

Annex A - SAP SE General Terms and Conditions for Consulting and Services in the SAP Integration and Certification Center ("ICC") – US Law

1. SCOPE

- 1.1. These General Terms and Conditions (herein: "**GTCs**") shall apply exclusively to all Service Offers under which SAP SE (herein: "**SAP**") provides any service through the SAP Integration and Certification Center to a software solution vendor (herein: "**Vendor**").
- 1.2. These GTCs, and any applicable executed Service Offer, represent the sole and exclusive understanding of the Parties. No conflicting or other provision, including but not limited to any general terms and conditions of Vendor, shall become part of the Contract, even if such conditions are appended to a Vendor's order and SAP performs the order without expressly rejecting such conditions.

2. DEFINITIONS

- 2.1. "**Confidential Information**" means all information which the Parties protects against unrestricted disclosure to others, furnished by one party to the other or otherwise obtained by the Parties under the Contract that:
 - a) is clearly identified as confidential, internal or proprietary at the time of disclosure; or
 - b) is by its nature recognizable as potentially confidential or is disclosed in a manner that it may be reasonably inferred to be confidential, internal, or proprietary at the time of disclosure. In addition, information of SAP, including without limitation software, know-how, business models, processes, techniques and concepts, information on customers and partners, information on any third-party software used, flow charts, documentations and product specifications, as well as the conditions of the Service Offer and all agreements relating thereto, are understood to constitute Confidential Information of SAP without regard to the marking requirements above.
- 2.2. "**Contract**" means the combination of these GTCs and any applicable Service Offer executed pursuant thereto between SAP and a given Vendor.
- 2.3. "**Intellectual Property Rights**" means all intellectual property and proprietary rights, including without limitation all rights of inventorship and authorship, inventions, patents of any type, design rights, utility models or other similar invention rights, copyrights and related rights, mask work rights, trade secret or confidentiality rights, know-how, trademark, moral rights, trade dress, service mark rights, computer software, proprietary information and data, databases, and any other intangible property rights, in each case whether registered or unregistered, including applications (or rights to apply), renewals, and extensions for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, which subsist now or will subsist now or in the future.
- 2.4. "**Service Offer**" means an offer from SAP to a Vendor for certification services through the SAP Integration and Certification Center.
- 2.5. "**Services**" means consulting and professional services, including among others consulting for the integration of software solutions, technical consulting and support whether on site or via any remote communications, training Vendor's employees and the provision of workshops for integration topics. The following services are not covered by this definition and therefore are not covered by these GTCs:
 - a) Certification services for certification scenarios as listed under www.sap.com/icc
 - b) The provision of remote access services
- 2.6. Any Service Offer more fully describing the project assumptions, scope, duration and fees for the Services shall reference these GTCs.

3. SERVICE OFFERS; CONTRACT EXECUTION FORM

- 3.1. These GTCs apply also to any relations between SAP and Vendor prior to execution of a Service Offer. All items provided by SAP to Vendor before execution of the Service Offer (examples: proposals, test programs, designs) are the property of SAP (see Section 8) and must not be copied or made accessible to third parties.

If no Service Offer is executed, they must be returned or deleted and Vendor must, not later than the time the parties fail to conclude a Service Offer, cease, and desist from using them.

- 3.2. Except as otherwise provided in the Service Offer, Vendor may send a notice of acceptance within a period of 4 weeks after the issue date of the Service Offer. Any acceptance received by SAP after this period will be null and void, and SAP has no obligation to fulfill the Contract.
- 3.3. The execution of the Contract, as well as any subsequent amendment, supplement notice of default, or deadline notices or termination notices are only valid if made in writing. The foregoing provision also applies to any waiver of the written-form requirement.
- 3.4. The requirement of a written form in Section 3.4 (or elsewhere in the Contract) requires at least a facsimile transmission or exchange of letters, or as otherwise expressly agreed in the Contract.
- 3.5. Unless it is expressly confirmed in writing by SAP, no communication of any kind may be construed as imposing on SAP any other or further responsibilities or commitments than is set forth in the Contract. Guarantees are effective only if expressly confirmed in writing by a senior officer of SAP.
- 3.6. Except to the extent this would result in unreasonable exposure for the Vendor, any deadlines issued by Vendor – whether pursuant to law or the Contract – shall be reasonable but not less than 12 working days.

