OEM LICENSE AGREEMENT

A. Preamble

Licensor is the owner or the licensee of certain software products. OEM is a manufacturer and/or reseller of certain computer hardware and/or software products.

OEM wishes to obtain from Licensor the right to market and sublicense certain of Licensor's software products and/or make available certain Cloud Services of Licensor to end users, as applicable, but in any event in combination with OEM's own products or services on the terms set forth in this Agreement (as defined below).

NOW, THEREFORE, the parties hereby agree as follows:

A. General Terms And Conditions

The parties agree that their contractual relationship shall be governed by the general terms and conditions set forth below as well as all applicable exhibits, schedules, amendments or addendum attached hereto or to any Order Form or referenced herein as part of the agreed terms, all of which are made an integral part hereof (collectively referred to herein as the "Agreement.").

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

"Add-on" means any development using SAP API's that adds new and independent functionality from OEM Products, but does not modify existing Licensor functionality.

"Affiliate" means any person, partnership, joint venture, corporation, company or other form of enterprise, domestic or foreign (collectively, "Company"), including but not limited to subsidiaries, located in the Territory, and in which the OEM holds, directly or indirectly, more than fifty percent (50%) of the shares or voting rights. Any such Company shall be considered an Affiliate for only such time as the OEM continues to hold more than fifty percent (50%) of that Company's shares or voting rights.

"API" means Licensor or its Group Company's application programming interfaces, as well as other Licensor or its Group Company's code that allow other software products to communicate with or call on the Software (for example, SAP Enterprise Services, BAPIs, Idocs, RFCs and ABAP calls or other user exits) provided under this Agreement. APIs are made available to OEM through either (or both) the Software or SAP SDKs.

"ASP Services" shall mean application services that are provided to End Users by OEM utilizing licenses to use Software installed on hardware owned or controlled and in any event operated by OEM through granting remote access rights (directly or indirectly) to, or otherwise providing End Users the benefits of, Licensor client and server Software. This may occur via a private network or a Virtual Private Network (VPN) or the Internet, and may include providing administration, installation, redundancy, back-up and technical support services as they apply to the deployment and management of the Software.

"Bundled Products" means the Software in combination with the OEM Products, where the Software may be provided as an embedded component or integrated with the OEM Products or add-on module to the OEM Products.

"Cloud Services" means the Licensor Cloud Services made available by Licensor listed in Exhibit A.

"Confidential Information" shall mean all information which Disclosing Party protects against unrestricted disclosure to others, furnished by the Disclosing Party or its Representatives (defined below) to the Receiving Party or its Representatives in writing or in other tangible form and clearly identified as confidential or proprietary at the time of disclosure by an appropriate legend indicating that the information is deemed confidential or proprietary by the Disclosing Party, including but not limited to information that is related to:

(a) the operations of the Disclosing Party;
(b) the research and development or investigations of the Disclosing Party;
(c) the business of any customer or partner of the Disclosing Party;
(d) Disclosing Party's properties, employees, finances, operations;
(e) the following information regarding software and related documentation including, but not limited to, the OEM Products (for OEM), and the Licensor Materials and API (for Licensor), (respectively, "Disclosing Party's Software"): discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, techniques and processes relating to Disclosing Party's Software; and
(f) product offerings, content partners, product pricing, product availability, technical drawings, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, inventions (whether patentable or not), marketing plans, forecasts and strategies.

Where the Confidential Information has not been reduced to written or other tangible form at the time of disclosure, and such disclosure is made orally or visually, the Disclosing Party agrees to identify it as confidential or proprietary at the time of disclosure and to summarize the Confidential Information in writing and deliver such summary within thirty (30) calendar days of

such oral or visual disclosure. Neither Party shall identify information as confidential or proprietary that is not in good faith believed to be confidential, privileged, a trade secret, or otherwise entitled to such markings or proprietary claims.

Without by any means limiting the meaning of the foregoing, the following information shall be deemed Confidential Information, no matter whether marked as confidential or not:

(i) the business plans of the Disclosing Party;
(ii) the algorithms, source codes and application software interface (including but not limited to SAP API) specifications algorithms, contained in Disclosing Party's Software as well as programming techniques and programming concepts, methods of processing and system designs embodied in Disclosing Party's Software;
(iii) Records maintained by OEM according to clause 5.2 hereof.

