

SAP CONSULTING SERVICES SUPPLEMENTAL TERMS AND CONDITIONS (“SUPPLEMENT”)

SAP 咨询服务补充条款和条件（以下简称“补充”）

SAP and Customer have agreed that SAP delivers to Customer certain Consulting Services. These supplemental terms and conditions (the “**Supplement**”) and any modifications to the Agreement made herein apply solely to Consulting Services and not to any other SAP product or service or the Cloud Service itself. In case of conflict the terms of the Scope Document shall prevail over any Service Description and the provisions of this Supplement.

SAP和客户同意，SAP向客户提供特定咨询服务。本补充条款和条件（以下简称“补充”）及此处对协议的任何修改仅适用于咨询服务，不适用于任何其他SAP产品或服务或者云服务本身。如本补充的服务描述和条款与范围文档中的条款发生冲突，应以范围文档中的条款为准。

1. DEFINITIONS

定义

1.1 “Consultant” means any employee or third party contractor which SAP utilizes to provide Consulting Services to Customer.

“顾问”是指SAP通过其向客户提供咨询服务的员工或第三方承包商。

1.2 “Deliverables” means those specific work products or tangible results which are explicitly identified as “Deliverable” under the applicable Order Form.

“交付物”是指依据适用的订购单，明确认定为“可交付”的特定工作产品或有形成果。

1.3 “Scope Document” means the document that is provided with and becomes part of the applicable Order Form which further defines the scope of Consulting Services to be provided and other engagement specifics.

“范围文档”是指作为适用订购单的一部分随之一起提供，进一步规定了提供的咨询服务范围和其他接触细节的文档。

1.4 “Service Description” means pre-defined descriptions of services found at <http://www.sap.com/corporate-en/about/resources/service-descriptions/index.html> in effect as of the Order Form Effective Date.

“服务描述”是指在与订购单同时生效的<http://www.sap.com/corporate-en/about/resources/service-descriptions/index.html>中提供的对服务预定义的描述。

2. TERM AND TERMINATION

期限和终止

2.1 Term. Each Consulting Service shall be effective as of the Effective Date set forth in that Order Form, and shall remain in effect until end of term or completion of the Consulting Services or terminated earlier by either party in accordance with the applicable GTC.

期限。每个咨询服务应自该订购单中规定的生效日期之日起生效，并应在完成咨询服务或任何一方依据适用的GTC将其提前终止前仍然有效。

2.2 Termination for Convenience. Consulting Services (excluding fixed-price Consulting Services) may be terminated by either party upon thirty (30) days’ prior written notice.

任意终止。咨询服务（固定价格咨询服务除外）可由任何一方在提前三十（30）日书面通知另一方后终止。

2.3 Effect of Termination. Customer shall be liable for all payments to SAP, including all fees and expenses up to the effective date of termination. All Confidential Information (excluding Consulting Services Deliverables) of the other party shall upon request of the other party be returned to the Disclosing Party or destroyed with certification of such destruction from an authorized individual.

终止的效力。客户应负责向SAP支付所有款项，包括截止终止生效日产生的所有费用。经一方请求，另一方的所有保密信息（咨询服务交付物除外）应返还披露方或销毁，而且需要授权个人提供销毁证明。

3. CONSULTING SERVICES WARRANTY

对咨询服务的保证

3.1 General. SAP warrants that it will perform any Consulting Services in a professional workmanlike manner using resources with the skills reasonably required to perform such services.

一般条款。SAP保证会安排具备所需技能的顾问以专业水准提供咨询服务。

3.2 Conformance. SAP warrants that for thirty (30) days following provision of the Consulting Services the Deliverables will materially conform with the specifications for that Deliverable in accordance with the respective Service Description or Scope Document provided that the warranty period for Deliverables (if any) resulting from any subscription based Consulting or Cloud Services will in no event exceed the termination date of the subscription based Consulting or Cloud Services.

合规。SAP保证在提供咨询服务后三十（30）天内，交付物将在实质上符合相应的服务描述或范围文档中对该交付物的说明，但前提是针对基于租用的咨询服务或云服务的交付物（如有）的保证期限不超过基于租用的咨询服务或云服务的终止日期。

3.3 Exclusion. SAP does not warrant error-free or uninterrupted operation of any Consulting Services or Deliverable or that SAP will correct all non-conformities.