4. PROVISION OF SERVICES

- 4.1. The Contract defines the scope of the Services. SAP performance of the Services is subject to the proper cooperation from Vendor (see Section 5). Vendor bears the risk of ordered Services meeting Vendor's needs.
- 4.2. SAP employees must not be integrated into Vendor's workforce and Vendor has no managerial authority over them. Any instructions given by Vendor must relate to the scope of the Services in the executed Services Offer and must be given to SAP's project coordinator.
- 4.3. SAP will decide which employees to use and reserves the right to replace any employee at any time. SAP may deploy freelance workers and other contractors to perform its duties in the Contract as long as they are subject to confidentiality obligations.
- 4.4. SAP may document any discussions detailing or amending Contractual provisions, especially the subject matter of the Contract. Vendor must check the discussion documentation immediately and inform SAP of any necessary amendments or additions.
- 4.5. Any deadlines are non-binding, except where SAP expressly agrees in writing that time is of the essence. Except with respect to those circumstances where time is of the essence, SAP will only be in default after thirty days written notice given by Vendor after expiration of the deadline. If SAP fails to comply with such a deadline where time is of the essence, Vendor must set a reasonable grace period for performance, which shall not be shorter than 2 weeks. After expiration of such grace period and SAP's non-performance, Vendor is entitled to terminate the Contract. If any Service cannot be provided for a reason that is not in SAP's responsibility, the agreed timelines will nonetheless be billed unless Vendor shows that the relevant SAP resources were or could have been deployed elsewhere.
- 4.6. If, with Vendor's agreement, SAP provides Services other than those specified in the Contract, the terms and conditions of the Contract are also applicable to those Services.
- 4.7. All SAP's duties to provide Services are subject to any embargo regulations.
- 4.8. Working days are the statutory working days and hours in the country in which the technical ICC consultant assigned to Vendor is located. SAP is entitled in its own discretion to provide several consultants in several regions or time zones.

5. VENDOR'S CONTRIBUTIONS

- 5.1. In all phases and for all concerns, the reasonable cooperation of Vendor is required. Vendor must provide free of charge all contributions as required in connection with performance of its obligations under the Contract, including but not limited to providing necessary personnel, workspace, hardware, software, data, and

telecommunications facilities, answering questions, and evaluating SAP's deliverables. To the extent required for performance under the Contract, Vendor shall grant SAP direct and remote access to Vendor's hardware and software. All Services of the SAP consultants will be coordinated with the designated Vendor representative. Vendor is responsible for making the necessary internal arrangements for the carrying out of the Services on a non-interference basis.

- 5.2. Vendor must nominate in writing a suitable contact person for SAP (and qualified subproject leads, if beneficial for the collaboration), and provide SAP with the contact data (especially an e-mail address and telephone number) at which SAP can always reach each such person or an authorized substitute. The contact person must be able to make necessary decisions for Vendor or ensure that they are made without delay. Vendor must inform SAP of all changes to the contact details in writing without delay.
- 5.3. Vendor is responsible for adapting the Vendor Solution in accordance with the technical and functional requirements of the Integration Scenario and the underlying specific SAP documentation. Vendor must provide all information reasonably requested by SAP concerning the Vendor Solution and its technical usage scenario in connection with SAP Software and the corresponding SAP Interface.
- 5.4. SAP will determine the place and mode of the certification testing, which may be provided either by tests using Internet collaboration tools or on-site. Vendor shall ensure at its own expense that the Vendor Solution as well as all software, documentation, resources, and/or materials required for integration certification testing from Vendor are ready and accessible. SAP will provide the respective SAP systems for integration certification testing.
- 5.5. Vendor must take appropriate measures to prevent any damage, including but not limited to data backups, error diagnosis, and regular results monitoring. Except where otherwise expressly indicated in writing in individual cases, SAP employees are always entitled to assume that all data with which they come into contact is backed up.
- 5.6. Vendor must bear all costs and expenses arising out of its breach of its collaborative duties in this Section 5 or elsewhere in the Contract. Vendor is obligated to pay any agreed upon fees in case of SAP's non-performance pursuant to Vendor's failure to perform or properly perform its obligations under the Contract.