"Control" means the power of a person to direct or cause the direction of the affairs of another, directly or indirectly, in accordance with the wishes of that person (or persons acting in concert) whether by means of: (i) in the case of a company, being the beneficial owner of more than fifty percent (50 per cent) of the voting rights in that company, or having the right to appoint or remove a majority of the directors or otherwise control the votes at board meetings of that company by virtue of any powers conferred by the articles of association, shareholders' agreement or any other document regulating the affairs of that company; (ii) in the case of a partnership, being the beneficial owner of more than fifty percent (50 per cent) of the voting rights in the partnership, or having the right to control the composition of or the votes to the majority of the management of that partnership by virtue of any powers conferred by the partnership agreement or any other document regulating the affairs of that partnership. For these purposes "persons acting in concert", in relation to a person, are persons which actively cooperate, pursuant to an agreement or understanding (whether formal or informal) with a view to obtaining or consolidating Control of that person.

"Data Center(s)" means the site or sites at which the Software will be hosted, to enable OEM to provide the ASP Services to its Customers. Such site or sites shall at all times be owned or controlled and operated by the OEM and/or a third party accepted by Licensor in writing.

"Disclosing Party" means a Party to this Agreement disclosing confidential or proprietary information to the Receiving Party.

"Documentation" means the Licensor documentation which is delivered or made available to OEM with the Software under this Agreement.

"End User" means OEM's customer licensing or using the Bundled Products or OEM Services from OEM.

"End User License" or "EULA" means a license agreement between OEM and any End User to which OEM sublicenses the Bundled Product.

"Group Company" means any person, partnership, joint venture, corporation, company or other form of enterprise, domestic or foreign, located in the Territory, who (i) is under the Control of Licensor or (ii) has Control over Licensor.

"Integration" means applications, scripts, commands or instructions that use the API to connect to the Software.

"Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.

"Licensor" means the entity identified by this OEM License Agreement or the Order Form that is a party to this Agreement.

"Licensor Materials" means any software, programs, tools, systems, data, or other materials made available by Licensor to OEM in the course of the performance under this Agreement including, but not limited to, the Software and Documentation, Address Directories, Cloud Services, as well as any information, materials or feedback provided by OEM to Licensor relating to the Software and Documentation.

"Master Copy" means a copy of a Software for use by OEM for internal purposes only in accordance with the terms hereof. A Master Copy shall be considered the Confidential Information of Licensor.

"Modification" means (i) a change to the delivered source code or metadata; or (ii) any development, other than a change to the delivered source code or metadata, that customizes, enhances, or changes existing functionality of the Software including, but not limited to, the creation of any new application program interfaces, alternative user interfaces or the extension of the Software data structures; (iii) any other change to the Software (other than an Add-on) utilizing or incorporating any Licensor Materials, or (iv) any modification, enhancement or customization of the Software using SAP SDK, as well as any modification, enhancement or customization of such SAP SDK).

"OEM Products" means the OEM's computer hardware, software products, and/or services identified in Exhibit B attached hereto or to any Order Form.

"OEM Services" shall mean OEM's online services specified in Exhibit A that (i) add significant and primary functionality to the scope of Cloud Services, (ii) are provided to end-users located in the Territory by OEM utilizing the Cloud Services, including granting remote access via a private network, Virtual Private Network (VPN) or/and the Internet, and providing administration, redundancy, back-up and technical support services as they apply to the deployment and management of such services.

"Order Form" means any order form mutually executed by Licensor and OEM for the Software ordered by OEM hereunder, including information on Software, OEM Support or maintenance fees, other information necessary for the delivery of such items to OEM and such other terms and conditions as mutually agreed upon by the parties in writing. All Exhibits or schedules referenced in this Agreement may be attached to an Order Form in lieu of this Agreement.

"Prepackaged Copy" means any applicable Software which is packaged by Licensor before delivery to OEM, for resale by OEM in accordance with the terms hereof.

"Receiving Party" means a Party to this Agreement which is provided with confidential or proprietary information by the Disclosing Party.

"Release" means (i) a "major release" that includes architectural changes and may be identified by a change of the release numeral to the left of the decimal point (e.g., 3.0) ("Major Release"), (ii) a "minor release" that includes improvements and bug corrections and may be identified by the release numeral to the right of the decimal point (e.g., 3.1) ("Minor Release"), and (iii) a "maintenance release" indicating a bug correction or patch and may be identified by a change of the release numeral two digits to the right of the decimal point (e.g., 3.12) or otherwise designated as "SP" or "Service Pack" ("Maintenance Release"). Any Major Release, Minor Release and Maintenance Release made generally available by Licensor to OEM after the Effective Date are collectively referred to as "New Releases".

