

**Customer Name:** City of Santa Clara

**Order Effective Date:** April 21, 2020

**Service Type Billing Cycle:** Annually beginning on the Transaction Fee Start Date

**Email Address for Notice:** gdougherty@santaclaraca.gov

**PO to be Issued:** No

**Currency for Fees:** USD

**Tax Exemption Claimed:** No  
(Tax exemption certificate must be provided by Order Effective Date)

**Initial Term:** 12 months beginning on the Order Effective Date

Service	Type	Unit Quantity	Billing Cycle(s) (beginning on Transaction Fee Start Date)	Base Transactions*	Base Transaction or Recurring Fee, as applicable*	Incremental Transaction Fee	Initial Set Up Fee
Expense with TripLink	Primary	N/A	1 and beyond	120	\$2,020.80	\$21.05	\$0.00
Invoice Processing	Primary	N/A	1 and beyond	3300	\$8,250.00	\$6.44	\$0.00
Invoice Capture	Extended <i>(Transaction-based with Base Transaction Fee)</i>	N/A	1 and beyond	120	Included	Included	Included
Invoice Check Payments	Extended <i>(Transaction-based with Base Transaction Fee)</i>	N/A	1 and beyond	0	\$0.00	\$1.00	\$0.00
Invoice Line Item Capture	Extended <i>(Transaction-based with Base Transaction Fee)</i>	N/A	1 and beyond	120	Included	Included	Included
Expense for Expense	Extended <i>(Unit-based with Recurring Fee)</i>	1 Set Up(s)	1 and beyond	N/A	Included	Included	Included
User Support Desk	Extended <i>(Unit-based with Recurring Fee)</i>	1 Set Up(s)	1 and beyond	N/A	\$243.60	\$2.54	\$0.00
Purchase Requests for Invoice	Extended <i>(Unit-based with Recurring Fee)</i>	1 Set Up(s)	1 and beyond	N/A	\$1,980.00	\$0.75	\$2,500.00

\*Base Transactions, Base Transaction Fee, and Recurring Fee are on a per Billing Cycle basis.

**General:** This Order Form is issued by **Concur Technologies, Inc.** ("Concur") and applies to the Customer specified herein. Customer's authorization via DocuSign (the "Authorization") shall constitute Customer's assent to this Order Form and its terms. Customer hereby orders the services specified in this Order Form (collectively the "Service") and Concur hereby agrees to provide such Service, subject to the terms set forth herein and as provided at <http://go.sap.com/about/agreements.html>. This Order Form incorporates the following documents in effect as of the date specified above as the "Order Effective Date" in the following order of precedence, all of which constitute the "Agreement": (i) this Order Form, (ii) product-specific Supplemental Terms ("Supplement") for the Service, (iii) Support Policy for the Service, (iv) Service Level Agreement for the Service, (v) Personal Data Processing Agreement for SAP Cloud Services ("DPA"), (vi) General Terms and Conditions for SAP Cloud Services (USA) ("GTC"), and (vii) the then-current Concur Service Description Guide for the Service. All undefined capitalized terms herein shall have the meanings ascribed to such terms in the Agreement. All references to "SAP" in the GTC and DPA shall mean "Concur". This Order Form as issued by Concur is an offer by Concur. When Concur receives the Authorization on or prior to the end of the calendar month of the Order Effective Date, it becomes a binding written ordering document executed by Customer and Concur as of the Order Effective Date, unless unauthorized changes were made by Customer to this Order Form in which case it will be rejected.

**Invoicing:** Concur shall be entitled to invoice Customer for the fees specified in this Order Form as set forth in the Supplement.

**Pre-Production System Fees:** For each Service Type specified in this Order Form that includes a Pre-Production System Fee, Concur shall be entitled to invoice Customer for such Pre-Production System Fee beginning with the first calendar month after the date specified above as the "Order Effective Date" and continuing monthly thereafter until the Transaction Fee Start Date for such primary service.

**Payment Terms:** Customer will pay each accurate invoice within 30 days after the applicable invoice date. Customer hereby authorizes Concur to debit/charge Customer's account, as applicable, for the amount specified in each accurate Concur invoice at any time following Concur's presentment of such

invoice to Customer. If Concur is unable to debit/credit Customer's account, as applicable, for the full amount specified in such invoice, then Customer nevertheless shall ensure that such invoice is paid within 30 days after the applicable invoice date.

**Additional Definition(s):** For purposes of the Agreement, the following terms shall have the definitions set forth below:

**"Transaction Fee Start Date"** means (i) for the Expense with TripLink Service Type ordered as specified above (and all the extended services that pertain to such Service Type) the second calendar month after the date specified above as the "Order Effective Date"; and (ii) for the Invoice Processing Service Type ordered as specified above (and all the extended services that pertain to such Service Type) the second calendar month after the date set forth above as the "Order Effective Date".

**Credit Card Type:**

**Credit Card No.:**

**Expiration Date:**

**Name on Card:**

(company or individual name)

**Credit Card Billing Address:**

**Address Line 2:**

**City:**

**State/Province:**

**Zip/Postal:**

**Country:**

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By checking here and clicking on the "Finish" button below, Customer (i) agrees to be bound by the terms of the above Order Form, and (ii) authorizes the purchase of the Concur Service described in the above Order Form.

## SAP CONCUR CLOUD SERVICE SUPPLEMENTAL TERMS AND CONDITIONS

These Supplemental Terms and Conditions for the Service shall apply to the Agreement. All undefined capitalized terms herein shall have the meanings ascribed to such terms in the Agreement.

- 1. Monitoring.** Notwithstanding anything in the GTC to the contrary, Customer is not obligated to monitor its own use of the Cloud Service and report any use in excess of the Usage Metrics and volume.
- 2. Travel Fees.** If the "Travel & Expense" or "Travel" Service is provided under the Agreement, then Concur shall have the right to effect reasonable changes to the recurring fees under the Agreement to the extent of any general fee change assessed across Concur's customers of the applicable Service due to changes in Concur's third-party costs associated with its travel management business (e.g., GDS or other similar third party fees), upon notice to Customer at least 30 days before the effective date of the change and provided that such costs are passed through without markup by Concur.
- 3. Customer Data.** Subject to the terms of the Agreement, Customer hereby grants Concur a non-exclusive, non-transferable, worldwide right to use and disclose the electronic data specifically pertaining to Customer and/or its Authorized Users that is submitted into the Service (collectively, "Customer Data") as necessary for the limited purpose of providing the Service.
- 4. Feedback.** Customer may provide Concur with suggestions for product or service improvement or modification in connection with any present or future Concur product or service ("Feedback"). Accordingly, Feedback shall not be considered Confidential Information under the Agreement and neither Concur nor any of its customers or business partners shall have any obligation or liability to Customer with respect to any use or disclosure of such Feedback.
- 5. Notices.** All notices hereunder by either party shall be in writing and given when delivered via email to Concur at [notices@concur.com](mailto:notices@concur.com) and to Customer at their email address for notices set forth in the initial Order Form.
- 6. Term.** Except as otherwise set forth in an Order Form, the term of the Service will commence on the Order Effective Date set forth in the initial Order Form and will continue thereafter for the initial term specified in the initial Order Form (the "Initial Term"). After the Initial Term or any renewal term, the term for the Service shall continue thereafter, provided that either party may terminate the Agreement after the Initial Term or any renewal term by delivering written notice of termination to the other party at least 90 days (unless otherwise specified in an Order Form) before the desired effective date of such termination. All terms and conditions of the GTC and the Supplement shall remain in effect until termination of the Agreement, except as the parties expressly agree otherwise in writing.
- 7. Invoicing.** Concur will invoice for the Fees set forth in an Order Form, as set forth herein and in such Order Form.
  - 7.1 Initial Set Up Fees:** Concur shall be entitled to invoice Customer for the Initial Set Up Fees specified in such Order Form at any time on or after the "Order Effective Date" set forth in such Order Form.
  - 7.2 Transaction Fees and Other Recurring Fees:** Concur shall be entitled to invoice Customer for the recurring Transaction Fee for a given Service Type (and for all recurring Transaction Fees and Recurring Fees specified in the "Extended Services Ordered" section(s) set forth in such Order Form that pertain to such Service Type) beginning on the Transaction Fee Start Date (as defined in such Order Form) for such Service and continuing thereafter for each Billing Cycle during the term of the Agreement.

**8. Optional Select Access Services.** Notwithstanding anything to the contrary, Customer will have the option to activate and use Concur's Select Access Services in conjunction with Customer's use of an applicable Concur Service for additional fees based on actual usage of such Select Access Services. A list of Concur's Select Access Services and corresponding fees and related terms are posted on the Concur Support Portal website, incorporated herein by this reference, and subject to change from time to time as specified on such website.

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## SUPPORT POLICY FOR SAP CLOUD SERVICES

This Support Policy for SAP Cloud Services is part of an Agreement for certain SAP Cloud Services (“Agreement”) between SAP and Customer.

### SUPPORT AND SUCCESS PLAN SERVICES

As part of SAP’s ONE Support approach, which provides a consistent support experience for Cloud Services and on-premise solutions, SAP offers the following support levels; SAP Enterprise Support, cloud editions, SAP Preferred Success and SAP Preferred Care. SAP Enterprise Support, cloud editions is included in the subscription fees for SAP Cloud Services stated in the Order Form unless alternative support terms are specified in the Supplemental Terms for the Cloud Service. SAP Preferred Success and SAP Preferred Care is offered for an additional fee, as an add-on to SAP Enterprise Support, cloud editions, for certain SAP Cloud Solutions listed under <https://support.sap.com/preferredsuccessproductlist>. SAP Preferred Success and SAP Preferred Care are not available, and are not provided, for any third-party cloud services purchased through SAP.

#### 1. SCOPE OF THE SUPPORT AND SUCCESS PLAN SERVICES

Capitalized Terms are further defined in the table below. The support services are available in English language, unless stated otherwise.

**1.1 Enterprise Support, cloud editions:** Foundational engagement support with focus on customer interaction and issue resolution.

<b>SAP Enterprise Support, cloud editions</b>	
<b>Mission Critical Support</b>	
<b>24x7 Mission Critical Support for P1 and P2 issues (English only)</b>	✓
<b>Non-Mission Critical Support for P3 and P4 issues during business hours (English only)</b>	Monday to Friday 8 am to 6 pm (Local Time Zone), excluding local holidays
<b>Customer Interaction Center 24x7</b>	✓ (as stated below)
<b>Global Support Backbone</b>	✓
<b>End-to-end Supportability</b>	✓
<b>Learning and Empowerment</b>	
<b>Access to remote SAP support content and services, e.g., Meet-the-Expert Sessions</b>	✓
<b>Release Update Information</b>	Self-service through web and community
<b>Collaboration</b>	
<b>SAP Support Advisory Services</b>	✓
<b>Support via web and platform for social business collaboration</b>	✓
<b>Support via chat during business hours in English language for non-Mission Critical Support issues</b>	Currently available for SAP SuccessFactors, SAP Concur, SAP Ariba, SAP Business by Design, SAP Cloud for Customer and SAP S/4HANA Cloud Services
<b>SAP Enterprise Support Reporting</b>	✓
<b>Innovation and Value Realization</b>	
<b>Proactive Checks proposed by SAP</b>	✓
<b>Product Roadmap Update Information</b>	Self-service through web
<b>Refresh of test instance</b>	Self-service or request through web for initiating the refresh as offered and required by respective solution

**1.2 SAP Preferred Success:** An add-on to SAP Enterprise Support, cloud editions that includes strategic guidance, solution-specific best practices and Success Programs to help drive consumption and value realization (Representation below includes SAP Enterprise Support, cloud editions).

<b>Mission Critical Support</b>	
<b>24x7 Mission Critical Support for P1 and P2 issues (English only)</b>	24x7 prioritized issue handling
<b>Non-Mission Critical Support for P3 and P4 issues during business hours (English only)</b>	Monday to Friday 8 am to 6 pm (Local Time Zone), excluding local holidays
<b>Customer Interaction Center 24x7</b>	✓ (as stated below)
<b>Global Support Backbone</b>	✓
<b>End-to-end Supportability</b>	✓
<b>Learning and Empowerment</b>	
<b>Access to remote SAP support content and services, e.g., Meet-the-Expert Sessions</b>	Access to SAP Preferred Success specific learning content. Customer can have up to 5 Key Users access SAP Learning Hub, solution edition specific to the cloud service
<b>Release Update Information</b>	Solution-specific Release Update Information
<b>Collaboration</b>	
<b>SAP Support Advisory Services</b>	✓
<b>SAP Cloud Service and process-related guidance</b>	Access to Success Resources for full customer lifecycle from onboarding to consumption, including technical and product usage advice, best practices and operational excellence, may include in-person delivery, at SAP's discretion
<b>Regular checkpoint</b>	Access to Success Resources to answer questions related to critical issues, reporting and best practices, may include in-person delivery, at SAP's discretion
<b>Support via web and platform for social business collaboration</b>	Exclusive access to SAP Preferred Success Community
<b>Support via chat during business hours in English language for non-Mission Critical Support issues</b>	Currently available for SAP SuccessFactors, SAP Cloud for Customer and SAP S/4HANA Cloud Services
<b>SAP Enterprise Support Reporting</b>	Enhanced Success Reporting
<b>Innovation and Value Realization</b>	
<b>Access to Success Programs</b>	✓
<b>Proactive Checks proposed by SAP</b>	Automated or self-service Proactive Checks for the specific solution in use
<b>Product Roadmap Update Information</b>	Solution-specific Product Roadmap Update Information
<b>Periodic Cloud Service Review and Planning</b>	Access to Success Resources for checkpoints, cycle planning, challenges and consumption planning, may include in-person delivery, at SAP's discretion
<b>Refresh of test instance</b>	Access to SAP assistance with managing the refreshing of test instances up to two times per year, where applicable

**1.3 SAP Preferred Care:** An add-on to SAP Enterprise Support, cloud editions that includes strategic guidance and customer-specific best practices to help drive user adoption and value realization (Representation below includes SAP Enterprise Support, cloud editions).

<b>Mission Critical Support</b>	
<b>24x7 Mission Critical Support for P1 and P2 issues (English only)</b>	24x7 prioritized issue handling
<b>Non-Mission Critical Support for P3 and P4 issues during business hours (English only)</b>	Monday to Friday 8 am to 6 pm (Local Time Zone), excluding local holidays
<b>Customer Interaction Center 24x7</b>	✓ (as stated below)
<b>Global Support Backbone</b>	✓
<b>End-to-end Supportability</b>	✓
<b>Learning and Empowerment</b>	
<b>Access to remote SAP support content and services, e.g., Meet-the-Expert Sessions</b>	✓
<b>Release Update Information</b>	Customer-specific Release Update Information
<b>Collaboration</b>	
<b>SAP Support Advisory Services</b>	✓
<b>SAP Cloud Service and process-related guidance</b>	Access to Support Expert for technical and product usage advice, best practices and operational excellence (within customer's region)
<b>Regular Checkpoint</b>	Meeting with Support Expert to review critical issues, reporting and best practices
<b>Support via web and platform for social business collaboration</b>	✓
<b>Support via chat during business hours in English language for non-Mission Critical Support issues</b>	Currently available for SAP SuccessFactors, SAP Concur, SAP Ariba, SAP Business by Design and SAP S/4HANA Cloud Services
<b>SAP Enterprise Support Reporting</b>	✓
<b>Innovation and Value Realization</b>	
<b>Proactive Checks proposed by SAP</b>	Customer-specific Proactive Checks
<b>Product Roadmap Update Information</b>	Customer-specific Product Roadmap Update Information
<b>Periodic Cloud Service Review And Planning</b>	Meeting with Support Expert to discuss checkpoint, cycle planning, challenges and adoption plan
<b>Refresh of test instance</b>	Access to SAP assistance with managing the refreshing of test instances up to two times per year, where applicable.