例外情形。SAP不保证任何咨询服务或交付物不会出现错误或运行中断，也不保证会对所有不符合情况进行纠正。

3.4 Claims. Customer shall notify SAP within thirty (30) days of provision of the Consulting Services or Deliverable in writing of the alleged warranty breach and provide SAP with a precise description of the problem and all relevant information reasonably necessary for SAP in order to rectify such warranty breach. Provided Customer has notified SAP in accordance with this Section of a warranty breach and SAP validates the existence of such warranty breach, SAP will, at its option re-perform the applicable Consulting Services or Deliverable, or refund the fee paid or reallocate quota for the specific non-conforming Consulting Service or Deliverable. This is Customer's sole and exclusive remedy for a warranty breach.

索赔。客户应在提供咨询服务或交付物的三十（30）天内就声称的违反服务保证的具体情况书面通知SAP，并向SAP准确描述相关问题以及SAP要纠正此类违反服务保证情况合理需要的所有相关信息。如客户依据本节的规定就违反服务保证的情况通知SAP，而且SAP证实确实存在此类违反服务保证的情况，则SAP可自行选择重新执行相应的咨询服务或重新提供相应交付物，或退还客户就不合规咨询服务已支付的费用或重新分配配额。这是客户就SAP违反保证所能采取的唯一且专有的补救措施。

4. CHANGE REQUEST PROCEDURE

变更请求程序

Either party can request changes to the Consulting Services in accordance with the form attached to the Order Form or included in the applicable Service Description ("Change Request"). SAP is not required to perform under a Change Request until agreed to and signed by the parties.

协议双方均可依据订购单所附的或适用服务描述中包含的表（以下简称“变更请求”）对咨询服务进行变更。在双方一致同意并签字确认之前，SAP不需要依据变更请求实施任何行为。

5. PROVISION OF SERVICES

服务条款

5.1 Personnel. The selection, assignment or replacement of Consultants is at SAP's sole discretion and SAP reserves the right to replace any Consultant at any time at its sole discretion with resource Consultant with equivalent skills.

人员。SAP自行选择、分配或更换顾问，且SAP保留基于单方考量随时使用具备同等技能的顾问替换任何顾问的权利。

5.2 Replacement. If at any time Customer or SAP is dissatisfied with the material performance of an assigned Consultant or a Customer project team member, the dissatisfied party shall promptly report such dissatisfaction to the other party in writing and may request a replacement. The other party shall use its reasonable discretion in accomplishing any such change (which also, in the case of SAP, shall be subject to staffing availability).

更换。如任何时候客户或SAP对指定顾问或客户项目团队成员的实际表现不满意，不满意的一方应及时以书面形式将这种不满意情况报告给另一方，并可请求换人。另一方在完成任何此类变更时皆应采用合理的判断（就SAP而言，这还应取决于人员配备的可用性）。

5.3 Estimates. All dates with respect to performance of the Consulting Services are estimated and time shall not be deemed of the essence.

预估。与履行咨询服务有关的所有日期均为预估时间，因此，时间不应视为一项重要因素。

5.4 Delays. If any Consulting Service, in whole or in part, cannot be provided by SAP due to a Customer issue and Customer fails to provide SAP with reasonable advance notice, the time agreed to be spent by SAP resources on such Consulting Service will be charged to Customer.

延迟。如因客户的问题使得SAP无法提供全部或部分咨询服务，且客户未能事先合理通知SAP，则客户应承担约定的SAP资源花在此类咨询服务上的时间成本。

5.5 Rights. Customer ensures to have all necessary license rights including third party license rights required for the Consulting Services.

权利。客户负责确保其拥有履行咨询服务所需的所有必要的许可权利，包括第三方许可权。

6. THIRD PARTY CLAIMS

第三方索赔

6.1 Claims Brought Against Customer. SAP shall defend (at its sole expense) Customer against claims brought against Customer by any third party alleging that Customer's use of the Deliverables, in accordance with the terms and conditions of the Agreement, constitutes an infringement or misappropriation of a patent claim(s), copyright, or trade secret rights. SAP will indemnify Customer from all damages finally awarded against

Customer by a court of competent jurisdiction (or the amount of any settlement SAP enters into) with respect to such claims. This obligation of SAP shall not apply if the alleged infringement or misappropriation results from

对客户提出的索赔。任何第三方声称客户依据本协议的条款与条件使用交付物的行为构成对专利申请、版权或商业秘密权的侵权或滥用并因此对客户提出索赔的，SAP应自行承担费用为客户提供抗辩。SAP会承担由具有管辖权的法院就此类索赔作出的终审判决对客户造成的损失（或SAP达成的任何和解金额）。若声称的侵权或滥用因下述原因引起，则SAP的前述义务不予适用：