6. CHANGE REQUEST PROCEDURE

- 6.1. During the term of a project, both parties may request changes in writing, particularly changes to the agreed Services, dates and times.
- 6.2. In case of a change request by the Vendor, SAP shall inform Vendor within 10 working days whether the change is possible and what impact the change will have on the Contract notably in consideration to the timeline and remuneration. Vendor must inform SAP in writing, within 5 working days of SAP's response to a change order, whether Vendor agrees to the conditions of SAP's response to the Change Order. Should Vendor not agree to the conditions included in SAP's response to the Change Order within 5 working days the Change Order shall be considered withdrawn. If the investigation of a change request itself requires more than a minimal effort (determined in the sole discretion of SAP), SAP is entitled to bill separately for that Service.
- 6.3. If SAP submits a change request, Vendor must notify SAP in writing within 10 working days whether it accepts the change.
- 6.4. Until there is a written agreement on the change, the Services will proceed as set forth under the existing Contract. In the event the parties are unable to reach agreement on the change, Vendor may require a suspension of all, or parts of the Services agreed to under the Contract or has the right to terminate the Contract with 30 days written notice. In case of a suspension requested by Vendor, with effect from the first working day of suspension period, the remuneration for each SAP employee on the project, whose work is suspended, shall be subject to the agreed upon rate or otherwise at the daily rate set forth in SAP's list of prices and conditions until the end of the suspension period requested by Vendor. In case of termination by Vendor subject to this Section, Vendor shall pay for all Services delivered by SAP until the termination becomes effective. In addition, SAP may invoice any additional costs, or any unavailing anticipatory expenditures caused by such termination.

7. DELIVERY

- 7.1. In case a Contract specifies several deliverables, SAP may require a written acceptance statement from Vendor for all deliverables that are ready for acceptance. Vendor must accept deliverables without delay subject to the provisions in this Section 7. To this end an acceptance log may be created, which must be signed by both parties.
- 7.2. In case SAP agrees under a Contract to deliver several deliverables that Vendor may use individually, each single deliverable will be subject to separate acceptance. Each single Service may be invoiced after its delivery, even if part of one Contract.
- 7.3. If SAP requires written acceptance as set forth in Section 7.1 above, Vendor must inspect any deliverables within 15 working days and either notify SAP through the contact person in writing that such deliverables are accepted or give a precise description of any material defects. If Vendor does not give any such notice within this period, or starts using deliverables, the deliverables are deemed to be accepted. Minor defects shall not be cause for withholding any acceptance. SAP shall make commercially reasonable efforts to remedy within a commercially reasonable period, any proven and properly reported (Vendor notifies SAP in the manner and within the timeframe specified herein) material defects. After elimination of the material defect, Vendor must inspect the deliverables within 5 working days after notice by SAP ("**SAP Notice**") that the material defect has been eliminated. In the event such repeat inspection reveals a material defect remains, Vendor shall notify SAP, no later than 10 working days from the date of the SAP Notice, through the contact person in writing that such material defect remains. In such case, either party may terminate the Contract. If Vendor does not give any such notice within the 10 working day period, or starts using deliverables, the deliverables are deemed to be accepted.
- 7.4. SAP does not give any warranty that within the scope of an integration assessment or similar Service, Vendor will be offered with an integration scenario certification of Vendor's solution. The Service is considered as rendered, even if there is no possibility for a certifiable integration after evaluation through ICC.

8. INTELLECTUAL PROPERTY

- 8.1. Unless otherwise agreed to in writing by the parties in the Contract, SAP shall have the sole and exclusive right, title and ownership to any and all Intellectual Property Rights related in any way to the techniques, knowledge or processes of the Services and deliverables, whether or not developed for Vendor, including any deliverables developed based on specifications by or in cooperation with Vendor. Except as otherwise agreed in writing, and upon final payment of the agreed fee, Vendor is granted a non-exclusive, non-transferable, non-sublicensable license to use the deliverables for its own internal purposes as well as for test and evaluation purposes. Vendor is permitted to create necessary backup copies of the deliverables. Backup copies must be marked as backup copies and bear the same copyright and authorship notice as the original.
- 8.2. Vendor acknowledges that all Intellectual Property Rights in the SAP Confidential Information are and shall remain vested exclusively in SAP.
- 8.3. Vendor is not permitted to copy, translate, edit, arrange, disassemble, decompile, create derivative works of, or otherwise rework the SAP Software or the SAP Interface. All Intellectual Property Rights in any modifications, enhancements, or other derivative works of the SAP Software, the SAP Interface and/or the SAP Confidential Information belong exclusively to SAP.
- 8.4. Vendor retains all Intellectual Property Rights in Vendor's background Intellectual Property Rights existing before execution of the Contract.
- 8.5. The contracting parties acknowledge the high value of each other's trademarks and service marks, irrespective where those are used or registered. Neither party shall acquire any rights in the trademarks of the other party except it is otherwise expressly provided under the Contract.