**1.4 Access to Empowerment and Innovation and Value Realization Services.**

Empowerment content and session schedules are stated at the SAP Support Portal in the [SAP Enterprise Support Academy](#) section. Scheduling, availability and delivery methodology is at SAP's discretion.

Support services related to Empowerment and Innovation and Value Realization as stated above require a customer request and are provided remotely. For example, remote support services may include assisting customers in evaluating the innovation capabilities of the latest updates and technology innovation and how they may be deployed for a customer's business process requirements, or giving a customer guidance in the form of knowledge transfer sessions. Scheduling, availability and delivery methodology are at SAP's discretion.

## 2. CUSTOMER INTERACTION CENTER LANGUAGES

SAP Support provides initial telephone contact for Customer Contacts through the SAP one support phone number "CALL-1-SAP" (as stated at the CALL-1-SAP page: <https://support.sap.com/contactus>) and/or via other solution specific hotlines in the following languages: English (available 24 hours all weekdays) and, depending on local office hours and availability, in German, French, Italian, Spanish, Polish, Russian (during European office hours); Japanese, Chinese, Korean, Bahasa (during Asia/Pacific office hours); Portuguese and Spanish (during Latin America office hours). Issues which lead to a support case which is processed by specialized technical support engineers around the world or any support by a third party are in English only.

## 3. CONTACTING SUPPORT

Beginning on the effective date of a customer's agreement for Cloud Services, that customer may contact SAP's support organization as the primary point of contact for support services.

For contacting SAP's support organization, the current preferred contact channel for SAP Enterprise Support, cloud editions is the SAP Support Portal at <https://support.sap.com>, unless otherwise set forth in the table below.

SAP Cloud Service	Contact Channels
SAP Concur SAP Ariba SAP Fieldglass	<a href="https://concursolutions.com">https://concursolutions.com</a> <a href="https://connect.ariba.com">https://connect.ariba.com</a> <a href="https://www.fieldglass.com/customer-support">https://www.fieldglass.com/customer-support</a> or embedded in the application help menu <a href="https://community.sapmobileservices.com/support">https://community.sapmobileservices.com/support</a> (integrated scenarios use SAP Support Portal)
SAP Digital Interconnect	Embedded in the applicable SAP Cloud Service: <ul style="list-style-type: none"> <li>For end-users: The "Help Center", accessible from every screen,</li> <li>For Key Users: The "Application &amp; User Management Work Center".</li> </ul>
SAP Business ByDesign	
SAP Cloud for Customer SAP Learning Hub	

Customers that have an assigned Support Expert may contact them directly for solution expertise support.

## 4. CUSTOMER RESPONSE LEVELS

SAP responds to submitted support cases (also referred to as "case", "incident", or "issue") as described in the table below.

Priority	Definition	Response Level
P1	<b>Very High:</b> An incident should be categorized with the priority "very high" if the problem has very serious consequences for normal business processes or IT processes related to core business processes. Urgent work cannot be performed.	<p><b>Initial Response:</b> Within one hour of case submission.</p> <p><b>Ongoing Communication:</b> Unless otherwise communicated by SAP Support, once every hour.</p> <p><b>Resolution Target:</b> SAP to provide for issues either a (i) resolution, or (ii) workaround or (iii) action plan within four hours.</p>



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This is generally caused by the following circumstances:

- A productive service is completely down.
- The imminent system Go-Live or upgrade of a production system cannot be completed.
- The customer's core business processes are seriously affected.

A workaround is not available for each circumstance. The incident requires immediate processing because the malfunction may cause serious losses.

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<b>P2</b>	<b>High:</b> An incident should be categorized with the priority "high" if normal business processes are seriously affected. Necessary tasks cannot be performed. This is caused by incorrect or inoperable functions in the SAP service that are required immediately. The incident is to be processed as quickly as possible because a continuing malfunction can seriously disrupt the entire productive business flow.	<b>Initial Response:</b> Within four hours of case submission for SAP Enterprise Support, cloud edition customers and within two hours of case submission for SAP Preferred Success and SAP Preferred Care customers. <b>Ongoing Communication:</b> Unless otherwise communicated by SAP Support, once every six hours. <b>Resolution Target:</b> SAP to provide for issues either a (i) resolution, or (ii) workaround or (iii) action plan within three business days for SAP Preferred Success and SAP Preferred Care customers only.
<b>P3</b>	<b>Medium:</b> An incident should be categorized with the priority "medium" if normal business processes are affected. The problem is caused by incorrect or inoperable functions in the SAP service.	<b>Initial Response:</b> Within one business day of case submission for SAP Enterprise Support, cloud edition customers, and within four business hours of case being received for SAP Preferred Success and SAP Preferred Care customers. <b>Ongoing Communication:</b> Unless otherwise communicated by SAP Support, once every three business days for Non-Defect Issues and ten business days for product defect issues.
<b>P4</b>	<b>Low:</b> An incident should be categorized with the priority "low" if the problem has little or no effect on normal business processes. The problem is caused by incorrect or inoperable functions in the SAP service that are not required daily, or are rarely used.	<b>Initial Response:</b> Within two business days of case submission for SAP Enterprise Support, cloud editions customers and within one business day of case submission for SAP Preferred Success and SAP Preferred Care customers. <b>Ongoing Communication:</b> Unless otherwise communicated by SAP Support, once every week.

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The following types of incidents are excluded from customer response levels as described above: (i) incidents regarding a release, version and/or functionalities of SAP Cloud Services developed specifically for customer (including those developed by SAP Custom Development and/or by SAP subsidiaries, or individual content services); (ii) the root cause behind the incident is not a malfunction, but missing functionality ("development request") or the incident is ascribed to a consulting request ("how-to").

## 5. CUSTOMER'S RESPONSIBILITIES

**5.1 Customer Contact.** In order to receive support hereunder, Customer will designate at least two and up to five qualified English speaking contact persons (each a "Customer Contact", "Designated Support Contact", "Authorized Support Contact", "Key User" or "Application Administrator" – system administrator roles within specific Cloud Services) who are authorized to contact or access the Customer Interaction Center, SAP Support Advisory Services and

Mission Critical Support services. The Customer Contact is responsible for managing all business-related tasks of the Cloud Service related to Customer's business, such as:

- (i) Support end users and manage their incidents. This includes searching for known solutions in available documentation and liaising with SAP support in the event of new problems;
- (ii) Manage background jobs and the distribution of business tasks across users (if available);
- (iii) Manage and monitor connections to Customer's third-party systems (if available);
- (iv) Support the adoption of the Cloud Service.

**5.2 Contact Details.** Customer will provide contact details (in particular, e-mail address and telephone number) through which the Customer Contact or the authorized representative of the Customer Contact can be contacted at any time. Customer will update its Customer Contacts for an SAP Cloud Service through the SAP Support Portal at <https://support.sap.com> or the respective contact channel mentioned in section "Contacting Support" above. Only authorized Customer Contacts may contact SAP's support organization.

**5.3 Cooperation.** To receive support services, Customer will reasonably cooperate with SAP to resolve support incidents, and will have adequate technical expertise and knowledge of its configuration of the SAP Cloud Services to provide relevant information to enable SAP to reproduce, troubleshoot and resolve the experienced error such as e.g. reference ID, issue examples, screenshots.

## 6. CAPITALIZED TERMS

Below are further explanations of the capitalized terms used above:

<b>Customer Interaction Center 24x7</b>	Units within SAP's support organization that customers may contact for general support related inquiries through the described contact channels.
<b>End-to-end Supportability</b>	Support for incidents that occur in integrated business scenarios consisting of SAP Cloud Services and / or both SAP Cloud Services and other SAP products with a valid support agreement.
<b>Enhanced Success Reporting</b>	Enhanced Success Reporting means access to reports, dashboards, or other reporting components and capabilities regarding the overall engagement, full customer lifecycle, and productive use of the solution, including product consumption, technical and product usage, status of support services, and the achievements hereunder.
<b>Global Support Backbone</b>	SAP's knowledge database and SAP's extranet for knowledge transfer on which SAP makes available content and services to customers and partners of SAP only. The Global Support Backbone also includes the SAP Support Portal at <a href="https://support.sap.com">https://support.sap.com</a> .
<b>Go-Live</b>	Go-Live marks the point in time from when, after set-up of the SAP Cloud Services for a customer, the SAP Cloud Services can be used by that customer for processing real data in live operation mode and for running that customer's internal business operations in accordance with its agreement for such SAP Cloud Services.
<b>Local Time Zone</b>	A customer's local time zone, depending on where the customer is headquartered.
<b>Meet-the-Expert Sessions (MTE)</b>	Live webinars focusing on SAP Enterprise Support services and the support aspects of the latest SAP technologies. Recorded sessions are available in the replay library in the SAP Enterprise Support Academy for self-paced consumption.
<b>Mission Critical Support</b>	Global incident handling by SAP for issues related to support hereunder with P1 and P2, including Service Level Agreements for Initial Response, Ongoing

	Communications and Resolution Targets (as set forth in the above table for Response Levels).
<b>Non-Defect Issue</b>	A reported support case that does not involve a defect in the applicable SAP Cloud Service and does not require engineering / development or operations personnel to resolve.
<b>Periodic Cloud Service Review and Planning</b>	Periodic review of key business milestones and objectives for solutions covered under SAP Preferred Care and/or SAP Preferred Success.
<b>SAP Preferred Success Communities</b>	Social media-based empowerment and collaboration, aligning access to peers and SAP experts.
<b>Proactive Checks</b>	Support-services, providing recommendations for the specific customer situation.
<b>Product Roadmap Update Information</b>	Product roadmaps SAP makes generally available to customers as part of customer support. Product Roadmap Update Information is provided for informational purposes only, and SAP does not commit to providing any future products, features or functionality as described in the Product Roadmap Update Information.
<b>Release Update Information</b>	Generally available documented summaries, webinars and videos provided by SAP to inform and instruct customers on new product release changes.
<b>SAP Cloud Service</b>	Any SAP Cloud Service set forth in an applicable Order Form.
<b>SAP Enterprise Support Academy</b>	Content and services in several formats, supporting different learning styles and needs, from ad hoc problem solving to structured, long-term knowledge acquisition.
<b>SAP Enterprise Support Reporting</b>	A report or dashboard analyzing and documenting the status of support services and achievements hereunder (e.g., based on solution monitoring capabilities and support case status).
<b>SAP Support Advisory Services</b>	Access to experts who help customers on support-related requests and advice on the right support deliverables and assets.
<b>Support Expert</b>	A specific SAP customer representative (often referred to as Customer Success Manager) that is assigned to Customers as the primary contact for ongoing management, to provide support case oversight, technical guidance and mentorship, customer-specific information on release updates and guidance on adoption and usage.
<b>Success Resources</b>	Access to automated, guided or direct analysis, reporting, expertise, and knowledge components to drive operational excellence throughout the full customer lifecycle including onboarding, consumption, utilization and operations, as well as technical and product usage. At SAP's discretion, this may include a Support Expert.
<b>Success Programs</b>	A combination or integration of various Success Resources, learning content and platforms (e.g. webinars, chat sessions, etc.), and social business collaboration channels (e.g. communities) delivered in a programmatic or prescriptive approach that support successful deployment, consumption and ongoing value realization.

## SERVICE LEVEL AGREEMENT FOR SAP CLOUD SERVICES

### 1. Service Level Agreement

This Service Level Agreement for SAP Cloud Services sets forth the System Availability Service Level Agreement (“SLA”) for the productive version of the applicable SAP Cloud Services to which customer has subscribed (“SAP Cloud Services”) in an Order Form with SAP.

This Service Level Agreement for SAP Cloud Services shall not apply to any SAP Cloud Service for which a System Availability SLA is explicitly set forth in the applicable Supplemental Terms and Conditions for such SAP Cloud Service or for which the applicability of the System Availability SLA is explicitly excluded in the Agreement.

### 2. Definitions

“Downtime” means the Total Minutes in the Month during which the productive version of the applicable SAP Cloud Service is not available, except for Excluded Downtimes.

“Month” means a calendar month.

“Monthly Subscription Fees” means the monthly (or 1/12 of the annual fee) subscription fees paid for the Cloud Service which did not meet the System Availability SLA.

“Total Minutes in the Month” are measured 24 hours at 7 days a week during a Month.

“UTC” means Coordinated Universal Time standard.

### 3. System Availability SLA and Credits

#### 3.1 Claim process, Reports

Customer may claim a credit in the amount described in the table of Section 3.2 below in case of SAP’s failure to meet the System Availability SLA, which credit Customer may apply to a future invoice relating to the SAP Cloud Service that did not meet the System Availability SLA.

Claims under this Service Level Agreement for SAP Cloud Services must be made in good faith and by submitting a support case within thirty (30) business days after the end of the relevant Month in which SAP did not meet the System Availability SLA.

SAP will provide to customers a monthly report describing the System Availability percentage for the applicable SAP Cloud Service either (i) by email following a customer’s request to its assigned SAP account manager, (ii) through the SAP Cloud Service or (iii) through an online portal made available to customers, if and when such online portal becomes available.

#### 3.2 System Availability

System Availability percentage is calculated as follows:

$$\text{System Availability Percentage} = \left( \frac{\text{Total Minutes in the Month} - \text{Excluded Downtime} - \text{Downtime}}{\text{Total Minutes in the Month} - \text{Excluded Downtime}} \right) * 100$$

<b>System Availability SLA</b>	99.5% System Availability percentage during each Month for productive versions
<b>Credit</b>	2% of Monthly Subscription Fees for each 1% below System Availability SLA, not to exceed 100% of Monthly Subscription Fees
<b>Excluded Downtime</b>	Total Minutes in the Month attributable to: (i) a Scheduled Downtime for which a Regular Maintenance Window is described in Section 4 below, or (ii) any Major Upgrade Window described in Section 5 for which the customer has been notified at least five (5) business days prior to such Major Upgrade Window or (iii) unavailability caused by factors outside of SAP’s reasonable control, such as unpredictable and unforeseeable events that could not have been avoided even if reasonable care had been exercised.
<b>Scheduled Downtime</b>	Scheduled Downtime for the applicable SAP Cloud Services to which customer has subscribed is set forth in Section 4 below entitled “Maintenance Windows for SAP Cloud Services”.