"SAP" means the SAP AG, Germany, which is either the Licensor under this Agreement or the parent company of Licensor or an SAP Group Company.

"SAP SDK" means SAP software development kit that includes tools such as APIs, source code, redistributable files and instructions. SAP SDKs are also Software within the meaning of this Agreement.

"Software" means, collectively, (i) the object code versions of the software programs identified in Exhibit A attached hereto or to any Order Form, along with the Documentation, if applicable, all as developed by or for SAP, SAP AG, Business Objects Software Limited, Sybase, Inc, iAnywhere Solutions, Inc, and/or any of their Group Companies and delivered to OEM hereunder; (ii) any New Releases thereof subject to unrestricted shipment that are on Licensor's OEM Product List and made generally available by Licensor to its OEM partners as part of OEM Support and (iii) any complete or partial copies of any of the foregoing.

"Software Use Rights" shall be as defined in Section 2.1(c) of this Agreement.

"Third Party Products" means any software product (including, without limitation, Address Directories) in which proprietary rights are held by someone other than Licensor and/or any Group Company.

"Territory" means all the countries in the world except for Iran and Cuba, and subject to Section 10 of this Agreement (Import and Export Control).

"Trademarks" means the trademarks, service marks, trade names, service names, proprietary words, symbols and other logos of Licensor or any of its Group Companies.

Other defined terms shall have the meanings set forth herein. References to "Exhibits" shall include all sub-exhibits of such Exhibit (i.e. references to Exhibit A will include Exhibits A-1, A-2 and A-3 etc) and such Exhibits may be attached to this Agreement or any Order Form.

2. GRANT OF RIGHTS

2.1 Grant of Licenses.

(a) Integration License. Subject to the terms of this Agreement, Licensor grants OEM during the term of this Agreement a nonexclusive, nontransferable right to use in the Territory the Test and Demonstration license described in Exhibit C-1 to the Software to develop an Integration between the Software and the OEM Products and to make copies of the Software or other Licensor Materials for such Integration purposes. OEM may distribute and sublicense the Software, including the Integration, only in object code form as an integrated part of the Bundled Products pursuant to the On-Premise Distribution License and/or ASP License defined below. OEM shall be responsible for any additional software, migration tools, or Third Party Products needed to integrate and use the Software as part of the Bundled Products.

(b) On-Premise Distribution License. If selected as an option on Exhibit A, Licensor grants OEM during the term of this Agreement a nonexclusive, nontransferable license to reproduce, market, distribute and sublicense the Software in the Territory only as part of the Bundled Products to End Users, subject to the terms of this Agreement (the "On-Premise Distribution License"). "On-Premise" means software provided by OEM via electronic download, physical delivery, or any other delivery mechanism where such software is physically installed at the End User's location. Licensor further grants OEM the non-exclusive right to sublicense the Bundled Products for On-Premise deployment, to OEMs' Affiliates, resellers or distributors, provided that OEM will ensure that anyone it authorizes to distribute, sublicense or resell the Bundled Product for On-Premise deployment does so only in compliance with, and pursuant to terms at least as protective of Licensor as, the terms of this Agreement. For clarification, this Agreement does not contain a license to use, directly or indirectly, any SAP Group Company software or other third party software not listed in Exhibit A ("Non-Licensed Software"). Any use of the Non-Licensed Software, directly or indirectly, is subject to its respective license agreement which grants direct license rights to such software.

(c) ASP License. If selected as the License Type for the applicable Software in Exhibit A, Licensor grants OEM a nonexclusive, nontransferable license to use the Software in the Territory only in the Data Center(s) to provide ASP

Services to End Users solely in connection with the use of the OEM Products, subject to the terms of this Agreement ("ASP License"). ASP Services may be configured on a multi-tenant or single-tenant basis. In providing ASP Services pursuant to the ASP License, OEM agrees to be bound by the terms of the Agreement as well as the Software Use Rights Agreement ("Software Use Rights"), which is made available at http://www.sap.com/agreements/north-america (please select "Software Use Rights Agreements"). Notwithstanding the foregoing, to the extent client software that runs on computers not owned by OEM is provided for use with the Software for ASP License, Licensor grants OEM the right to reproduce and distribute such client components to the same extent as the On-Premise Distribution License, provided that: (i) such End Users shall only be permitted to use the client component of the Software to access the Bundled Product solely in connection with OEM's ASP Services, and (ii) End User shall not be granted general development access or use of the Software.