- (a) use of the Deliverables in conjunction with any other software, services, or any product, data or apparatus that SAP did not provide, or
将交付物与任何其他软件、服务或非SAP提供的任何产品、数据或装置一起使用，或
- (b) anything Customer provides including configurations, instructions or specifications, or
客户提供的任何物项，包括配置、说明或规范，或
- (c) a modification of the Deliverable by Customer or by a third party on behalf of Customer, or
客户或代表客户的第三方对交付物进行修改，或
- (d) any use not permitted by the Agreement.
用于协议禁止的任何用途。

6.2 Remedies. In the event a claim under Section 6.1 is made or in SAP's reasonable opinion is likely to be made, SAP may, at its sole option and expense

补救措施。若出现第6.1节下所述的索赔，或经SAP合理判断可能会提出此类索赔的，SAP可自行选择并承担费用：

- (a) procure for Customer the right to continue using the applicable Deliverable under the terms of the Agreement, or
为客户取得依据协议条款继续使用适用交付物的权利；或
- (b) replace or modify the Deliverable to be non-infringing without material decrease in functionality.
在不实质性减少功能的情况下更换或修改交付物，做到不侵权。
- (c) If SAP provides written notice to Customer that the foregoing options are not reasonably available, Customer shall be entitled to a refund for the infringing portion of the Deliverable subject to return or cessation of use of the refunded Deliverable.
若SAP向客户发出书面通知，说明前述选项无法合理实现，则客户应有权就交付物的部分侵权获得退款，并返还或停止使用已针对其退款的交付物。

6.3 Claims Brought Against SAP. Customer shall defend SAP and its affiliated companies against claims brought against SAP by any third party arising from or related to

对SAP提出的索赔。任何第三方因以下相关原因对SAP提出索赔的，客户应为SAP及其关联企业提供抗辩：

- (a) any Customer use of the Services in violation of any applicable law or regulation,
客户违反任何适用法律或法规使用服务的任何行为，
- (b) an allegation that the Customer Data, Customer's use of the Services or anything Customer has provided to SAP including access to third party software or proprietary information.
声称因客户数据、客户对服务的使用或被许可方提供给SAP的任何内容（包括访问第三方软件或专有信息）妨碍、侵犯或滥用第三方权利。

The foregoing shall apply regardless of whether such damage is caused by the conduct of Customer and/or its named users or by the conduct of a third party using Customer's access credentials.

不论是因客户和/或其指定用户的行为还是使用客户访问凭据的第三方的行为导致的此类损害，前述义务均适用。

6.4 Procedure. The obligations under this Section 6 are conditioned on

程序。本节（第6节）所述义务的前提条件为：

- (a) the party against whom a third party claim is brought timely notifying the other party in writing of any such claim, provided however that a party's failure to provide or delay in providing such notice shall not relieve a party of its obligations under this Section 6 except to the extent such failure or delay prejudices the defense,
第三方索赔所针对的一方应及时就任何此类索赔书面通知另一方，但该方未能提供或延迟提供此类通知不会免除该方在本节（第6节）下应承担的衣服，此类未能提供或延迟提供行为未对抗辩造成危害的除外，
- (b) the party who is obligated hereunder to defend a claim having the right to fully control the defense of such claim, and
有义务进行抗辩的一方有权全权控制此类索赔的抗辩事宜，及
- (c) the party against whom a third party claim is brought reasonably cooperating in the defense of such claim. Any settlement of any claim shall not include a financial or specific performance obligation on or admission of liability by the party against whom the claim is brought, provided however that SAP may settle any claim on a basis requiring SAP to substitute for the Services any alternative substantially equivalent non-infringing Services. The party against whom a third party claim is brought may appear, at its own expense,

through counsel reasonably acceptable to the party obligated to defend claims hereunder. Neither party shall undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation, that is prejudicial to the other party's rights.

第三方索赔所针对的一方应在此类索赔的抗辩过程中予以合理的配合。但任何索赔的任何和解结果均不应构成此类索赔所针对一方的经济赔偿或特定履行义务或赔偿责任，但可要求SAP使用实质上相同的备选非侵权服务替换服务，以此来解决此类索赔。针对其提出第三方索赔的一方可通过承担抗辩义务一方合理认可的律师提出诉讼，并承担相关费用。任何一方不得就任何侵权或滥用或声称的侵权或滥用作出任何有损于另一方权利的行为。

6.5 Exclusive Remedy. The provisions of this Section 6 state the sole, exclusive, and entire liability of the parties, their Affiliates and their licensors to the other party, and is the other party's sole remedy, with respect to third party claims covered hereunder and to the infringement or misappropriation of third-party intellectual property rights.