**4. Maintenance Windows for SAP Cloud Services**

SAP can use the following maintenance windows for Scheduled Downtimes as listed below. Time zones refer to the location of the primary data center where the SAP Cloud Service is hosted. SAP will provide Customer reasonable notice without undue delay of any major upgrades or emergency maintenance to the SAP Cloud Services.

**4.1 Weekly Maintenance Windows for SAP Cloud Services – Standard Windows**

SAP weekly standard maintenance windows are scheduled as listed below for the Cloud Services in this section:

**Start Time in UTC per region**

MENA	FRI	7 pm	UTC
APJ	SAT	3 pm	UTC
Europe:	SAT	10 pm	UTC
Americas	SUN	4 am	UTC

The above-mentioned maintenance windows define the maximum scheduled downtime from which certain cloud services consume only partially.

Cloud Services maintenance window durations	
SAP Asset Manager SAP Browse Manager and Conversion Manager SAP Cloud Platform SAP Cloud Platform Credential Stores SAP Connected Parking SAP Customer Identity, SAP Customer Identity, B2B add-on, SAP Customer Consent, SAP Customer Profile SAP Enterprise Messaging SAP Exchange Media SAP Fiori Cloud SAP Logistics Business Network, global track and trace SAP Merchandising SAP TwoGo SAP Vehicles Network SAP Work Manager, Cloud Edition	<b>Zero Downtime</b>
S/4HANA Cloud for credit integration S/4HANA Cloud for customer payments SAP Big Data Margin Assurance, cloud edition SAP Brand Impact SAP Cloud Peering SAP Cloud Platform Gamification SAP Data Quality Management SAP Knowledge Workspace SAP Public Budget Formulation, cloud edition SAP Service Ticket Intelligence (formerly SAP Service Ticketing)	<b>1 hour</b>
SAP Agile Data Preparation SAP Cash Application SAP Cloud Platform API Management SAP Cloud Platform Integration SAP Connected Goods SAP Customer Attribution SAP Digital Payments SAP Health Engagement SAP Innovation Management SAP IoT Application Enablement SAP Leonardo IoT	<b>2 hours</b>

<p>SAP Localization Hub, electronic invoicing for Brazil (nota fiscal electronica)</p> <p>SAP Market Rates Management</p> <p>SAP Multi – Bank Connectivity</p> <p>SAP Network Logistics Hub (formerly SAP Connected Logistics)</p> <p>SAP Predictive Maintenance and Service, cloud edition</p> <p>SAP Resolve</p> <p>SAP Roambi</p>	
<p>SAP Financial Statements Insights</p> <p>SAP RealSpend</p>	<b>3 hours</b>
<p>Fieldglass</p> <p>S/4HANA Cloud Edition</p> <p>SAP Agent Connection</p> <p>SAP Analytics Cloud (formerly BusinessObjects Cloud, or Cloud for Analytics, or Cloud for EPM (includes Cloud for Planning)</p> <p>SAP Analytics Hub</p> <p>SAP Asset Intelligence Network</p> <p>SAP Asset Strategy and Performance Management</p> <p>SAP Authentication 365, SAP LiveLink 365, SAP People Connect 365</p> <p>SAP Business ByDesign</p> <p>SAP Cloud Data Warehouse</p> <p>SAP Cloud for Customer</p> <p>SAP Cloud for Energy</p> <p>SAP Cloud for Real Estate</p> <p>SAP Cloud for Travel and Expense</p> <p>SAP Cloud Identity Access Governance</p> <p>SAP Cloud Platform, ABAP environment</p> <p>SAP Cloud Platform, Cloud Foundry Environment, Infrastructure</p> <p>SAP Cloud Platform Consent Repository</p> <p>SAP Cloud Platform Excise Tax Service</p> <p>SAP Cloud Platform, Hyperledger Fabric</p> <p>SAP Cloud Platform Job Schedule</p> <p>SAP Cloud Platform Master Data for Business Partners</p> <p>SAP Cloud Platform, MultiChain</p> <p>SAP Cloud Platform Personal Data Manager</p> <p>SAP Cloud Platform, Quorum</p> <p>SAP Cloud Platform SAP HANA service, Enterprise edition</p> <p>SAP Cloud Platform SAP HANA service, Standard edition</p> <p>SAP Cloud Platform Transport Management</p> <p>SAP Cloud Platform Virtual Machine</p> <p>SAP Commerce Cloud</p> <p>SAP Commerce Cloud, context-driven services</p> <p>SAP Connected Agriculture</p> <p>SAP Consumer Insight 365</p> <p>SAP Consumer Sales Intelligence</p> <p>SAP Contact Center, Cloud Edition</p> <p>SAP Contact Center 365</p> <p>SAP Conversational AI</p> <p>SAP CoPilot</p> <p>SAP CPQ, edition for variant configuration</p> <p>SAP Customer Engagement Center</p> <p>SAP Customer Order Sourcing</p> <p>SAP Data Custodian</p> <p>SAP Data Intelligence</p> <p>SAP Data Privacy Governance</p>	<b>4 hours</b>

<p>SAP Digital Manufacturing Cloud</p> <p>SAP Distributed Manufacturing</p> <p>SAP Document Compliance</p> <p>SAP Edge Services</p> <p>SAP Enable Now</p> <p>SAP Enterprise Architecture Designer, cloud edition</p> <p>SAP Enterprise Chatbot</p> <p>SAP Entitlement Management</p> <p>SAP Field Service Management, SAP Crowd Service</p> <p>SAP Integrated Business Planning</p> <p>SAP Intelligent Product Design</p> <p>SAP Intelligent Notification 365</p> <p>SAP Intelligent Robotic Process Automation</p> <p>SAP Leonardo IoT Bridge</p> <p>SAP Leonardo Machine Learning Foundation</p> <p>SAP Live Customer Cloud</p> <p>SAP Localization Hub, tax service</p> <p>SAP Logistics Business Network; SAP Logistics Business Network, freight collaboration option</p> <p>SAP Loyalty</p> <p>SAP Marketing Cloud</p> <p>SAP Market Communication for Utilities</p> <p>SAP Omnichannel Promotion Pricing</p> <p>SAP Product Configuration add on for SAP Commerce, SAP Product Configuration Intelligence, SAP Product Configuration</p> <p>SAP Product Content Hub</p> <p>SAP Product Stewardship Network</p> <p>SAP Qualtrics</p> <p>SAP Sales and SAP Service</p> <p>SAP Search and Discovery</p> <p>SAP Subscription Billing</p> <p>SAP SuccessFactors People Analytics</p> <p>SAP Supply Base Optimization</p> <p>SAP Translation Hub</p> <p>SAP Upscale Commerce</p> <p>SAP Vehicle Insights</p> <p>SAP Watch List Screening</p> <p>trading platform integration for SAP Treasury and Risk Management and SAP Cash Management</p>	
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**4.2 Weekly Maintenance Windows for SAP Cloud Services – Individual Windows**

Due to specific business reasons, the below listed SAP Cloud Services use individual maintenance windows

Cloud Services with individual maintenance window durations		
Cloud Service	Maintenance Window	Duration
Concur	Europe: SAT 10 pm UTC (Winter) SAT 9 pm UTC (Summer) Americas: SUN 1 am UTC (Winter) SUN 12 am UTC (Summer)	4 hours
SAP Agent Performance Management (formerly Producer Pro)	Winter: SUN 8 am UTC Summer: SUN 7 am UTC	6 hours

SAP Ariba Cloud Services	MENA: FRI 7 pm UTC APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 12 am UTC	4 hours
SAP Business One Cloud, SAP-Hosted Option	Europe: MON 12 am UTC Americas: North America: MON 7 am UTC Latin America: MON 4 am UTC	4 hours
SAP Cloud Appliance Library	<b>Bi-weekly</b> (odd calendar weeks): APJ, Europe, Americas: THU 6 am UTC	1 hour
SAP Commissions SAP Territory and Quota	Winter: SUN 8 am UTC Summer: SUN 7 am UTC	6 hours
SAP CPQ	Every 3 <sup>rd</sup> Saturday of each month. Winter 2 am UTC Summer 1 am UTC	4 hours
SAP Event Ticketing, Event Ticketing Pro	Europe: SUN 11 pm UTC & WED 2 am UTC Americas: MON 4 am UTC & WED 5 am UTC	5 hours 1 hour  5 hours 1 hour
SAP Information Collaboration Hub for Life Sciences	APJ: SAT 5.30 am UTC Europe: SAT 5.30 am UTC Americas: SAT 5.30 am UTC	4 hours
SAP Intelligent Sales Execution	Winter: SUN 8 am UTC Summer: SUN 7 am UTC	6 hours
SAP IoT Connect 365	Up to once every month: SAT 10 pm UTC	4 hours
SAP Jam Collaboration SAP Jam Communities SAP Learning Hub SAP SuccessFactors HXM Suite (except Employee Central Payroll)	MENA: FRI 7 pm UTC APJ: SAT 3 pm UTC Europe: FRI 10 pm UTC (Amsterdam DC2 & St Leon Rot DC12) SAT 10 pm UTC (Biere DC16 & Moscow DC18) Americas: SUN 4 am UTC	7 hours
SAP Litmos Training, all editions ViewCentral	<b>Bi-Weekly</b> APJ: FRI 5 pm UTC Europe: FRI 10 pm UTC Americas: SAT 12 am UTC  <b>Monthly – 3<sup>rd</sup> Sunday</b> All Regions: SUN 1 am UTC (Summer)	Bi-Weekly: 2 hours  Monthly: 5 hours
SAP Localization Hub, advanced compliance reporting service	Europe: SAT 2 am UTC	2 hours
SAP Logistics Business Network, material traceability option	MENA: FRI 7 pm UTC APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC  <b>Early Adoption Hours:</b> Europe: THU 9 am UTC	4 hours  2 hours
SAP Predictive Engineering Insights	APJ, Europe, Americas FRI 3 pm UTC	2 hours



SAP Product Lifecycle Costing, cloud edition	<b>Monthly:</b> Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	6 hours
SAP SportsOne	<b>Bi-Weekly:</b> APJ: MON 10 pm UTC Europe: TUE 5 am UTC Americas: TUE 11 am UTC  APJ: WED 10 pm UTC Europe: THU 5 am UTC Americas: THU 11 am UTC	2 hours  1 hour
SAP SuccessFactors Employee Central Payroll	MENA: FRI 7 pm UTC APJ: SAT 3 pm UTC Europe: FRI 10 pm UTC Americas: SUN 4 am UTC	4 hours

## 5. **Major Upgrade Windows for SAP Cloud Services**

For more extensive changes to the SAP Cloud Services such as changing product versions, SAP uses the following Major Upgrade Windows for SAP Cloud Services

<b>Cloud Services with Major Upgrade Windows</b>	
<b>Cloud Service</b>	<b>Major Upgrade Windows</b>
Fieldglass	<b>Up to 5 times per year:</b> (requires 5 days advance notice): Europe: FRI 9 pm – SUN 2 pm UTC Americas: SAT 5 am – SUN 9 pm UTC
SAP Agile Data Preparation	<b>Up to 4 times per year:</b> SAT 1 am - SAT 8 am UTC
SAP Analytics Cloud (formerly BusinessObjects Cloud or Cloud for Analytics or SAP Cloud for EPM (includes Cloud for Planning))	<b>Up to 4 times per year:</b> MENA: FRI 7 pm – SAT 1 am UTC APJ: SAT 3 pm – SAT 9 pm UTC Europe: SAT 10 pm – SUN 4 am UTC Americas: SUN 4 am – SUN 10 am UTC <i>*These Maintenance Windows are separate from and in addition to Maintenance Windows of underlying SAP Cloud Platform.</i>
SAP Analytics Hub SAP Roambi SAP SuccessFactors People Analytics	<b>Up to 4 times per year:</b> MENA: FRI 7 pm – SAT 1 am UTC APJ: SAT 3 pm – SAT 9 pm UTC Europe: SAT 10 pm – SUN 4 am UTC Americas: SUN 4 am – SUN 10 am UTC
SAP Ariba Cloud Services	<b>Up to 2 Times per year:</b> MENA: FRI 7 pm – SAT 3 am UTC APJ, Europe, Americas: SAT 7 pm – SUN 3 am UTC
SAP Asset Intelligence Network	<b>Up to 4 times per year:</b> Europe: SUN 1:30 am – SUN 5:30 am UTC
SAP Asset Manager SAP Big Data Margin Assurance, cloud edition SAP Connected Agriculture SAP Exchange Media S/4HANA Cloud for credit integration S/4HANA Cloud for customer payments SAP Supply Base Optimization	<b>Up to 4 times per year:</b> APJ: SAT 12 am – SAT 6 am UTC Europe: SAT 7 am – SAT 1 pm UTC Americas: SAT 1 pm – SAT 7 pm UTC

SAP Asset Strategy and Performance Management	<b>Up to 4 times per year</b> Europe: SUN 1:30 am - SUN 5:30 am UTC
SAP Authentication 365, SAP LiveLink 365, SAP People Connect 365	<b>Up to 4 times per year:</b> Americas: SAT 4 am to SAT 2:00 pm UTC
SAP BusinessByDesign SAP Cloud for Real Estate SAP Cloud for Travel and Expense	<b>Up to 4 times per year:</b> APJ: FRI 10 pm - SAT 10 pm UTC Europe: SAT 5 am - SUN 5 am UTC Americas: SAT 11 am - SUN 11 am UTC
SAP Business One Cloud, SAP-hosted Option	<b>Up to 4 times per year:</b> Europe, Americas: SAT 9 am – SAT 3 pm UTC
SAP Cash Application	<b>Up to 4 times per year:</b> Europe: SAT 7 am – SAT 1 pm UTC
SAP Cloud Appliance Library	<b>Up to 12 times per year</b> , during a one (1) hour window made known by SAP at least one (1) week in advance.
SAP Data Warehouse	<b>Up to 4 times per year:</b> Europe: SAT 10 pm - SUN 2 am UTC Americas: SUN 4 am - SUN 8 am UTC
SAP Cloud for Customer	<b>Up to 4 times per year:</b> APJ: FRI 10 am - SAT 10 pm UTC Europe: SAT 5 pm - SUN 5 am UTC Americas: SAT 11 pm - SUN 11 am UTC
SAP Cloud for Energy	<b>Up to 4 times per year:</b> Europe: FRI 3:30 am – FRI 3:30 pm
SAP Cloud Identity Access Governance	<b>Up to 4 times per year</b> Americas: SAT 1 pm – SAT 7 pm UTC
SAP Cloud Platform SAP Cloud Platform, Cloud Foundry Environment Infrastructure. SAP Cloud Platform Credential Store SAP Cloud Platform Excise Tax Service SAP Cloud Platform Gamification SAP Cloud Platform, Hyperledger Fabric SAP Cloud Platform Job Scheduler SAP Cloud Platform Mobile Service for app and device management SAP Cloud Platform, MultiChain SAP Cloud Platform Mobile Service for SAP Fiori SAP Cloud Platform Virtual Machine SAP Cloud Platform, Quorum SAP Fiori Cloud	<b>Up to 4 times per year:</b> APJ: FRI 2 pm – FRI 6 pm UTC Europe: FRI 10 pm – SAT 2 am UTC Americas: SAT 4 am – SAT 8 am UTC
SAP Agent Connection SAP Cloud Platform, ABAP environment SAP Cloud Platform Transport Management SAP Commerce Cloud, context-driven services SAP Entitlement Management SAP Intelligent Robotic Process Automation	<b>Up to 4 times per year:</b> APJ: FRI 9 pm – SAT 9 pm UTC Europe: SAT 4 am – SUN 4 am UTC Americas: SAT 10 am – SUN 10 am UTC
SAP Cloud Platform API Management	<b>Up to 4 times per year:</b> APJ: FRI 2 pm – SAT 2 pm UTC Europe: FRI 10 pm – SAT 10 pm UTC Americas: SAT 4 am – SUN 4 am UTC