(d) Cloud Services Subscription Distribution License. If selected as the License Type for the applicable Cloud Services in Exhibit A, Licensor entitles OEM during the term of the Agreement to grant End Users a non-exclusive, limited, non-transferable, non-perpetual right to use in the Territory Cloud Services provided by Licensor as listed and subject to the terms for Cloud Services described in Exhibit A during the subscription term. Cloud Services may only be used by End User together with OEM Services.

(e) Evaluation License. Subject to the terms of this Agreement and solely to assist with OEM's sales activity in connection with the distribution of the On-Premise Distribution License, OEM may distribute in the Territory a reasonable number of copies of the Bundled Products to prospective End Users solely for purposes of allowing such prospective End Users to evaluate the Bundled Products up to a maximum of 30 days subject to sublicense terms (unless otherwise approved by Licensor in writing), providing that the evaluation copies of the Bundled Products must not be used in production and the Software shall be destroyed or deleted at the end of the evaluation period.

2.2 Database and Third Party Products. The Software may require a database product or Third Party Products. OEM shall be responsible for any additional software, migration tool, or Third Party Product needed to provide the Bundled Products. Except as expressly stated in Exhibit A or in the Documentation, this Agreement does not contain a license to use any database product or Third Party Products, even where integrated or pre-installed as part of such Software. Each database product or Third Party Product not licensed via Licensor is subject to its respective vendor license agreement. Licensor makes no representations or warranties as to the terms of any license or the operation of any database or Third Party product obtained directly from a third party vendor. OEM and End User are responsible for support and maintenance of any database product or Third Party Product not licensed via Licensor, and Licensor has no responsibility in this regard.

2.3 Delivery

(a) Except for Prepackaged Copies, Licensor will deliver the Software to OEM by electronic delivery. Licensor may also provide OEM with a Master Copy or a set of media containing the Software. The Software shall be deemed delivered (including but not limited for the purpose of fixing a delivery date) and the risk shall pass to OEM when Licensor has made an electronic copy available on the Internet for downloading. OEM shall safeguard all Master Copies and may use them only to reproduce Software at locations approved by Licensor in writing, for sublicensing in accordance herewith.

(b) If Software is available in Prepackaged Copies, OEM may elect to distribute Prepackaged Copies. Licensor shall deliver such copies to OEM for resale as provided herein. OEM may not open, modify, or reproduce any Prepackaged Copy or its contents, including without limitation Licensor end user license agreement and registration card included in each package. In the case of physical shipment, the software shall be deemed delivered and the risk shall pass to the OEM when the Software is handed over to the freight carrier (free carrier (FCA) named place, Incoterms 2000).

2.4 Bundled Products. OEM may market and sublicense the Software only as part of the Bundled Products and only pursuant to the licensing and use restrictions as set forth in the Software Use Rights, and such other terms as set forth in the specific Exhibit A for the applicable Software. Any Third Party Products contained in or provided with the Software may only be used as part of the Software. The End User Licenses for such Software and Bundled Products shall permit the End User's use of the Software only with the OEM Products, with data access limited to data created or used by the OEM Products (referred to as a "Restricted License"). OEM shall cause all distributors, resellers, or OEM Affiliates to whom it licenses Bundled Products to distribute and resell them only as Bundled Products and to impose on the End Users the restrictions as set forth in this Section 2.4. OEM shall use commercially reasonable efforts to ensure that each End User and, in case of the licensing of Bundled Products to a distributor, reseller or OEM Affiliate, any of the latter is not violating the limitations imposed on them according to this Section 2.4. In the event OEM becomes aware that an End User and, in case of the licensing of Bundled Products to a distributor, reseller or OEM Affiliate any of the latter is violating the limitations imposed on them according to this Section 2.4, OEM shall promptly notify Licensor of such. OEM shall reasonably cooperate with Licensor to enforce the limitations imposed according to this Section 2.4 to the fullest extent possible.