9. REMUNERATION, PAYMENTS

- 9.1. The remuneration is as set forth in the executed Service Offer. Without receiving the payment, SAP is not under a duty to provide integration certification services and is entitled to refuse to provide Services until full and final payment. All fees are non-refundable.
- 9.2. All prices are subject to statutory sales tax/VAT. SAP is entitled to submit invoices for partial performance. Payments are due on receipt of invoice and must be made within 30(days. No cash discount will be granted. SAP charges interest at a rate of 1.5% per month beginning 16 days after the due date for such payment.
- 9.3. All amounts under the Contract are payable in advance. In general, the billing will be subject to the pricing set forth in the Service Offer. If no fixed price is agreed billing will be on a resource-related basis listing the provided Services in the invoice. Any resource-related invoice must include a list of the activities to which it refers. Costs for time spent traveling and travel and accommodation expenses will be billed based on time and material in relation to the SAP employee's regular place of work. Charges for time spent traveling and travel expenses arise from travel between the employee's regular place of work and Vendor's site and between Vendor's different sites.
- 9.4. Invoices are deemed accepted unless Vendor rejects them in writing within 2 weeks.
- 9.5. SAP is entitled to require full or partial pre-payments if there was no prior business relationship with Vendor, if delivery is to be made outside Germany, if Vendor's registered offices are outside Germany or if there is reasonable doubt on timely payment by Vendor.
- 9.6. Vendor may not assign its claims to a third party.

10. LIMITED WARRANTY; INDEMNITY

- 10.1. SAP warrants that its Services shall be performed consistent with generally accepted industry standards. Nothing under the Contract may be construed as expanding any warranty under any other agreement between SAP and Vendor. EXCEPT FOR THE FOREGOING EXPRESS LIMITED WARRANTY, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SAP AND ITS LICENSORS DO NOT MAKE, AND VENDOR DOES NOT RECEIVE, ANY WARRANTIES REPRESENTATIONS OR CONDITIONS OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE RELATED TO OR ARISING IN ANY WAY OUT OF THE CONTRACT OR THE PROVISION OF SERVICES THEREUNDER. SAP SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. ANY CLAIM OF VENDOR FOR COMPENSATION OF COSTS OR DAMAGES IS EXPRESSLY EXCLUDED.
- 10.2. Vendor shall be solely responsible for and will indemnify, defend and hold SAP, SAP's affiliated companies and SAP's representatives, officers, employees, directors and agents harmless from and against any claims, damages, losses, liabilities, obligations, penalties and expenses, including any legal fees and expenses, relating to or based on:
 - a) any claims of negligence, misrepresentation, or errors or omissions on the part of Vendor or its representatives; and
 - b) any claims that Vendor's Solution infringes Intellectual property rights. Any such claim is contingent upon:
 - i. SAP notifying Vendor of the claim writing and in full detail without delay; and
 - ii. SAP authorizing Vendor to conduct the dispute in and outside court against the third party. Vendor at its expense shall provide SAP with all reasonable assistance to defend against the claim.
- 10.3. Vendor warrants that all data uploaded by Vendor onto SAP's servers is free of viruses, Trojan horses, and other malicious software.