SAP Cloud Platform Consent Repository	<b>Up to 4 times per year</b> Europe: FRI 10 pm – SAT 2 am UTC Americas: SAT 4 am –SAT 8 am UTC
SAP Cloud Platform Integration SAP Document Compliance	<b>Up to 4 times per year:</b> APJ: FRI 2 pm – SAT 2 am UTC Europe: FRI 10 pm – SAT 10 am UTC Americas: SAT 4 am – SAT 4 pm UTC
SAP Cloud Platform Master Data for Business Partners SAP Crowd Service SAP Data Privacy Governance SAP Field Service Management SAP Localization Hub, tax service SAP Loyalty SAP Product Lifecycle Costing, Cloud Edition	<b>Up to 4 times per year</b>
SAP Cloud Platform Personal Data Manager	<b>Up to 4 times per year</b> Europe: FRI 10 pm – SAT 2 am UTC Americas: SAT 4 am –SAT 8 am UTC
SAP Cloud Platform SAP HANA service, enterprise edition SAP Cloud Platform SAP HANA service, standard edition	<b>Up to 4 times per year for 8 hours:</b> APJ: FRI 9 pm – SAT 5 am UTC Europe: SAT 4 am – SAT 12 pm UTC Americas: SAT 10 am – SAT 6 pm UTC
SAP Commerce Cloud SAP CPQ, edition for variant configuration SAP Product Configuration add on for SAP Commerce SAP Product Configuration Intelligence SAP Product Configuration SAP Product Configuration as part of SAP CPQ, edition for variant configuration	<b>Up to 4 times per year:</b> APJ: SAT 3 pm – SAT 11 pm UTC Europe: SAT 10 pm – SUN 6 am UTC Americas: SUN 4 am – SUN 12 pm UTC
SAP Connected Goods SAP Contact Center, Cloud Edition SAP Contact Center 365	<b>Up to 4 times per year:</b> APJ: FRI 2 pm – SUN 7 pm UTC Europe: FRI 9 pm – MON 2 am UTC Americas: SAT 3 am – MON 8 am UTC
SAP Connected Parking	<b>Up to 4 times per year:</b> Europe: SAT 9 pm – MON 5 am UTC Americas: SUN 3 am- MON 11 am UTC
SAP Consumer Insight 365	<b>Up to 4 times per year:</b> APJ: SAT 3 pm – SUN 1 am UTC
SAP Consumer Sales Intelligence	<b>Up to 4 times per year:</b> Europe: MON 10 pm – TUE 4 am Americas: TUE 10 pm – WED 4 am
SAP Conversational AI	<b>Up to 4 times per year:</b> SAT 4 am to SUN 4 am UTC
SAP Customer Attribution	<b>Up to 4 times per year:</b> Americas: SAT 1 pm - SUN 1 pm UTC Europe: SAT 7 am - SUN 7 am UTC
SAP Customer Engagement Center	<b>Up to 4 times per year:</b> APJ: FRI 3 pm - SUN 7 pm UTC Europe: FRI 10 pm - MON 2 am UTC Americas: SAT 4 am - MON 8 am UTC

SAP Customer Order Sourcing	<b>Up to 4 times per year for 8 hours:</b> APJ: FRI 9 pm – SAT 5 am UTC FRI 2 pm – FRI 6 pm UTC Europe: SAT 4 am – SAT 12 pm UTC FRI 10 pm – SAT 2 am Americas: SAT 10 am – SAT 6 pm UTC SAT 4 am – SAT 8 am UTC
SAP Data Custodian	<b>Up to 4 times per year:</b> Europe: SAT 4 am – SUN 4 am UTC Americas: SAT 10 am – SUN 10 am UTC
SAP Digital Manufacturing Cloud	<b>Up to 4 times per year</b> Europe, Americas: SAT 10 am - SAT 10 pm UTC
SAP Digital Payments	<b>Up to 4 times per year:</b> SAT 7 am to SUN 1 pm UTC
SAP Distributed Manufacturing	<b>Up to 4 times per year:</b> Europe: FRI 3:30 am – FRI 3:30 pm UTC
SAP Edge Services	<b>Up to 4 times per year:</b> FRI 10:00 pm to MON 3:00 am UTC
SAP Enable Now	<b>Up to 4 times per year:</b> APJ: THU 8 am - THU 10 pm UTC Europe: THU 3 pm - FRI 5 am UTC Americas: THU 9 pm – FRI 11 am UTC
SAP Enterprise Architecture Designer, cloud edition	<b>Up to 4 times per year:</b> Europe: SAT 8 am – SAT 8 pm UTC
SAP Enterprise Chatbot	<b>Up to 4 times per year:</b> APJ: SAT 3 pm – SUN 3 pm UTC Europe: SAT: 10 pm SUN 10 pm UTC Americas: SUN 4 am – MON 4 am UTC Max downtime 24 hours. Every second Saturday of March, June, September, December.
SAP Enterprise Messaging	<b>Up to 4 times per year:</b> APJ: FRI 2 pm – FRI 6 pm UTC Europe: FRI 10 pm – SAT 2 am UTC Americas: SAT 4 am – SAT 8 am UTC
SAP Financial Statements Insights	<b>Up to 4 times per year:</b> APJ, Europe, Americas: SAT 7 am – SAT 1 pm UTC
SAP Health Engagement	<b>Up to 4 times per year:</b> Europe: FRI 4 am – FRI 10 am UTC Americas: SAT 5 am – SAT 11 am UTC
SAP Information Collaboration Hub for Life Sciences	<b>Up to 4 times per year:</b> Planned 4 times per year for regular upgrades: February, May, August, November.
SAP Innovation Management	<b>Up to 4 times per year:</b> APJ: FRI 2 pm - MON 6 am UTC Europe: FRI 9 pm - MON 2 pm UTC Americas: SAT 3 am - MON 8 pm UTC

SAP Integrated Business Planning S/4HANA Cloud Edition	<b>Up to 4 times per year:</b> MENA: FRI 1 am – SAT 1 am UTC APJ: FRI 9 pm - SAT 9 pm UTC Europe: SAT 4 am - SUN 4 am UTC Americas: SAT 10 am - SUN 10 am UTC
SAP Intelligent Product Design	<b>Up to 4 times per year:</b> APJ: SAT 12 am – SUN 12 am UTC Europe: SAT 7 am – SUN 7 am UTC Americas: SAT 3 pm – SUN 3 pm UTC
SAP IoT Application Enablement	<b>Up to 4 times per year:</b> APJ: SAT 12 am – SAT 12 pm UTC Europe: SAT 7 am – SAT 7 pm UTC Americas: SAT 3 am – SAT 3 pm UTC
SAP IoT Connect 365	<b>Up to 4 times per year:</b> SAT 7 am – SAT 1 pm UTC
SAP Knowledge Workspace	<b>Up to 8 times per year</b>
SAP Jam Collaboration SAP Jam Communities SAP Learning Hub SAP SuccessFactors HXM Suite (except Employee Central Payroll)	<b>Up to 6 times per year:</b> MENA: FRI 7 pm – SAT 2 am UTC APJ: FRI 3 pm – FRI 10 pm UTC Europe: FRI 10 pm – SAT 5 am UTC Americas: SAT 4 am – SAT 11 pm UTC
SAP Leonardo IoT	<b>Up to 4 times per year.</b> APJ: SAT 3 pm – SAT 7 pm UTC Europe: SAT 10 pm – SUN 2 am UTC Americas: SUN 4 am – SUN 8 am UTC
SAP Leonardo IoT Bridge SAP Multi-Bank Connectivity	<b>Up to 4 times per year</b> APJ: FRI 2 pm – SUN 7 pm UTC Europe: FRI 9 pm – MON 2 am UTC Americas: SAT 3 am – MON 8 am UTC
SAP Leonardo machine learning foundation SAP Sales and SAP Service	<b>Up to 4 times per year:</b> APJ: FRI 10 pm – SAT 10 pm UTC Europe: SAT 5 am – SUN 5 am UTC Americas: SAT 11 am – SUN 11 am UTC
SAP Litmos Training, all editions View Central	<b>Up to 4 times per year</b> APJ: FRI 5 pm – FRI 10 pm UTC Europe: FRI 10 pm – SAT 3 am UTC Americas: SAT 12 am – SAT 5 am UTC
SAP Live Customer Cloud	<b>Up to 4 times per year:</b> APJ: SAT 3 pm – 9 pm UTC Europe: SAT 10 pm – SUN 4 am UTC Americas: SUN 4 am – 10 am UTC
SAP Localization Hub, advanced compliance reporting service	<b>Up to 12 times a year:</b> Four (4) hours window made known by SAP at least one (1) week in advance.
SAP Localization Hub, electronic invoicing for Brazil (nota fiscal electronica)	<b>Up to 4 times per year:</b> Europe: SUN 3 am UTC Americas: SAT 3 am UTC
SAP Logistics Business Network; SAP Logistics Business Network, freight collaboration option SAP Logistics Business Network, material traceability	<b>Up to 4 times per year:</b> APJ: FRI 9 pm – SAT 9 pm UTC Europe: SAT 4 am – SUN 4 am UTC Americas: SAT 10 am – SUN 10 am UTC
SAP Logistics Business Network, global track and trace	<b>Odd Numbered Weeks</b> 5 am - 7 am UTC

SAP Marketing Cloud	<b>Up to 4 times per year:</b> MENA: FRI 1 am – SAT 1 am UTC APJ: FRI 9 pm – SAT 9 pm UTC Europe: SAT 4 am – SUN 4 am UTC Americas: SAT 10 am – SUN 10 am UTC
SAP Market Communication for Utilities	<b>Up to 4 times per year:</b> APJ: FRI 2 pm – SAT 2 am UTC Europe: FRI 10 pm – SAT 10 am UTC Americas: SAT 4 am – SAT 4 pm UTC
SAP Market Rates Management	<b>Up to 10 times per year</b>
SAP Network Logistics Hub (formerly SAP Connected Logistics)	<b>Up to 4 times per year:</b> APJ, Europe, Americas: Any weekday: 3:30 am – 7:30 am UTC
SAP Omnichannel Promotion Pricing	<b>Up to 4 times per year for 8 hours:</b> APJ: FRI 9 pm – SAT 5 am UTC FRI 2 pm – FRI 6 pm UTC Europe: SAT 4 am – SAT 12 pm UTC FRI 10 pm – SAT 2 am Americas: SAT 10 am – SAT 6 pm UTC SAT 4 am – SAT 8 am UTC
SAP Predictive Engineering Insights	<b>Up to 8 times per year:</b> APJ, Europe, Americas: FRI 3 pm – MON 7 am UTC
SAP Predictive Maintenance and Service, Cloud Edition	<b>Up to 4 times per year:</b> Europe: SUN 1:30 am – SUN 5:30 am UTC
SAP Product Content Hub	<b>Up to 4 times per year:</b> APJ: FRI 9 pm – SAT 9 pm UTC Europe: SAT 4 am to SUN 4 am UTC Americas: SAT 10 am – SUN 10 am UTC
SAP Product Stewardship Network	<b>Up to 4 times per year:</b> APJ, Europe, Americas: TUE 4 am – TUE 11 am UTC
SAP RealSpend	<b>Up to 4 times per year:</b> APJ, Europe, Americas: SAT 7 am – SAT 1 pm UTC
SAP Resolve	<b>Up to 4 times per year:</b> APJ, Europe, Americas: SAT 3 am – MON 8 am UTC
SAP Search and Discovery	<b>Up to 8 times per year</b> Europe: FRI 3:30 am - FRI 3:30 pm UTC
SAP Service Ticket Intelligence	<b>Up to 4 times per year:</b> Europe: WED 2 am-4 am UTC Americas: WED 6 am – 8 am UTC
SAP SportsOne	<b>Once per year, 8 hours</b>
SAP Subscription Billing	<b>Up to 4 times per year</b> Europe: SAT 10 pm – SUN 6 am UTC Americas: SUN 4 am - SUN 12 pm UTC
SAP SuccessFactors Employee Central Payroll	<b>Up to 6 times per year:</b> MENA: FRI 7 pm – FRI 11 pm UTC APJ: FRI 3 pm – FRI 7 pm UTC Europe: FRI 10 pm – SAT 2 am UTC Americas: SAT 4 am – SAT 8 am UTC

SAP Translation Hub	<b>Up to 12 times per year:</b> During a 4 hour window made known by SAP at least 1 week in advance.
SAP TwoGo	<b>Up to 12 times per year:</b> Europe: FRI 9 pm to MON 2 am UTC
SAP Vehicle Insights	<b>Up to 4 times per year:</b> APJ: SAT 11 am- SAT 11 pm UTC Europe: SAT 7 am- SAT 7 pm UTC Americas: SAT 1 pm- SUN 1 am UTC
SAP Vehicles Network	<b>Up to 4 times per year:</b> APJ: SAT 2 pm- SUN 10 pm UTC Europe: SAT 9 pm- MON 5 am UTC Americas: SUN 3 am- MON 11 am UTC
SAP Watch List Screening	<b>Up to 4 times per year:</b> FRI 7 am to 10 pm
SAP Work Manager, Cloud Edition	<b>Up to 12 times per year:</b> Europe: THU 6 pm – THU 8 pm UTC
trading platform integration for SAP Treasury and Risk Management and SAP Cash Management	<b>Up to 4 times per year:</b> APJ: SAT 3 am – SAT 9 pm UTC Europe: SAT 9 am – SUN 3 am UTC Americas: SAT 3 am – SAT 9 pm UTC

**NOTE:** Maintenance and upgrade windows for products on Callidus pricelist are available on Callidus website. Please contact Callidus support for further details.