3. GENERAL OBLIGATIONS OF AND LIMITATIONS TO OEM

3.1 As to each Software which OEM sublicenses to an End User either through the On-Premise Distribution License or the ASP License, OEM shall secure the End User's consent to an End User license which provides that the End User shall use the Software only under license terms which are substantially the same as all of the following and any special terms as required in Exhibit A (the "EULA"):

(a) The End User is only granted a non-exclusive, perpetual (except for subscription based or term licenses) license to use the Software, Documentation, and other SAP Materials in the Territory to run the End User's internal business

operations (including customer back-up and passive disaster recovery) and to provide internal training and testing for such internal business operations;

(b) The End User is obligated to comply with the limitations imposed on it according to Section 2.4 above;

(c) End User needs to adhere to the referenced Software Use Rights Schedule containing product specific license terms for Software, including any applicable Address Directories licensed under this Agreement;

(d) End User is not permitted to modify, adapt, enhance, localize or translate the Software or otherwise make derivative works of the Software. Any such unauthorized works developed by End User, and any Intellectual Property Rights embodied therein, shall be the sole and exclusive property of Licensor or the respective SAP Group Company; and End User hereby assigns all rights in them (including moral rights) to Licensor or its designated Group Company. To the extent, Intellectual Property Rights embodied therein are not eligible to be transferred by operation of the law, Licensor or the respective Group Company shall be granted exclusive rights to use to the widest extent lawfully possible.

(e) End User shall not disassemble, reverse engineer or decompile, nor otherwise create or attempt to create the source code from the object code of the Software in any manner; unless such action is indispensible in order to obtain information necessary to achieve interoperability of the Software with an independently created computer program and End User has not been provided such information, despite a written request, within a reasonable period of time. Information obtained through such action may not be used for purposes other than to achieve interoperability, and may not be given to third parties, unless this is necessary to establish interoperability, in particular is not to be used for the development, creation or marketing of programs similar to the Software.

(f) End User shall treat Licensor's Confidential Information in a manner that is at least as protective to Licensor as the rights and restrictions set forth in this Agreement. A specific reference to Licensor is not required;

(g) End User agrees to a provision with respect to limitations on Software warranties, indemnities and liability which is consistent with the limitations on Licensor's Software warranties, indemnities and liability under this Agreement in that it does not impose any obligations or liabilities on Licensor beyond the terms of this Agreement).

(h) End User agrees to enable Licensor or OEM to perform audits with regards to the usage of the Software at the End User's sites. A specific reference to Licensor is not required.

(i) End User agrees to a provision according to which Licensor shall be entitled to claim damages in case of an infringement of Licensor's intellectual property rights by the End User.

3.2 Distribution through Affiliates, Resellers and Distributors. Subject to Section 2.4, OEM may sublicense the Bundled Products to Affiliates, distributors and resellers for further distribution and resale (excluding the provision of ASP Services), provided that OEM will ensure that anyone it authorizes to distribute or resell the Software does so only in compliance with, and pursuant to terms at least as protective of Licensor as, the terms of this Agreement, in particular Section 3.1.

3.3 Delegation of OEM Duties. Subject to the prior written consent of Licensor, OEM may delegate the performance of the OEM's duties to suitably qualified personnel of an Affiliate. The OEM must show to Licensor that such OEM Affiliates are suitably qualified and must also inform Licensor which of the OEM's duties the Affiliate would perform and to what extent the OEM wishes to deploy the OEM Affiliates. However, it shall be up to the discretion of Licensor to agree to such delegation. Notwithstanding Licensor's consent to such delegation by the OEM, the OEM shall remain directly accountable to Licensor. Under no circumstances shall the OEM Affiliate be entitled to hold itself out to be an Authorized OEM or having any other direct relationship to Licensor.

3.4 Marketing. OEM shall make no representations or warranties on behalf of Licensor except as Licensor may itself provide or approve in writing.

3.5 OEM's Business Practices. OEM shall (a) comply with all applicable laws and regulations, including the United States Foreign Corrupt Practices Act, (b) avoid deceptive, misleading or unethical practices, and (c) conduct business in a manner that reflects favorably at all times on the Software and Licensor' goodwill and reputation.

4. PAYMENT AND TAXES

4.1 Orders, Fees and Payment terms. The parties agree to the provisions regarding orders, fees and payment terms as provided below. OEM will independently establish prices and terms for the Bundled Products, provided such terms include those required by the Agreement.

4.2 OEM shall order the Software and services according to Licensor's standard procedures and shall pay Licensor the fees set forth in Exhibit C. Any amounts payable under this Agreement and invoiced by Licensor shall be due within thirty (30) days of the invoice date. OEM can offset claims only if they are uncontested or awarded by final and binding court or arbitration court order. All payments made hereunder are non-refundable.

4.3 Licensor will invoice OEM in US dollars based on OEM's report on the fees according to Exhibit C. Payments made under this Agreement after their due date will incur interest at a rate equal to one and one-half percent (1.5%) per month (i.e., 18% per annum) or the highest rate permitted by applicable law, whichever is less. OEM will independently establish prices and terms for the Bundled Products, provided such terms include what is required under this Agreement.