排他补救措施。第6节规定了协议双方及其关联企业和许可方就本协议项下涉及的第三方索赔及侵犯或滥用第三方知识产权对另一方唯一的、排他性的和全部的责任以及唯一的补救措施。

7. LIMITATION OF LIABILITY, LIABILITY CAP FOR CONSULTING SERVICES

咨询服务的责任限制和责任限额

Consulting Services shall be subject to Section 9 of the GTC, except that the following shall replace and supersede Section 9.2 of the GTC: For any Consulting Services provided under the Agreement, under no circumstances and regardless of the nature of any claim shall the maximum aggregate liability of either party (or their respective Affiliates or SAP's subcontractors) to the other or any other person or entity under or in connection with the Agreement, exceed the total fees paid for the applicable Consulting Service under the relevant Order Form or, in the case of Consulting Services which are subscription based or billed on a monthly or annual basis, the fees paid in the twelve (12) month period preceding the date of the incident giving rise to the liability.

咨询服务受GTC第9节的约束，但以下条款应替换并取代GTC第9.2节：对于依据本协议提供的咨询服务，任何情况下，不论索赔性质如何，任何一方（或其关联企业或SAP的分包商）对本协议项下或与本协议有关的其他任何个人或实体承担的最大责任总额均不得超过针对相关订购单中的适用咨询服务已支付的总费用，或者在按月或按年租用或计费咨询服务时，不得超过在引起责任的事件发生之日前的十二（12）个月针对此类服务已支付的费用。

8. FEEDBACK

反馈

Customer may be invited to participate in certain evaluations, presentations, meetings, surveys or discussions (collectively, "**Discussions**") for the purpose of informing Customer of SAP's business and technology direction, and to allow Customer, at its sole discretion, to provide SAP, SAP Affiliates or SAP SE with input, comments or suggestions from Customer, regarding SAP's business and technology direction and/or the possible creation, modification, correction, improvement or enhancement of the software, products and/or services of SAP, (collectively "**Feedback**"). Customer grants to SAP SE a non-exclusive, perpetual, irrevocable, worldwide, non-transferable (except to SAP Affiliates), royalty-free license, with the right to sublicense through multiple tiers, under applicable laws to use, publish, modify, and otherwise benefit from Feedback in any manner and via any media. Content of Discussions may include areas outside the scope of Consulting Services and may relate to any SAP software, products, solutions and/or services. Confidential Information disclosed or made available by SAP, or Customer during Discussions may only be used for the purpose of the Discussions and shall be protected from unauthorized use and disclosure in accordance with the GTC. Customer acknowledges that the information related to software, products, services, business or technology plans of SAP, disclosed during the Discussions, is only intended as possible strategies, developments, and functionalities and is not intended to bind SAP to any particular course of business, product strategy, and/or development.

SAP可以邀请客户参加一些评估、演示、会议、调查或讨论（以下统称“**讨论**”），以便将SAP的业务和技术方向告知客户，并使客户可以自行决定向SAP、SAP关联企业或SAP SE提供与SAP的业务和技术方向和/或SAP的软件、产品和/或服务可能进行的创建、修改、更正、改进或增强有关的看法、意见或建议（以下统称“**反馈**”）。客户授予SAP SE非独占的、永久性的、不可撤销的、全球范围内的、不可转让的（除了SAP关联企业之外）、免版税许可，SAP SE可向多级进行再许可，使之有权依据适用法律，通过任何方式和介质使用、发布、修改或通过其他方式从此类反馈信息中获益。讨论的内容可能包括咨询服务范围之外的内容，也可能与任何SAP软件、产品、解决方案和/或服务相关。SAP或客户在讨论过程中披露或提供的任何保密信息只能用于讨论目的，且依据本GTC的规定不得未经授权使用和对外披露。客户兹确认：SAP在讨论过程中披露的与SAP软件、产品、服务、业务或技术计划相关的所有信息，仅拟作为潜在的战略、开发和功能信息，不对SAP的任何特定业务流程、产品战略和/或开发构成约束。

9. NON-SOLICITATION

禁止招揽

Neither party shall knowingly solicit or hire, the other party's employees involved in the Consulting Services during the term or for a period of six (6) months from the termination of the applicable Order Form, without the express **SAP Consulting Services Supplement (DUAL) zhCN.v.6-2016**

written consent of the other party. This provision shall not restrict the right of either party to solicit or recruit generally in the media.

未经另一方明确书面同意，任何一方不得在适用订购单的有效期限内或适用订购单终止后的六（6）个月内，故意招揽或雇用另一方参与咨询服务的任何员工。本条款不得限制任何一方通过媒体进行正常招揽或聘用的权利。