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<b>VENDOR BRANDED CLOUD SERVICES</b>	<b>Regular Maintenance</b> Start Time in UTC per region	<b>Duration</b>	<b>Comments &amp; Major Upgrades</b> Timeframe in UTC per region
Ruum by SAP	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	1 hour	<b>Up to 3 times per year</b>
SAP Access Violation Management by Greenlight	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	1 hour	<b>Up to 12 times per year:</b> Every 4 <sup>th</sup> Saturday of March and September 11 pm UTC – 3 am UTC
SAP Account Reconciliation & Automation by Blackline	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	1 hour	<b>Up to 12 times per year:</b> On request to SAP
SAP Account Reconciliation & Automation by BlackLine, premier edition			
SAP Intercompany Financial Hub by Blackline			
SAP Advanced Data Migration by Syniti, cloud edition	MENA: FRI 7 pm UTC APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	
SAP Archiving and Document Access by OpenText, cloud edition	<b>APJ:</b> SAT 7 am UTC & WED 10 am UTC <b>Europe:</b> Frankfurt FRI 7 pm UTC & WED 10 pm UTC Amstelveen FRI 7 pm UTC & WED 10 pm UTC & SUN 3 pm UTC <b>Americas:</b> Toronto SAT 1 am UTC & TUE 8 pm UTC Ashburn SAT 2 am UTC Austin SAT 1 am UTC & TUE 8 pm UTC Lithia Springs SAT 1 am UTC & TUE 8 pm UTC & SUN 2 am UTC	5 hours 3 hours 5 hours 3 hours 5 hours 3 hours 2 hours 5 hours 3 hours 4 hours 5 hours 3 hours 5 hours 3 hours 4 hours	<b>Up to 12 times per year:</b>
SAP Assessment Management by Questionmark	Europe: SAT 9 am UTC Americas: SAT 10 am UTC	12 hours	Regular Maintenance windows on a third Saturday of each month
SAP Commerce Marketplace Management by Mirakl	12:00 am to 8:00 am UTC upon written request from the partner and mutual agreement.	4 hours	Upon written request from partner and agreement.
SAP Communication Center by Ancile	<b>OPTION 1:</b> APJ: MON & WED 6 pm UTC Europe: TUE & THU 1 am UTC Americas: TUE & THU 7 am UTC <b>OPTION 2:</b> APJ: FRI 6 pm UTC Europe: SAT 1 am UTC Americas: SAT 7 am UTC	2 hours 4 hours	Customer may select from any one of the maintenance window options 1 or 2.
SAP Content Stream by Skillsoft	SUN 6 pm UTC	2 hours	None
SAP Data Visualization by Zoomdata	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	<b>Up to 4 times per year:</b> MON 11 pm – TUE 3 am Region Local Time



<b>VENDOR BRANDED CLOUD SERVICES</b>	<b>Regular Maintenance</b> Start Time in UTC per region	<b>Duration</b>	<b>Comments &amp; Major Upgrades</b> Timeframe in UTC per region
SAP Digital Asset Management Cloud by OpenText	Europe: SAT 7:00 pm UTC SUN 3:00 pm UTC  Americas: SAT 1:00 am UTC SUN 2:00 am UTC	5 hours 2 hours  5 hours 4 hours	<b>Up to 52 times per year</b>
SAP Dynamic Pricing by GK 1.0	APJ: SAT 3 am UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	8 hours	<b>Up to 4 times per year:</b>
SAP Energy Self-Service Accelerator for Utilities by SEW, cloud edition Supplement	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	None.
SAP Extended Enterprise Content Management by OpenText, cloud edition	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	<b>Up to 12 times per year:</b> APJ: FRI 4 pm to 8 pm UTC+8 Europe: FRI 9 am to 1 pm UTC+1 Americas: FRI 3 am to 7 am UTC-5
SAP Extended Enterprise Content Management by OpenText, add-on for capital projects and operations	Europe: Amstelveen, NL, and Woking, GB (twin-capable facilities) FRI 8 pm UTC SUN 4 pm (this window may be used a maximum of 4 times per year.)  Americas: Lithia Springs, GA, and Allen, TX (twin-capable facilities) SAT 2 am UTC SUN 3 am UTC	5 hours 2 hours  5 hours 4 hours	<b>Up to 1 time per year:</b> A major system upgrade would not be done more than once in year and the update and upgrade activity will be planned around the established maintenance windows and should not require downtime outside of those.
SAP Extended Enterprise Content Management by OpenText, add-on for Microsoft Office 365	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	<b>Up to 1 time per year:</b>
SAP Knowledge Central by Mindtouch	<b>OPTION 1:</b> APJ: MON & WED 6 pm UTC Europe: TUE & THU 1 am UTC Americas: TUE & THU 7 am UTC <b>OPTION 2:</b> APJ: FRI 6 pm UTC Europe: SAT 1 am UTC Americas: SAT 7 am UTC	2 hours  4 hours	<b>Up to 4 times per year:</b> Customer may select from any one of the maintenance window options 1 or 2. APJ: FRI 2 pm - SAT 2 pm UTC Europe: FRI 9 pm - SAT 9 pm UTC Americas: SAT 3 am - SUN 3 am UTC
SAP Mobile Consumer Assistant by GK, cloud edition	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	<b>Up to 4 times per year:</b> APJ: FRI 9 pm – SAT 9 pm UTC Europe: SAT 4 am – SUN 4 am UTC Americas: SAT 10 am – SUN 10 am UTC
SAP Omnichannel POS by GK	MENA FRI 7 pm UTC APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	<b>Up to 4 times per year:</b> APJ: FRI 2 pm – SAT 2 pm UTC Europe: FRI 10 pm – SAT 10 pm UTC Americas: SAT 4 am – SUN 4 am UTC
SAP Process Mining by Celonis, cloud edition	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	<b>Up to 4 times per year:</b> APJ: FRI 9 pm – SAT 9 pm UTC Europe: SAT 4 am – SUN 4 am UTC Americas: SAT 10 am – SUN 10 am UTC
SAP Productivity Pak by Ancile	APJ: SAT 1 pm UTC Europe: SAT 8 pm UTC Americas: SUN 2 am UTC	6 hours	<b>Up to 4 times per year:</b> APJ: SAT 1 pm – SAT 7 pm UTC Europe: SAT 8 pm – SUN 2 am UTC Americas: SUN 2 am – SUN 8 am UTC
SAP Quality Center, LoadRunner, and StormRunner by Micro Focus	Europe: SUN 8 am UTC	2 hours	<b>Up to 12 times per year.</b>

<b>VENDOR BRANDED CLOUD SERVICES</b>	<b>Regular Maintenance</b> Start Time in UTC per region	<b>Duration</b>	<b>Comments &amp; Major Upgrades</b> Timeframe in UTC per region
SAP S/4HANA Cloud Invoice Processing by OpenText	Europe: FRI 8 pm to SAT 1 am UTC, SUN 4 pm to SUN 6 pm UTC (this window may be used a maximum of 4 times per year) Americas: FRI 3 pm to SAT 8 pm UTC SAT 4 pm to SUN 8 pm UTC	2 hours	
SAP Scheduling and Resource Management by ClickSoftware	APJ: SAT 3 pm UTC Europe: SAT 10 pm UTC Americas: SUN 4 am UTC	4 hours	<b>Up to 2 times per year</b> 30 June, 31 December
SAP Signature Management by DocuSign	None	N/A	
SAP SuccessFactors Document Management by OpenText	Europe: SAT 19:00 UTC SUN 15:00 UTC  Americas: SAT 1:00 UTC SUN 2:00 UTC	5 hours 2 hours  5 hours 4 hours	<b>Up to 52 times per year</b>
SAP Time and Attendance Management by Workforce Software SAP Workforce Forecasting and Scheduling by WorkForce Software	APJ: SAT 1 pm UTC Europe: SAT 8 pm UTC Americas: SUN 2 am UTC	4 hours	
SAP Time Management by Kronos	APJ: FRI 2 pm UTC Europe: FRI 11 pm UTC Americas: FRI 7 pm UTC	4 hours	<b>Up to 4 times per year.</b>
SAP Trade Repository Reporting by Virtusa	APJ, Europe, Americas: Weekdays 7 pm UTC  APJ, Europe, Americas: Every 4 <sup>th</sup> MON of every month 11 pm UTC	2 hours  4 hours	APJ, Europe, Americas: SAT 5 am – SUN 8 pm UTC
SAP U.S. Benefits Management by Benefitfocus	Americas: SAT 4 am UTC	8 hours	
SAP User Experience Management by Knoa	Europe: WED 9 pm UTC  Americas: SAT 10 am UTC THU 3 am UTC	2 hours  12 hours 2 hours	

## PERSONAL DATA PROCESSING AGREEMENT FOR SAP CLOUD SERVICES

### 1. BACKGROUND

- 1.1 Purpose and Application.** This document (“DPA”) is incorporated into the Agreement and forms part of a written (including in electronic form) contract between SAP and Customer. This DPA applies to Personal Data processed by SAP and its Subprocessors in connection with its provision of the Cloud Service. This DPA does not apply to non-production environments of the Cloud Service if such environments are made available by SAP, and Customer shall not store Personal Data in such environments.
- 1.2 Structure.** Appendices 1 and 2 are incorporated into and form part of this DPA. They set out the agreed subject-matter, the nature and purpose of the processing, the type of Personal Data, categories of data subjects and the applicable technical and organizational measures.
- 1.3 GDPR.** SAP and Customer agree that it is each party’s responsibility to review and adopt requirements imposed on Controllers and Processors by the General Data Protection Regulation 2016/679 (“GDPR”), in particular with regards to Articles 28 and 32 to 36 of the GDPR, if and to the extent applicable to Personal Data of Customer/Controllers that is processed under the DPA. For illustration purposes, Appendix 3 lists the relevant GDPR requirements and the corresponding sections in this DPA.
- 1.4 Governance.** SAP acts as a Processor and Customer and those entities that it permits to use the Cloud Service act as Controllers under the DPA. Customer acts as a single point of contact and is solely responsible for obtaining any relevant authorizations, consents and permissions for the processing of Personal Data in accordance with this DPA, including, where applicable approval by Controllers to use SAP as a Processor. Where authorizations, consent, instructions or permissions are provided by Customer these are provided not only on behalf of the Customer but also on behalf of any other Controller using the Cloud Service. Where SAP informs or gives notice to Customer, such information or notice is deemed received by those Controllers permitted by Customer to use the Cloud Service and it is Customer’s responsibility to forward such information and notices to the relevant Controllers.

### 2. SECURITY OF PROCESSING

- 2.1 Appropriate Technical and Organizational Measures.** SAP has implemented and will apply the technical and organizational measures set forth in [Appendix 2](#). Customer has reviewed such measures and agrees that as to the Cloud Service selected by Customer in the Order Form the measures are appropriate taking into account the state of the art, the costs of implementation, nature, scope, context and purposes of the processing of Personal Data.
- 2.2 Changes.** SAP applies the technical and organizational measures set forth in Appendix 2 to SAP’s entire customer base hosted out of the same Data Center and receiving the same Cloud Service. SAP may change the measures set out in Appendix 2 at any time without notice so long as it maintains a comparable or better level of security. Individual measures may be replaced by new measures that serve the same purpose without diminishing the security level protecting Personal Data.

### 3. SAP OBLIGATIONS

- 3.1 Instructions from Customer.** SAP will process Personal Data only in accordance with documented instructions from Customer. The Agreement (including this DPA) constitutes such documented initial instructions and each use of the Cloud Service then constitutes further instructions. SAP will use reasonable efforts to follow any other Customer instructions, as long as they are required by Data Protection Law, technically feasible and do not require changes to the Cloud Service. If any of the before-mentioned exceptions apply, or SAP otherwise cannot comply

with an instruction or is of the opinion that an instruction infringes Data Protection Law, SAP will immediately notify Customer (email permitted).

- 3.2 Processing on Legal Requirement.** SAP may also process Personal Data where required to do so by applicable law. In such a case, SAP shall inform Customer of that legal requirement before processing unless that law prohibits such information on important grounds of public interest.
- 3.3 Personnel.** To process Personal Data, SAP and its Subprocessors shall only grant access to authorized personnel who have committed themselves to confidentiality. SAP and its Subprocessors will regularly train personnel having access to Personal Data in applicable data security and data privacy measures.
- 3.4 Cooperation.** At Customer's request, SAP will reasonably cooperate with Customer and Controllers in dealing with requests from Data Subjects or regulatory authorities regarding SAP's processing of Personal Data or any Personal Data Breach. SAP shall notify the Customer as soon as reasonably practical about any request it has received from a Data Subject in relation to the Personal Data processing, without itself responding to such request without Customer's further instructions, if applicable. SAP shall provide functionality that supports Customer's ability to correct or remove Personal Data from the Cloud Service, or restrict its processing in line with Data Protection Law. Where such functionality is not provided, SAP will correct or remove any Personal Data, or restrict its processing, in accordance with the Customer's instruction and Data Protection Law.
- 3.5 Personal Data Breach Notification.** SAP will notify Customer without undue delay after becoming aware of any Personal Data Breach and provide reasonable information in its possession to assist Customer to meet Customer's obligations to report a Personal Data Breach as required under Data Protection Law. SAP may provide such information in phases as it becomes available. Such notification shall not be interpreted or construed as an admission of fault or liability by SAP.
- 3.6 Data Protection Impact Assessment.** If, pursuant to Data Protection Law, Customer (or its Controllers) are required to perform a data protection impact assessment or prior consultation with a regulator, at Customer's request, SAP will provide such documents as are generally available for the Cloud Service (for example, this DPA, the Agreement, audit reports or certifications). Any additional assistance shall be mutually agreed between the Parties.

#### **4. DATA EXPORT AND DELETION**

- 4.1 Export and Retrieval by Customer.** During the Subscription Term and subject to the Agreement, Customer can access its Personal Data at any time. Customer may export and retrieve its Personal Data in a standard format. Export and retrieval may be subject to technical limitations, in which case SAP and Customer will find a reasonable method to allow Customer access to Personal Data.
- 4.2 Deletion.** Before the Subscription Term expires, Customer may use SAP's self-service export tools (as available) to perform a final export of Personal Data from the Cloud Service (which shall constitute a "return" of Personal Data). At the end of the Subscription Term, Customer hereby instructs SAP to delete the Personal Data remaining on servers hosting the Cloud Service within a reasonable time period in line with Data Protection Law (not to exceed six months) unless applicable law requires retention.

#### **5. CERTIFICATIONS AND AUDITS**

- 5.1 Customer Audit.** Customer or its independent third party auditor reasonably acceptable to SAP (which shall not include any third party auditors who are either a competitor of SAP or not suitably qualified or independent) may audit SAP's control environment and security practices relevant to Personal Data processed by SAP only if:
  - (a)** SAP has not provided sufficient evidence of its compliance with the technical and organizational measures that protect the production systems of the Cloud Service through providing either: (i) a certification as to compliance with ISO 27001 or other standards

(scope as defined in the certificate); or (ii) a valid ISAE3402 and/or ISAE3000 or other SOC1-3 attestation report. Upon Customer's request audit reports or ISO certifications are available through the third party auditor or SAP;

- (b) A Personal Data Breach has occurred;
- (c) An audit is formally requested by Customer's data protection authority; or
- (d) Mandatory Data Protection Law provides Customer with a direct audit right and provided that Customer shall only audit once in any twelve month period unless mandatory Data Protection Law requires more frequent audits.

