditions for SAP Jam Communities apply to use of SAP Jam Communities, edition for Hybris Solutions and are found here: [https://www.sap.com/about/cloud-trust-center/cloud-service-level-agreements/cloud-services.html?tag=language:english&search=Supplement&sort=title\\_asc](https://www.sap.com/about/cloud-trust-center/cloud-service-level-agreements/cloud-services.html?tag=language:english&search=Supplement&sort=title_asc)

## **6. IMPLEMENTATION SERVICES.**

- 6.1** Except for SAP Hybris Merchandising, SAP Hybris Conversion and SAP Jam Communities, edition for SAP Hybris solutions, Customer is responsible for engaging an implementation firm that will provide implementation services for the initial set-up, configuration and integration of the Cloud Service and that will provide first level help-desk support and application support. All implementation firm services are provided under a separate agreement between Customer and the implementation firm. Customer is solely responsible for any services, features, functionality, or extensions provided or deployed by the implementation firm. None of these services, features, functionality, or extensions provided by Customer or its implementation firm is part of the Cloud Service. For SAP Hybris Merchandising, SAP Hybris Conversion and SAP Hybris Browse Management, deployment services as described in the SAP Hybris Commerce Cloud Services Description are required and subject to an Agreement and separate fee.
- 6.2** SAP and Customer shall be free to use for any purpose the Residuals resulting from access to or work with Confidential Information disclosed in the performance of technical assistance services. The term "**Residuals**" shall mean information in non-tangible form, which may be retained by persons who have had access to the confidential information, including ideas, concepts, know-how or techniques contained herein. Neither SAP nor Customer 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. However, the foregoing shall not be deemed to grant to either party a license under the other party's copyright or patents.

## **7. EXCLUDED SERVICES.** The following activities are not in scope of the Cloud Service:

- 7.1** Implementation services (including deployment, initial set-up, configuration, customization and integration of the Cloud Service);
- 7.2** Support services (including first-level help desk support) for customized code except for SAP Hybris Merchandising, SAP Hybris Conversion and SAP Jam Communities, edition for SAP Hybris solutions;
- 7.3** Third party applications and third party web services (including credit card payment processing and SSL certificates);
- 7.4** Applying software application upgrades and updates for SAP Hybris Commerce Cloud, except that the Enterprise Edition includes one technical platform upgrade (per year following initial go live) of the base solution of the SAP Hybris software as part of the Platinum Upgrade Service.

- 8. DATA PRIVACY.** The Personal Data Processing Agreement for SAP Cloud Services referenced in or attached to the Order Form does not apply to application support (except for SAP Hybris Merchandising, SAP Hybris Conversion and SAP Jam Communities, edition for SAP Hybris solutions), any third party applications, third party web services, or any Customer-specific code or modifications to the Cloud Service.
- 9. SAP HYBRIS CONVERSION TERMS**
- 9.1** SAP may place reasonable restrictions on the number of tag executions Customer is permitted to make to Customer websites/commerce channels to avoid tags that generate unusually high or unnecessary data traffic to the Cloud Service.
- 9.2** Upon termination of the Cloud Service Customer must, at its expense, remove and delete all Distributed Code and remove links to the Cloud Service on its websites/commerce channels. This obligation shall survive any expiration or termination of the Agreement.
- 9.3** Customer may use existing integrations with an e-mail service provider (ESP) specified in the Documentation to send remarketing e-mail notifications. If Customer chooses to use an ESP for which SAP does not provide a standard integration, integration with such ESP is at Customer's expense.
- 9.4** Customer Data is stored in the Cloud Service for 28 days, after which it is purged. Upon request by Customer made within 28 days after the effective date of termination of the Agreement, SAP will make available to Customer Data in a mutually agreed format. After such 28-day period, SAP shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, purge all Customer Data in SAP systems.