11. LIMITATION ON LIABILITY

- 11.1. WITH RESPECT TO SERVICES, ANYTHING TO THE CONTRARY NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM UNAUTHORIZED USE OR DISCLOSURE OF THE PROPRIETARY INFORMATION AND SAP'S RIGHT TO COLLECT UNPAID FEES, UNDER NO CIRCUMSTANCES

ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, WHETHER IN CONTRACT, TORT, OR OTHERWISE, UNDER NO CIRCUMSTANCES SHALL SAP OR ITS LICENSORS BE LIABLE TO VENDOR OR ANY OF ITS REPRESENTATIVES FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE PAID SERVICE FEES SET FORTH IN THE CONTRACT, OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF SAP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SAP'S LIABILITY IS CUMULATIVE; WITH ALL OF VENDORS LOSSES BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT.

The provisions of the Agreement allocate risks between SAP and Vendor. The service fees reflect the allocation of risk and the limitations of liability herein.

- 11.2. THE LIMITATION ON LIABILITY SET FORTH UNDER SECTION 11.1 SHALL NOT APPLY IN CASES OF DEATH, PERSONAL INJURY, FRAUD OR WILLFUL MISCONDUCT.
- 11.3. Vendor undertakes to take appropriate steps to safeguard its data and programs, including without limitation making backup copies every day in machine readable form. SAP shall not liable for any loss of data or programs where the loss could have been avoided by compliance with this undertaking. In all other respect SAP's liability for loss of data is subject to the limitations in this Section 11.

12. CONFIDENTIALITY AND DATA PROTECTION

- 12.1. Each party of the Contract agrees:
 - a) to maintain the other party's Confidential Information in strict confidence, taking steps to protect the other party's Confidential Information substantially similar to those steps that the party takes to protect its own similar proprietary and confidential information, which shall not be less than a reasonable standard of care;
 - b) not to disclose or reveal any Confidential Information to any third party other than employees and contractors of either party who are under obligations of confidentiality substantially similar to those set forth herein and who are actively and directly participating in the services described in the Contract or who otherwise need to know the Confidential Information for the purpose of the services described in the Contract (subject to the additional restrictions in Section 11.3; and
 - c) to retain any and all confidential or internal or proprietary notices or legends which appear on the original and on any reproductions.

In addition, except as expressly provided in this Contract, Vendor does not have the right to use the Confidential Information in any manner for any purposes other than for the fulfilment of executed Service Offers, or as necessary for the Vendor to exercise its limited right to use the SAP Confidential Information pursuant to Section 8. The duties of confidentiality and non-use shall survive the expiration or termination of the Contract. Notwithstanding the foregoing, SAP shall be permitted to internally use Vendor's Confidential Information disclosed under the Contract as well as any certification results and data for SAP's business purposes including by SAP's support and maintenance organization(s) and contractors under an obligation of confidentiality as defined in Section 12.1.

- 12.2. Notwithstanding anything to the contrary, "Confidential Information" shall not include any information that:
 - a) has become generally known or available to the public through no act or omission on the part of the receiving party;
 - b) at the time of disclosure to the receiving party was known to the receiving party free of restriction;
 - c) is lawfully acquired free of restriction by the receiving party from a third party having the right to furnish such Confidential Information;
 - d) is independently developed by the receiving Party without use or reference of the Confidential Information; or
 - e) Disclosing party agrees in writing is free of such restrictions.

- 12.3. The parties may disclose the other 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 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 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.
- 12.4. Nothing in the Contract 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 the Contract. 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.
- 12.5. Upon the disclosing party's request, and except to the extent it is legally entitled or required to retain the Confidential Information, the receiving party shall promptly destroy or return to the disclosing party, at the disclosing party's election, all materials containing the disclosing party's Confidential Information and all copies thereof, whether reproductions, summaries, or extracts thereof or based thereon (whether in hard-copy form or on intangible media), provided, however:
- a) that if a legal proceeding has been instituted to seek disclosure of the Confidential Information, such material shall not be destroyed until the proceeding is settled or a final judgment with respect thereto has been rendered; and
 - b) that the receiving party shall not, in connection with the foregoing obligations, be required to identify or delete Confidential Information held in archive or back-up systems in accordance with general systems archiving or backup policies.
- 12.6. It is not a purpose of the Contract that SAP process or use personal data of Vendor for business purposes. Rather, any transfer of personal data will only take place in exceptional circumstances as an incidental effect of performing contractual duties. In case a party grants the other part access to its personal data, the parties shall comply with the applicable data protection legislation.