**5.2 Other Controller Audit.** Any other Controller may audit SAP's control environment and security practices relevant to Personal Data processed by SAP in line with Section 5.1 only if any of the cases set out in Section 5.1 applies to such other Controller. Such audit must be undertaken through and by Customer as set out in Section 5.1 unless the audit must be undertaken by the other Controller itself under Data Protection Law. If several Controllers whose Personal Data is processed by SAP on the basis of the Agreement require an audit, Customer shall use all reasonable means to combine the audits and to avoid multiple audits.

**5.3 Scope of Audit.** Customer shall provide at least sixty days advance notice of any audit unless mandatory Data Protection Law or a competent data protection authority requires shorter notice. The frequency and scope of any audits shall be mutually agreed between the parties acting reasonably and in good faith. Customer audits shall be limited in time to a maximum of three business days. Beyond such restrictions, the parties will use current certifications or other audit reports to avoid or minimize repetitive audits. Customer shall provide the results of any audit to SAP.

**5.4 Cost of Audits.** Customer shall bear the costs of any audit unless such audit reveals a material breach by SAP of this DPA, then SAP shall bear its own expenses of an audit. If an audit determines that SAP has breached its obligations under the DPA, SAP will promptly remedy the breach at its own cost.

## **6. SUBPROCESSORS**

**6.1 Permitted Use.** SAP is granted a general authorization to subcontract the processing of Personal Data to Subprocessors, provided that:

- (a) SAP or SAP SE on its behalf shall engage Subprocessors under a written (including in electronic form) contract consistent with the terms of this DPA in relation to the Subprocessor's processing of Personal Data. SAP shall be liable for any breaches by the Subprocessor in accordance with the terms of this Agreement;
- (b) SAP will evaluate the security, privacy and confidentiality practices of a Subprocessor prior to selection to establish that it is capable of providing the level of protection of Personal Data required by this DPA; and
- (c) SAP's list of Subprocessors in place on the effective date of the Agreement is published by SAP or SAP will make it available to Customer upon request, including the name, address and role of each Subprocessor SAP uses to provide the Cloud Service.

**6.2 New Subprocessors.** SAP's use of Subprocessors is at its discretion, provided that:

- (a) SAP will inform Customer in advance (by email or by posting on the support portal available through SAP Support) of any intended additions or replacements to the list of Subprocessors including name, address and role of the new Subprocessor; and
- (b) Customer may object to such changes as set out in Section 6.3.

**6.3 Objections to New Subprocessors.**

- (a) If Customer has a legitimate reason under Data Protection Law to object to the new Subprocessors' processing of Personal Data, Customer may terminate the Agreement (limited to the Cloud Service for which the new Subprocessor is intended to be used) on written notice to SAP. Such termination shall take effect at the time determined by the Customer which shall be no later than thirty days from the date of SAP's notice to Customer

informing Customer of the new Subprocessor. If Customer does not terminate within this thirty day period, Customer is deemed to have accepted the new Subprocessor.

- (b) Within the thirty day period from the date of SAP's notice to Customer informing Customer of the new Subprocessor, Customer may request that the parties come together in good faith to discuss a resolution to the objection. Such discussions shall not extend the period for termination and do not affect SAP's right to use the new Subprocessor(s) after the thirty day period.
- (c) Any termination under this Section 6.3 shall be deemed to be without fault by either party and shall be subject to the terms of the Agreement.

**6.4 Emergency Replacement.** SAP may replace a Subprocessor without advance notice where the reason for the change is outside of SAP's reasonable control and prompt replacement is required for security or other urgent reasons. In this case, SAP will inform Customer of the replacement Subprocessor as soon as possible following its appointment. Section 6.3 applies accordingly.

## **7. INTERNATIONAL PROCESSING**

**7.1 Conditions for International Processing.** SAP shall be entitled to process Personal Data, including by using Subprocessors, in accordance with this DPA outside the country in which the Customer is located as permitted under Data Protection Law.

**7.2 Standard Contractual Clauses.** Where (i) Personal Data of an EEA or Swiss based Controller is processed in a country outside the EEA, Switzerland and any country, organization or territory acknowledged by the European Union as safe country with an adequate level of data protection under Art. 45 GDPR, or where (ii) Personal Data of another Controller is processed internationally and such international processing requires an adequacy means under the laws of the country of the Controller and the required adequacy means can be met by entering into Standard Contractual Clauses, then:

- (a) SAP and Customer enter into the Standard Contractual Clauses;
- (b) Customer enters into the Standard Contractual Clauses with each relevant Subprocessor as follows, either (i) Customer joins the Standard Contractual Clauses entered into by SAP or SAP SE and the Subprocessor as an independent owner of rights and obligations ("Accession Model") or, (ii) the Subprocessor (represented by SAP) enters into the Standard Contractual Clauses with Customer ("Power of Attorney Model"). The Power of Attorney Model shall apply if and when SAP has expressly confirmed that a Subprocessor is eligible for it through the Subprocessor list provided under Section 6.1(c), or a notice to Customer; and/or
- (c) Other Controllers whose use of the Cloud Services has been authorized by Customer under the Agreement may also enter into Standard Contractual Clauses with SAP and/or the relevant Subprocessors in the same manner as Customer in accordance with Sections 7.2 (a) and (b) above. In such case, Customer will enter into the Standard Contractual Clauses on behalf of the other Controllers.

**7.3 Relation of the Standard Contractual Clauses to the Agreement.** Nothing in the Agreement shall be construed to prevail over any conflicting clause of the Standard Contractual Clauses. For the avoidance of doubt, where this DPA further specifies audit and subprocessor rules in sections 5 and 6, such specifications also apply in relation to the Standard Contractual Clauses.

**7.4 Governing Law of the Standard Contractual Clauses.** The Standard Contractual Clauses shall be governed by the law of the country in which the relevant Controller is incorporated.

## **8. DOCUMENTATION; RECORDS OF PROCESSING**

Each party is responsible for its compliance with its documentation requirements, in particular maintaining records of processing where required under Data Protection Law. Each party shall reasonably assist the other party in its documentation requirements, including providing the information the other party needs from it in a manner reasonably requested by the other party (such

as using an electronic system), in order to enable the other party to comply with any obligations relating to maintaining records of processing.

## 9. EU ACCESS

- 9.1 Optional Service.** EU Access is an optional service that may be offered by SAP. SAP shall provide the Cloud Service eligible for EU Access solely for production instances in accordance with this Section 9. Where EU Access is not expressly specified and agreed in the Order Form, this Section 9 shall not apply.
- 9.2 EU Access.** SAP will use only European Subprocessors to provide support requiring access to Personal Data in the Cloud Service and SAP shall not export Personal Data outside of the EEA or Switzerland unless expressly authorized by Customer in writing (e-mail permitted) on a case by case basis; or as excluded under Section 9.4.
- 9.3 Data Center Location.** Upon the effective date of the Agreement, the Data Centers used to host Personal Data in the Cloud Service are located in the EEA or Switzerland. SAP will not migrate the Customer instance to a Data Center outside the EEA or Switzerland without Customer's prior written consent (email permitted). If SAP plans to migrate the Customer instance to a Data Center within the EEA or to Switzerland, SAP will notify Customer in writing (email permitted) no later than thirty days before the planned migration.
- 9.4 Exclusions.** The following Personal Data is not subject to 9.2 and 9.3:
- (a) Contact details of the sender of a support ticket; and
  - (b) Any other Personal Data submitted by Customer when filing a support ticket. Customer may choose not to transmit Personal Data when filing a support ticket. If this data is necessary for the incident management process, Customer may choose to anonymize that Personal Data before any transmission of the incident message to SAP.

## 10. DEFINITIONS

Capitalized terms not defined herein will have the meanings given to them in the Agreement.

- 10.1 "Controller"** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of Personal Data; for the purposes of this DPA, where Customer acts as processor for another controller, it shall in relation to SAP be deemed as additional and independent Controller with the respective controller rights and obligations under this DPA.
- 10.2 "Data Center"** means the location where the production instance of the Cloud Service is hosted for the Customer in its region, as published at: <http://www.sap.com/corporate-en/about/our-company/policies/data-privacy-and-security/location-of-data-center.html> or notified to Customer or otherwise agreed in an Order Form.
- 10.3 "Data Protection Law"** means the applicable legislation protecting the fundamental rights and freedoms of persons and their right to privacy with regard to the processing of Personal Data under the Agreement (and includes, as far as it concerns the relationship between the parties regarding the processing of Personal Data by SAP on behalf of Customer, the GDPR as a minimum standard, irrespective of whether the Personal Data is subject to GDPR or not).
- 10.4 "Data Subject"** means an identified or identifiable natural person as defined by Data Protection Law.
- 10.5 "EEA"** means the European Economic Area, namely the European Union Member States along with Iceland, Liechtenstein and Norway.
- 10.6 "European Subprocessor"** means a Subprocessor that is physically processing Personal Data in the EEA or Switzerland.

- 10.7 “Personal Data”** means any information relating to a Data Subject which is protected under Data Protection Law. For the purposes of the DPA, it includes only personal data which is (i) entered by Customer or its Authorized Users into or derived from their use of the Cloud Service, or (ii) supplied to or accessed by SAP or its Subprocessors in order to provide support under the Agreement. Personal Data is a sub-set of Customer Data (as defined under the Agreement).
- 10.8 “Personal Data Breach”** means a confirmed (1) accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or unauthorized third-party access to Personal Data or (2) similar incident involving Personal Data, in each case for which a Controller is required under Data Protection Law to provide notice to competent data protection authorities or Data Subjects.
- 10.9 “Processor”** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller, be it directly as processor of a controller or indirectly as subprocessor of a processor which processes personal data on behalf of the controller.
- 10.10 “Standard Contractual Clauses”** or sometimes also referred to the “EU Model Clauses” means the (Standard Contractual Clauses (processors)) or any subsequent version thereof published by the European Commission (which will automatically apply). The Standard Contractual Clauses current as of the effective date of the Agreement are attached hereto as Appendix 4.
- 10.11 “Subprocessor”** means SAP Affiliates, SAP SE, SAP SE Affiliates and third parties engaged by SAP, SAP SE or SAP SE’s Affiliates in connection with the Cloud Service and which process Personal Data in accordance with this DPA.

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## **Appendix 1 to the DPA and, if applicable, the Standard Contractual Clauses**

### **Data Exporter**

The Data Exporter is the Customer who subscribed to a Cloud Service that allows Authorized Users to enter, amend, use, delete or otherwise process Personal Data. Where the Customer allows other Controllers to also use the Cloud Service, these other Controllers are also Data Exporters.

### **Data Importer**

SAP and its Subprocessors provide the Cloud Service that includes the following support:

SAP SE Affiliates support the Cloud Service data centers remotely from SAP facilities in St. Leon/Rot (Germany), India and other locations where SAP employs personnel in the Operations/Cloud Delivery function. Support includes:

- Monitoring the Cloud Service
- Backup & restoration of Customer Data stored in the Cloud Service
- Release and development of fixes and upgrades to the Cloud Service
- Monitoring, troubleshooting and administering the underlying Cloud Service infrastructure and database
- Security monitoring, network-based intrusion detection support, penetration testing

SAP SE Affiliates provide support when a Customer submits a support ticket because the Cloud Service is not available or not working as expected for some or all Authorized Users. SAP answers phones and performs basic troubleshooting, and handles support tickets in a tracking system that is separate from the production instance of the Cloud Service.

### **Data Subjects**

Unless provided otherwise by the Data Exporter, transferred Personal Data relates to the following categories of Data Subjects: employees, contractors, business partners or other individuals having Personal Data stored in the Cloud Service.

### **Data Categories**

The transferred Personal Data concerns the following categories of data:

Customer determines the categories of data per Cloud Service subscribed. Customer can configure the data fields during implementation of the Cloud Service or as otherwise provided by the Cloud Service. The transferred Personal Data typically relates to the following categories of data: name, phone numbers, e-mail address, time zone, address data, system access / usage / authorization data, company name, contract data, invoice data, plus any application-specific data that Authorized Users enter into the Cloud Service and may include bank account data, credit or debit card data.

### **Special Data Categories (if appropriate)**

The transferred Personal Data concerns the following special categories of data: As set out in the Agreement (including the Order Form) if any.

### **Processing Operations / Purposes**

The transferred Personal Data is subject to the following basic processing activities:

- use of Personal Data to set up, operate, monitor and provide the Cloud Service (including Operational and Technical Support)
- provision of Consulting Services;
- communication to Authorized Users
- storage of Personal Data in dedicated Data Centers (multi-tenant architecture)
- upload any fixes or upgrades to the Cloud Service

- back up of Personal Data
- computer processing of Personal Data, including data transmission, data retrieval, data access
- network access to allow Personal Data transfer
- execution of instructions of Customer in accordance with the Agreement.

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## Appendix 2 to the DPA and, if applicable, the Standard Contractual Clauses – Technical and Organizational Measures

### 1. TECHNICAL AND ORGANIZATIONAL MEASURES

The following sections define SAP's current technical and organizational measures. SAP may change these at any time without notice so long as it maintains a comparable or better level of security. Individual measures may be replaced by new measures that serve the same purpose without diminishing the security level protecting Personal Data.

**1.1 Physical Access Control.** Unauthorized persons are prevented from gaining physical access to premises, buildings or rooms where data processing systems that process and/or use Personal Data are located.

#### Measures:

- SAP protects its assets and facilities using the appropriate means based on the SAP Security Policy
- In general, buildings are secured through access control systems (e.g., smart card access system).
- As a minimum requirement, the outermost entrance points of the building must be fitted with a certified key system including modern, active key management.
- Depending on the security classification, buildings, individual areas and surrounding premises may be further protected by additional measures. These include specific access profiles, video surveillance, intruder alarm systems and biometric access control systems.
- Access rights are granted to authorized persons on an individual basis according to the System and Data Access Control measures (see Section 1.2 and 1.3 below). This also applies to visitor access. Guests and visitors to SAP buildings must register their names at reception and must be accompanied by authorized SAP personnel.
- SAP employees and external personnel must wear their ID cards at all SAP locations.

#### Additional measures for Data Centers:

- All Data Centers adhere to strict security procedures enforced by guards, surveillance cameras, motion detectors, access control mechanisms and other measures to prevent equipment and Data Center facilities from being compromised. Only authorized representatives have access to systems and infrastructure within the Data Center facilities. To protect proper functionality, physical security equipment (e.g., motion sensors, cameras, etc.) undergo maintenance on a regular basis.
- SAP and all third-party Data Center providers log the names and times of authorized personnel entering SAP's private areas within the Data Centers.

**1.2 System Access Control.** Data processing systems used to provide the Cloud Service must be prevented from being used without authorization.

#### Measures:

- Multiple authorization levels are used when granting access to sensitive systems, including those storing and processing Personal Data. Authorizations are managed via defined processes according to the SAP Security Policy
- All personnel access SAP's systems with a unique identifier (user ID).
- SAP has procedures in place so that requested authorization changes are implemented only in accordance with the SAP Security Policy (for example, no rights are granted without authorization). In case personnel leaves the company, their access rights are revoked.
- SAP has established a password policy that prohibits the sharing of passwords, governs responses to password disclosure, and requires passwords to be changed on a regular basis and default passwords to be altered. Personalized user IDs are assigned for authentication. All passwords must fulfill defined minimum requirements and are stored in encrypted form. In the case of domain

passwords, the system forces a password change every six months in compliance with the requirements for complex passwords. Each computer has a password-protected screensaver.

- The company network is protected from the public network by firewalls.
- SAP uses up-to-date antivirus software at access points to the company network (for e-mail accounts), as well as on all file servers and all workstations.
- Security patch management is implemented to provide regular and periodic deployment of relevant security updates. Full remote access to SAP's corporate network and critical infrastructure is protected by strong authentication.

**1.3 Data Access Control.** Persons entitled to use data processing systems gain access only to the Personal Data that they have a right to access, and Personal Data must not be read, copied, modified or removed without authorization in the course of processing, use and storage.

Measures:

- As part of the SAP Security Policy, Personal Data requires at least the same protection level as "confidential" information according to the SAP Information Classification standard.
- Access to Personal Data is granted on a need-to-know basis. Personnel have access to the information that they require in order to fulfill their duty. SAP uses authorization concepts that document grant processes and assigned roles per account (user ID). All Customer Data is protected in accordance with the SAP Security Policy.
- All production servers are operated in the Data Centers or in secure server rooms. Security measures that protect applications processing Personal Data are regularly checked. To this end, SAP conducts internal and external security checks and penetration tests on its IT systems.
- SAP does not allow the installation of software that has not been approved by SAP.
- An SAP security standard governs how data and data carriers are deleted or destroyed once they are no longer required.

**1.4 Data Transmission Control.** Except as necessary for the provision of the Cloud Services in accordance with the Agreement, Personal Data must not be read, copied, modified or removed without authorization during transfer. Where data carriers are physically transported, adequate measures are implemented at SAP to provide the agreed-upon service levels (for example, encryption and lead-lined containers).

Measures:

- Personal Data in transfer over SAP internal networks is protected according to SAP Security Policy.
- When data is transferred between SAP and its customers, the protection measures for the transferred Personal Data are mutually agreed upon and made part of the relevant agreement. This applies to both physical and network based data transfer. In any case, the Customer assumes responsibility for any data transfer once it is outside of SAP-controlled systems (e.g. data being transmitted outside the firewall of the SAP Data Center).

**1.5 Data Input Control.** It will be possible to retrospectively examine and establish whether and by whom Personal Data have been entered, modified or removed from SAP data processing systems.

Measures:

- SAP only allows authorized personnel to access Personal Data as required in the course of their duty.
- SAP has implemented a logging system for input, modification and deletion, or blocking of Personal Data by SAP or its subprocessors within the Cloud Service to the extent technically possible.

**1.6 Job Control.** Personal Data being processed on commission (i.e., Personal Data processed on a customer's behalf) is processed solely in accordance with the Agreement and related instructions of the customer.

Measures:

- SAP uses controls and processes to monitor compliance with contracts between SAP and its customers, subprocessors or other service providers.
- As part of the SAP Security Policy, Personal Data requires at least the same protection level as "confidential" information according to the SAP Information Classification standard.
- All SAP employees and contractual subprocessors or other service providers are contractually bound to respect the confidentiality of all sensitive information including trade secrets of SAP customers and partners.

**1.7 Availability Control.** Personal Data will be protected against accidental or unauthorized destruction or loss.

Measures:

- SAP employs regular backup processes to provide restoration of business-critical systems as and when necessary.
- SAP uses uninterrupted power supplies (for example: UPS, batteries, generators, etc.) to protect power availability to the Data Centers.
- SAP has defined business contingency plans for business-critical processes and may offer disaster recovery strategies for business critical Services as further set out in the Documentation or incorporated into the Order Form for the relevant Cloud Service.
- Emergency processes and systems are regularly tested.

**1.8 Data Separation Control.** Personal Data collected for different purposes can be processed separately.

Measures:

- SAP uses the technical capabilities of the deployed software (for example: multi-tenancy, or separate system landscapes) to achieve data separation among Personal Data originating from multiple customers.
- Customer (including its Controllers) has access only to its own data.
- If Personal Data is required to handle a support incident from Customer, the data is assigned to that particular message and used only to process that message; it is not accessed to process any other messages. This data is stored in dedicated support systems.

**1.9 Data Integrity Control.** Personal Data will remain intact, complete and current during processing activities.

Measures:

SAP has implemented a multi-layered defense strategy as a protection against unauthorized modifications.

In particular, SAP uses the following to implement the control and measure sections described above:

- Firewalls;
- Security Monitoring Center;
- Antivirus software;
- Backup and recovery;

- External and internal penetration testing;
- Regular external audits to prove security measures.

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### Appendix 3 to the DPA and, if applicable, the Standard Contractual Clauses

The following table sets out the relevant Articles of GDPR and corresponding terms of the DPA for illustration purposes only.

Article of GDPR	Section of DPA	Click on link to see Section
28(1)	2 and Appendix 2	<a href="#">Security of Processing</a> and <a href="#">Appendix 2, Technical and Organizational Measures.</a>
28(2), 28(3) (d) and 28 (4)	6	<a href="#">SUBPROCESSORS</a>
28 (3) sentence 1	1.1 and Appendix 1, 1.2	<a href="#">Purpose and Application.</a> <a href="#">Structure.</a>
28(3) (a) and 29	3.1 and 3.2	<a href="#">Instructions from Customer.</a> <a href="#">Processing on Legal Requirement.</a>
28(3) (b)	3.3	<a href="#">Personnel.</a>
28(3) (c) and 32	2 and Appendix 2	<a href="#">Security of Processing</a> and <a href="#">Appendix 2, Technical and Organizational Measures.</a>
28(3) (e)	3.4	<a href="#">Cooperation.</a>
28(3) (f) and 32-36	2 and Appendix 2, 3.5, 3.6	<a href="#">Security of Processing</a> and <a href="#">Appendix 2, Technical and Organizational Measures.</a> <a href="#">Personal Data Breach Notification.</a> <a href="#">Data Protection Impact Assessment.</a>
28(3) (g)	4	<a href="#">Data export and Deletion</a>
28(3) (h)	5	<a href="#">CERTIFICATIONS AND AUDITS</a>
28 (4)	6	<a href="#">SUBPROCESSORS</a>
30	8	<a href="#">Documentation; Records of processing</a>
46(2) (c)	7.2	Standard Contractual Clauses.

**Appendix 4**  
**STANDARD CONTRACTUAL CLAUSES (PROCESSORS)<sup>1</sup>**

For the purposes of Article 26(2) of Directive 95/46/EC (or, after 25 May 2018, Article 44 et seq. of Regulation 2016/79) for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

**Customer also on behalf of the other Controllers**  
(in the Clauses hereinafter referred to as the '**data exporter**')  
and

**SAP**  
(in the Clauses hereinafter referred to as the '**data importer**')  
each a 'party'; together 'the parties',

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

*Clause 1*  
**Definitions**

For the purposes of the Clauses:

- (a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) 'the data exporter' means the controller who transfers the personal data;
- (c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;
- (d) 'the sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

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<sup>1</sup> Pursuant to Commission Decision of 5 February 2010 (2010/87/EU)



(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

#### *Clause 2*

### **Details of the transfer**

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

#### *Clause 3*

### **Third-party beneficiary clause**

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

#### *Clause 4*

### **Obligations of the data exporter**

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will

continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

#### *Clause 5*

#### **Obligations of the data importer**

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it

agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

(ii) any accidental or unauthorised access; and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the sub-processor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

## *Clause 6*

### **Liability**

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

## *Clause 7*

### **Mediation and jurisdiction**

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

- (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
- (b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

*Clause 8*

**Cooperation with supervisory authorities**

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

*Clause 9*

**Governing law**

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

*Clause 10*

**Variation of the contract**

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

*Clause 11*

**Sub-processing**

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses. Where the sub-processor fails to fulfill its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.
2. The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such

third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.

4. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

#### *Clause 12*

##### **Obligation after the termination of personal data-processing services**

1. The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the sub-processor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

## GENERAL TERMS AND CONDITIONS FOR SAP CLOUD SERVICES (“GTC”)

### 1. DEFINITIONS

Capitalized terms used in this document are defined in the Glossary.

### 2. USAGE RIGHTS AND RESTRICTIONS

#### 2.1 Grant of Rights.

SAP grants to Customer a non-exclusive, non-transferable and world-wide right to use the Cloud Service (including its implementation and configuration), Cloud Materials and Documentation solely for Customer’s and its Affiliates’ internal business operations. Permitted uses and restrictions of the Cloud Service also apply to Cloud Materials and Documentation.

#### 2.2 Authorized Users.

Customer may permit Authorized Users to use the Cloud Service. Usage is limited to the Usage Metrics and volumes stated in the Order Form. Access credentials for the Cloud Service may not be used by more than one individual, but may be transferred from one individual to another if the original user is no longer permitted to use the Cloud Service. Customer is responsible for breaches of the Agreement caused by Authorized Users.

#### 2.3 Acceptable Use Policy.

With respect to the Cloud Service, Customer will not:

- (a) disassemble, decompile, reverse-engineer, copy, translate or make derivative works,
- (b) transmit any content or data that is unlawful or infringes any intellectual property rights, or
- (c) circumvent or endanger its operation or security.

#### 2.4 Verification of Use.

Customer will monitor its own use of the Cloud Service and report any use in excess of the Usage Metrics and volume. SAP may monitor use to verify compliance with Usage Metrics, volume and the Agreement.

#### 2.5 Suspension of Cloud Service.

SAP may suspend or limit use of the Cloud Service if continued use may result in material harm to the Cloud Service or its users. SAP will promptly notify Customer of the suspension or limitation. SAP will limit a suspension or limitation in time and scope as reasonably possible under the circumstances.

#### 2.6 Third Party Web Services.

The Cloud Service may include integrations with web services made available by third parties (other than SAP SE or its Affiliates) that are accessed through the Cloud Service and subject to terms and conditions with those third parties. These third party web services are not part of the Cloud Service and the Agreement does not apply to them.

#### 2.7 Mobile Access to Cloud Service.

Authorized Users may access certain Cloud Services through mobile applications obtained from third-party websites such as Android or Apple app store. The use of mobile applications may be governed by the terms and conditions presented upon download/access to the mobile application and not by the terms of the Agreement.

#### 2.8 On-Premise Components.

The Cloud Service may include on-premise components that can be downloaded and installed (including updates) by Customer. The System Availability SLA does not apply to these components. In addition to the support policy referenced in the Order Form, specific SAP support and maintenance policies apply to the On-Premise Components and can be found in SAP Support Note 2658835.

### 3. SAP RESPONSIBILITIES

#### 3.1 Provisioning.

SAP provides access to the Cloud Service as described in the Agreement.

### **3.2 Support.**

SAP provides support for the Cloud Service as referenced in the Order Form.

### **3.3 Security.**

SAP uses reasonable security technologies in providing the Cloud Service. As a data processor, SAP will implement technical and organizational measures referenced in the Order Form to secure personal data processed in the Cloud Service in accordance with applicable data protection law.

### **3.4 Modifications.**

- (a) The Cloud Service and SAP Policies may be modified by SAP. SAP will inform Customer of modifications by email, the support portal, release notes, Documentation or the Cloud Service. The information will be delivered by email if the modification is not solely an enhancement. Modifications may include optional new features for the Cloud Service, which Customer may use subject to the then-current Supplement and Documentation.
- (b) If Customer establishes that a modification is not solely an enhancement and materially reduces the Cloud Service, Customer may terminate its subscriptions to the affected Cloud Service by providing written notice to SAP within thirty days after receipt of SAP's informational notice.

### **3.5 Analyses.**

SAP, SAP SE or SAP Affiliates may create analyses utilizing, in part, Customer Data and information derived from Customer's use of the Cloud Service and Consulting Services, as set forth below ("**Analyses**"). Analyses will anonymize and aggregate information and will be treated as Cloud Materials.

Unless otherwise agreed, personal data contained in Customer Data is only used to provide the Cloud Service and Consulting Services. Analyses may be used for the following purposes:

- a) product improvement (in particular, product features and functionality, workflows and user interfaces) and development of new SAP products and services,
- b) improving resource allocation and support,
- c) internal demand planning,
- d) training and developing machine learning algorithms,
- e) improving product performance,
- f) verification of security and data integrity
- g) identification of industry trends and developments, creation of indices and anonymous benchmarking

## **4. CUSTOMER AND PERSONAL DATA**

### **4.1 Customer Data.**

Customer is responsible for the Customer Data and entering it into the Cloud Service. Customer grants to SAP (including SAP SE, its Affiliates and subcontractors) a nonexclusive right to process Customer Data solely to provide and support the Cloud Service.

### **4.2 Personal Data.**

Customer will collect and maintain all personal data contained in the Customer Data in compliance with applicable data privacy and protection laws.

### **4.3 Security.**

Customer will maintain reasonable security standards for its Authorized Users' use of the Cloud Service. Customer will not conduct or authorize penetration tests of the Cloud Service without advance approval from SAP.

### **4.4 Access to Customer Data.**

- (a) During the Subscription Term, Customer can access its Customer Data at any time. Customer may export and retrieve its Customer Data in a standard format. Export and retrieval may



be subject to technical limitations, in which case SAP and Customer will find a reasonable method to allow Customer access to Customer Data.

- (b) Before the Subscription Term expires, Customer may use SAP's self-service export tools (as available) to perform a final export of Customer Data from the Cloud Service.
- (c) At the end of the Agreement, SAP will delete the Customer Data remaining on servers hosting the Cloud Service unless applicable law requires retention. Retained data is subject to the confidentiality provisions of the Agreement.
- (d) In the event of third party legal proceedings relating to the Customer Data, SAP will cooperate with Customer and comply with applicable law (both at Customer's expense) with respect to handling of the Customer Data.

## **5. FEES AND TAXES**

### **5.1 Fees and Payment.**

Customer will pay fees as stated in the Order Form. After prior written notice, SAP may suspend Customer's use of the Cloud Service until payment is made. Customer cannot withhold, reduce or set-off fees owed nor reduce Usage Metrics during the Subscription Term. All Order Forms are non-cancellable and fees non-refundable.

### **5.2 Taxes.**

Fees and other charges imposed under an Order Form will not include taxes, all of which will be for Customer's account. Customer is responsible for all taxes, other than SAP's income and payroll taxes. Customer must provide to SAP any direct pay permits or valid tax-exempt certificates prior to signing an Order Form. If SAP is required to pay taxes (other than its income and payroll taxes), Customer will reimburse SAP for those amounts and indemnify SAP for any taxes and related costs paid or payable by SAP attributable to those taxes.

## **6. TERM AND TERMINATION**

### **6.1 Term.**

The Subscription Term is as stated in the Order Form.

### **6.2 Termination.**

A party may terminate the Agreement:

- (a) upon thirty days written notice of the other party's material breach unless the breach is cured during that thirty day period,
- (b) as permitted under Sections 3.4(b), 7.3(b), 7.4(c), or 8.1(c) (with termination effective thirty days after receipt of notice in each of these cases), or
- (c) immediately if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or otherwise materially breaches Sections 11 or 12.6.