13. TERMS AND TERMINATION

- 13.1. The term of the Contract and termination period is set forth under the Service Offer.
- 13.2. The right to termination for cause shall not be affected. In the event of default by the Vendor, SAP is entitled to terminate the Contract after a grace period of 30 days. SAP reserves the right to terminate for cause, notably in case of fraud by the Vendor. In this case no fees will be refunded.
- 13.3. Termination for cause by SAP shall also apply in the following cases:
- a) when Vendor is in default of payments ; or
 - b) if Vendor materially fails to perform its obligations under the Contract; or
 - c) if Vendor becomes insolvent, insolvency proceedings have justifiably been applied for on the Vendor's assets, such application has been rejected for lack of assets, execution measures against the Vendor have been fruitless; or
 - d) execution measures have been issued against the Vendor and not been cancelled within one month (e.g. cancellation of seizure); or
 - e) any change of control of Vendor according to Section 15 ff Companies Act (Aktiengesetz).
- 13.4. The notice of termination must be in written form. For the purposes of this provision, written form requires certified mail.
- 13.5. In case of termination of the Contract:

- a) each party shall promptly return to the other party all advertising materials and other property, including all Confidential Information, provided by the other party subject to the Contract or, as specifically agreed, destroy such information. The Return or destruction shall be certified in writing;
 - b) both parties shall cease acting in a manner that would suggest any continuing relationship with regards to the certification. The parties shall immediately cease all marketing, logo use and advertising announced or conducted under the Contract.
- 13.6. Upon termination of the executed Service Offer or the GTCs, any Services that have already been provided or performed pursuant to the relevant executed Service Offer(s), including any expenses incurred pursuant to the provision of such Services will be invoiced in accordance with Section 9 of these GTCs. Any claims for damages subsequent to termination of the executed Service Offer that arise out of any Services provided or performed prior to termination will be subject to Section 11 of these GTCs.
- 13.7. Sections 9, 10, 11, 12 and 13 shall survive any expiration or termination of this Contract.

14. MISCELLANEOUS

- 14.1. Vendor consents to the jurisdiction of any federal or state court sitting in Delaware County, Pennsylvania for all claims, suits, or actions arising under this Agreement. This Agreement shall be governed by and construed under Pennsylvania law without reference to its rules of conflict of laws and the UN Sales Convention. The UNCITRAL purchase laws shall not apply.
- 14.2. Should any of the provisions of these GTCs or the Service Offer be or become invalid, the validity of the remaining provisions shall not be affected thereby.
- 14.3. Vendor and SAP are independent companies, each trading for its own account. Neither party nor its employees are authorized to make any representation, enter any undertaking, or give any warrantee for or on behalf of the other party except to the extent as expressly agreed to in writing by the other party in advance.
- 14.4. Neither party is liable to any end user for the quality of the goods, works, or services of the other party. Each party is solely responsible for billing and setting license fees for its own products.
- 14.5. Under the Contract, the terms “cooperation”, “partner”, or similar expressions are only used to describe the spirit of the cooperation between the parties under the Contract, and do not describe, or expressly or impliedly create, a legal partnership or joint venture, or any responsibility by one party for the actions of the other.
- 14.6. Neither party shall transfer, assign, or sublicense its rights or obligations under the Contract in whole or in part, without the prior written consent of the other party. SAP may assign the Contract in whole or in part to an affiliate. In case of any Change of Control with Vendor, Vendor agrees to provide SAP with written notice upon the earlier of signing the definitive acquisition agreements or the public announcement and SAP has the right to terminate this Contract or consent to the assignment within 30 days of receipt of such notice. Sections 13.5 and 13.6 shall apply accordingly. As used in this Section, “Change of Control” means the acquisition of or all or substantially all of the assets of Vendor by another entity in a single transaction or series of related transactions, or the stock purchase, sale of assets, merger or consolidation of Vendor with or into another entity, if more than 50% of the continuing or surviving entity’s securities outstanding immediately after such stock purchase, sale of assets, merger or consolidation is owned by persons who were not stockholders of the party immediately prior to such merger or consolidation.
- 14.7. Any delay or nonperformance of any provision of this Agreement caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.
- 14.8. The Contract constitutes the complete and exclusive statement of the agreement between SAP and Vendor, and all previous representations, discussions, and writings are superseded by the Contract.

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SAP SE

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