### **6.3 Refund and Payments.**

For termination by Customer or an 8.1(c) termination, Customer will be entitled to:

- (a) a pro-rata refund in the amount of the unused portion of prepaid fees for the terminated subscription calculated as of the effective date of termination, and
- (b) a release from the obligation to pay fees due for periods after the effective date of termination.

### **6.4 Effect of Expiration or Termination.**

Upon the effective date of expiration or termination of the Agreement:

- (a) Customer's right to use the Cloud Service and all SAP Confidential Information will end,
- (b) Confidential Information of the disclosing party will be returned or destroyed as required by the Agreement, and
- (c) termination or expiration of the Agreement does not affect other agreements between the parties.

### **6.5 Survival.**

Sections 1, 5, 6.3, 6.4, 6.5, 8, 9, 10, 11, and 12 will survive the expiration or termination of the Agreement.

## **7. WARRANTIES**

### **7.1 Compliance with Law.**

Each party warrants its current and continuing compliance with all laws and regulations applicable to it in connection with:

- (a) in the case of SAP, the operation of SAP's business as it relates to the Cloud Service, and
- (b) in the case of Customer, the Customer Data and Customer's use of the Cloud Service.

### **7.2 Good Industry Practices.**

SAP warrants that it will provide the Cloud Service:

- (a) in substantial conformance with the Documentation; and
- (b) with the degree of skill and care reasonably expected from a skilled and experienced global supplier of services substantially similar to the nature and complexity of the Cloud Service.

### **7.3 Remedy.**

Customer's sole and exclusive remedies and SAP's entire liability for breach of the warranty under Section 7.2 will be:

- (a) the re-performance of the deficient Cloud Service, and
- (b) if SAP fails to re-perform, Customer may terminate its subscription for the affected Cloud Service. Any termination must occur within three months of SAP's failure to re-perform.

### **7.4 System Availability.**

- (a) SAP warrants to maintain an average monthly system availability for the production system of the Cloud Service as defined in the applicable service level agreement or Supplement ("SLA").
- (b) Customer's sole and exclusive remedy for SAP's breach of the SLA is the issuance of a credit in the amount described in the SLA. Customer will follow SAP's posted credit claim procedure. When the validity of the service credit is confirmed by SAP in writing (email permitted), Customer may apply the credit to a future invoice for the Cloud Service or request a refund for the amount of the credit if no future invoice is due.
- (c) In the event SAP fails to meet the SLA (i) for four consecutive months, or (ii) for five or more months during any twelve months period, or (iii) at a system availability level of at least 95% for one calendar month, Customer may terminate its subscriptions for the affected Cloud Service by providing SAP with written notice within thirty days after the failure.

### **7.5 Warranty Exclusions.**

The warranties in Sections 7.2 and 7.4 will not apply if:

- (a) the Cloud Service is not used in accordance with the Agreement or Documentation,
- (b) any non-conformity is caused by Customer, or by any product or service not provided by SAP, or
- (c) the Cloud Service was provided for no fee.

### **7.6 Disclaimer.**

Except as expressly provided in the Agreement, neither SAP nor its subcontractors make any representation or warranties, express or implied, statutory or otherwise, regarding any matter, including the merchantability, suitability, originality, or fitness for a particular use or purpose, non-infringement or results to be derived from the use of or integration with any products or services provided under the Agreement, or that the operation of any products or services will be secure, uninterrupted or error free. Customer agrees that it is not relying on delivery of future functionality, public comments or advertising of SAP or product roadmaps in obtaining subscriptions for any Cloud Service.

## **8. THIRD PARTY CLAIMS**

### **8.1 Claims Brought Against Customer.**

- (a) SAP will defend Customer against claims brought against Customer and its Affiliates by any third party alleging that Customer's and its Affiliates' use of the Cloud Service infringes or misappropriates a patent claim, copyright, or trade secret right. SAP will indemnify Customer

against all damages finally awarded against Customer (or the amount of any settlement SAP enters into) with respect to these claims.

- (b) SAP's obligations under Section 8.1 will not apply if the claim results from (i) Customer's breach of Section 2, (ii) use of the Cloud Service in conjunction with any product or service not provided by SAP, or (iii) use of the Cloud Service provided for no fee.
- (c) In the event a claim is made or likely to be made, SAP may (i) procure for Customer the right to continue using the Cloud Service under the terms of the Agreement, or (ii) replace or modify the Cloud Service to be non-infringing without a material decrease in functionality. If these options are not reasonably available, SAP or Customer may terminate Customer's subscription to the affected Cloud Service upon written notice to the other.

#### **8.2 Claims Brought Against SAP.**

Customer will defend SAP against claims brought against SAP, SAP SE, its Affiliates and subcontractors by any third party related to Customer Data.

Customer will indemnify SAP against all damages finally awarded against SAP, SAP SE, its Affiliates and subcontractors (or the amount of any settlement Customer enters into) with respect to these claims.

#### **8.3 Third Party Claim Procedure.**

- (a) The party against whom a third party claim is brought will timely notify the other party in writing of any claim, reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the party providing the defense.
- (b) The party that is obligated to defend a claim will have the right to fully control the defense.
- (c) Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought.

#### **8.4 Exclusive Remedy.**

The provisions of Section 8 state the sole, exclusive, and entire liability of the parties, their Affiliates, Business Partners and subcontractors to the other party, and is the other party's sole remedy, with respect to covered third party claims and to the infringement or misappropriation of third party intellectual property rights.

### **9. LIMITATION OF LIABILITY**

#### **9.1 Unlimited Liability.**

Neither party will exclude or limit its liability for damages resulting from:

- (a) the parties' obligations under Section 8.1(a) and 8.2,
- (b) unauthorized use or disclosure of Confidential Information,
- (c) either party's breach of its data protection and security obligations that result in an unauthorized use or disclosure of personal data,
- (d) death or bodily injury arising from either party's gross negligence or willful misconduct, or
- (e) any failure by Customer to pay any fees due under the Agreement.

#### **9.2 Liability Cap.**

Subject to Sections 9.1 and 9.3, the maximum aggregate liability of either party (or its respective Affiliates or SAP's subcontractors) to the other or any other person or entity for all events (or series of connected events) arising in any twelve month period will not exceed the annual subscription fees paid for the applicable Cloud Service directly causing the damage for that twelve month period. Any "twelve month period" commences on the Subscription Term start date or any of its yearly anniversaries.

#### **9.3 Exclusion of Damages.**

Subject to Section 9.1:

- (a) neither party (nor its respective Affiliates or SAP's subcontractors) will be liable to the other party for any special, incidental, consequential, or indirect damages, loss of good will or business profits, work stoppage or for exemplary or punitive damages, and

(b) SAP will not be liable for any damages caused by any Cloud Service provided for no fee.

#### **9.4 Risk Allocation.**

The Agreement allocates the risks between SAP and Customer. The fees for the Cloud Service and Consulting Services reflect this allocation of risk and limitations of liability.

### **10. INTELLECTUAL PROPERTY RIGHTS**

#### **10.1 SAP Ownership.**

SAP, SAP SE, their Affiliates or licensors own all intellectual property rights in and related to the Cloud Service, Cloud Materials, Documentation, Consulting Services, design contributions, related knowledge or processes, and any derivative works of them. All rights not expressly granted to Customer are reserved to SAP, SAP SE and its licensors.

#### **10.2 Customer Ownership.**

Customer retains all rights in and related to the Customer Data. SAP may use Customer-provided trademarks solely to provide and support the Cloud Service.

#### **10.3 Non-Assertion of Rights.**

Customer covenants, on behalf of itself and its successors and assigns, not to assert against SAP, SAP SE, their Affiliates or licensors, any rights, or any claims of any rights, in any Cloud Service, Cloud Materials, Documentation, or Consulting Services.

### **11. CONFIDENTIALITY**

#### **11.1 Use of Confidential Information.**

- (a) The receiving party will protect all Confidential Information of the disclosing party as strictly confidential to the same extent it protects its own Confidential Information, and not less than a reasonable standard of care. Receiving party will not disclose any Confidential Information of the disclosing party to any person other than its personnel, representatives or Authorized Users whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under obligations of confidentiality substantially similar to those in Section 11. Customer will not disclose the Agreement or the pricing to any third party.
- (b) Confidential Information of either party disclosed prior to execution of the Agreement will be subject to Section 11.
- (c) In the event of legal proceedings relating to the Confidential Information, the receiving party will cooperate with the disclosing party and comply with applicable law (all at disclosing party's expense) with respect to handling of the Confidential Information.

#### **11.2 Exceptions.**

The restrictions on use or disclosure of Confidential Information will not apply to any Confidential Information that:

- (a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information,
- (b) is generally available to the public without breach of the Agreement by the receiving party,
- (c) at the time of disclosure, was known to the receiving party free of confidentiality restrictions, or
- (d) the disclosing party agrees in writing is free of confidentiality restrictions.

#### **11.3 Publicity.**

Neither party will use the name of the other party in publicity activities without the prior written consent of the other, except that Customer agrees that SAP may use Customer's name in customer listings or quarterly calls with its investors or, at times mutually agreeable to the parties, as part of SAP's marketing efforts (including reference calls and stories, press testimonials, site visits, SAPPHIRE participation). Customer agrees that SAP may share information on Customer with its Affiliates for marketing and other business purposes and that it has secured appropriate authorizations to share Customer employee contact information with SAP.

## **12. MISCELLANEOUS**

### **12.1 Severability.**

If any provision of the Agreement is held to be invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Agreement.

### **12.2 No Waiver.**

A waiver of any breach of the Agreement is not deemed a waiver of any other breach.

### **12.3 Electronic Signature.**

Electronic signatures that comply with applicable law are deemed original signatures.

### **12.4 Regulatory Matters.**

SAP Confidential Information is subject to export control laws of various countries, including the laws of the United States and Germany. Customer will not submit SAP Confidential Information to any government agency for licensing consideration or other regulatory approval, and will not export SAP Confidential Information to countries, persons or entities if prohibited by export laws.

### **12.5 Notices.**

All notices will be in writing and given when delivered to the address set forth in an Order Form with copy to the legal department. Notices by SAP relating to the operation or support of the Cloud Service and those under Sections 3.4 and 5.1 may be in the form of an electronic notice to Customer's authorized representative or administrator identified in the Order Form.

### **12.6 Assignment.**

Without SAP's prior written consent, Customer may not assign or transfer the Agreement (or any of its rights or obligations) to any party. SAP may assign the Agreement to SAP SE or any of its Affiliates.

### **12.7 Subcontracting.**

SAP may subcontract parts of the Cloud Service or Consulting Services to third parties. SAP is responsible for breaches of the Agreement caused by its subcontractors.

### **12.8 Relationship of the Parties.**

The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created by the Agreement.

### **12.9 Force Majeure.**

Any delay in performance (other than for the payment of amounts due) caused by conditions beyond the reasonable control of the performing party is not a breach of the Agreement. The time for performance will be extended for a period equal to the duration of the conditions preventing performance.

### **12.10 Governing Law.**

The Agreement and any claims relating to its subject matter will be governed by and construed under the laws of the Commonwealth of Pennsylvania, without reference to its conflicts of law principles. All disputes will be subject to the exclusive jurisdiction of the courts located in Philadelphia, Pennsylvania. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement. Either party must initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within one year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

### **12.11 Entire Agreement.**

The Agreement constitutes the complete and exclusive statement of the agreement between SAP and Customer in connection with the parties' business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements) are merged in and superseded by the Agreement and the parties disclaim any reliance on them. The Agreement may be modified solely in writing signed by both parties, except as permitted under Section 3.4. An Agreement will prevail over terms and conditions of any Customer-issued purchase order, which will have no force and effect, even if SAP accepts or does not otherwise reject the purchase order.

## Glossary

- 1.1 "Affiliate"** of a party means any legal entity in which a party, directly or indirectly, holds more than fifty percent (50%) of the entity's shares or voting rights. Any legal entity will be considered an Affiliate as long as that interest is maintained.
- 1.2 "Agreement"** means an Order Form and documents incorporated into an Order Form.
- 1.3 "Authorized User"** means any individual to whom Customer grants access authorization to use the Cloud Service that is an employee, agent, contractor or representative of
- (a) Customer,
  - (b) Customer's Affiliates, and/or
  - (c) Customer's and Customer's Affiliates' Business Partners.
- 1.4 "Business Partner"** means a legal entity that requires use of a Cloud Service in connection with Customer's and its Affiliates' internal business operations. These may include customers, distributors, service providers and/or suppliers of Customer.
- 1.5 "Cloud Service"** means any distinct, subscription-based, hosted, supported and operated on-demand solution provided by SAP under an Order Form.
- 1.6 "Cloud Materials"** mean any materials provided or developed by SAP (independently or with Customer's cooperation) in the course of performance under the Agreement, including in the delivery of any support or Consulting Services to Customer. Cloud Materials do not include the Customer Data, Customer Confidential Information or the Cloud Service.
- 1.7 "Confidential Information"** means
- (a) with respect to Customer: (i) the Customer Data, (ii) Customer marketing and business requirements, (iii) Customer implementation plans, and/or (iv) Customer financial information, and
  - (b) with respect to SAP: (i) the Cloud Service, Documentation, Cloud Materials and analyses under Section 3.5, and (ii) information regarding SAP research and development, product offerings, pricing and availability.
  - (c) Confidential Information of either SAP or Customer also includes information which the disclosing party protects against unrestricted disclosure to others that (i) the disclosing party or its representatives designates as confidential at the time of disclosure, or (ii) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure.
- 1.8 "Consulting Services"** means professional services, such as implementation, configuration, custom development and training, performed by SAP's employees or subcontractors as described in any Order Form and which are governed by the Supplement for Consulting Services or similar agreement.
- 1.9 "Customer Data"** means any content, materials, data and information that Authorized Users enter into the production system of a Cloud Service or that Customer derives from its use of and stores in the Cloud Service (e.g. Customer-specific reports). Customer Data and its derivatives will not include SAP's Confidential Information.
- 1.10 "Documentation"** means SAP's then-current technical and functional documentation as well as any roles and responsibilities descriptions, if applicable, for the Cloud Service which is made available to Customer with the Cloud Service.
- 1.11 "Order Form"** means the ordering document for a Cloud Service that references the GTC.
- 1.12 "SAP SE"** means SAP SE, the parent company of SAP.
- 1.13 "SAP Policies"** means the operational guidelines and policies applied by SAP to provide and support the Cloud Service as incorporated in an Order Form.
- 1.14 "Subscription Term"** means the term of a Cloud Service subscription identified in the applicable Order Form, including all renewals.
- 1.15 "Supplement"** means the supplemental terms and conditions that apply to the Cloud Service and that are incorporated in an Order Form.
- 1.16 "Usage Metric"** means the standard of measurement for determining the permitted use and calculating the fees due for a Cloud Service as set forth in an Order Form.