4.4 Taxes.

(a) All taxes or customs duties except income or corporate taxes will be borne by OEM. If any such tax or duty has to be withheld or deducted from any payment under this Agreement, OEM will increase payment under this Agreement by

such amount as shall ensure that after such withholding or deduction Licensor shall have received an amount equal to the payment otherwise required.

(b) Income taxes will be borne by Licensor. If OEM is required to withhold income or corporation tax or a similar tax from any payment to Licensor under this Agreement, OEM shall be entitled to withhold or deduct such tax from the gross amount to be paid. However, OEM shall use all endeavors to reduce any such withholding tax payable to the lowest possible rate subject to compliance with all applicable laws and double taxation treaties. OEM will in the case of any withholding of tax provide Licensor a receipt from the relevant authority to which such withholding tax has been paid and all other information and documents reasonably necessary or expedient in order to enable Licensor to apply for a tax credit against its income tax.

5. REPORTS AND AUDITS

5.1 Payment Reports. Within twenty (20) days after the close of each calendar quarter or as otherwise specified in Exhibit C, OEM will deliver to Licensor a report which will provide all information reasonably required by Licensor identifying each End User by an unique customer number for computation and/or confirmation of the fees, if any, due or credited to Licensor for the period being reported, including without limitation: (i) license information (material code/software description, license quantity, license metric, and associated license fee due Licensor), and (ii) applicable OEM Support and/or maintenance fees, associated maintenance rate and indicating whether it is first year maintenance or a renewal, and associated license fee. The payment report shall be submitted to Licensor even if the license and maintenance fees due is less than the minimum license fee set forth Exhibit C.

5.2 Audits. During the term of this Agreement and for three (3) years thereafter, OEM will maintain relevant records regarding its distribution and sublicensing of the Software or Licensor Materials or the making available of Cloud Services to each of its End Users. Upon reasonable notice to OEM, Licensor may audit or have audited by an external expert appointed by Licensor ("Nominated Auditor"), at Licensor's expense, the records of OEM and its employees, associates, agents, subcontractors or any other person acting on its behalf relating to OEM's activities under this Agreement to determine OEM's compliance hereunder, including the compliance with the license terms applying to Software, the calculation of the fees due under this Agreement, and the accurateness and completeness of the payment or royalty reports submitted to Licensor under this Agreement. All such records will be subject to Section 7.5 (Confidential Information). If the audit is performed by Licensor, OEM shall ensure that the audit can be performed on an anonymous basis and does not provide any End User name and/or contact information to Licensor during the audit procedure. If the audit is performed by the Nominated Auditor, then such Nominated Auditor shall not provide any End User names and contact information to Licensor. In the event any such audit reveals that OEM has underpaid Licensor, then, in addition to immediately settling the outstanding amount and such other remedies as Licensor may have, OEM shall pay or reimburse to Licensor the cost of the audit. In the event OEM or Licensor discovers that the use of Software by any End User has exceeded the licensed level, OEM shall be obligated to pay Licensor the applicable fees as if the additional licenses were included in the original royalty or payment reports for the period during which the licenses were first used.

5.3. OEM undertakes to carry out system measurements of its End Users' systems at Licensor's request in order to measure the utilization of the Software by the End User and to make the logs available to Licensor. The parties shall cooperate in good faith to implement any necessary auditing tools and enable the effective auditing of the End Users by OEM. In addition, OEM shall use reasonable efforts to obtain the approval of the End User to enable Licensor or any third party authorized by Licensor to carry out system measurements at the systems of the OEM´s customers, directly.

6. SUPPORT AND MAINTENANCE

6.1 End User Support by OEM. OEM will be responsible for providing direct technical support for the Software to End User licensing the Bundled Product from OEM or OEM's affiliates, distributors or resellers. OEM's support obligations will include, but not necessarily be limited to, answering product use questions, diagnosing problems, and using reasonable efforts to provide solutions to problems. OEM's technical support personnel shall include persons trained and qualified on the Software as specified in Exhibit D. Training and qualification will be at OEM's expense and at Licensor's then-current published rates.

6.2 OEM Support. OEM will designate its technical contact representatives ("Named Contacts") to whom Licensor (or a Group Company) will provide access to OEM Support for the supported Software during the term of this Agreement, provided that OEM has paid the OEM Support fee specified in Exhibit C-1. OEM Support is provided to OEM only and is described in Exhibit C-1. During the term of this Agreement and as part of OEM Support, Licensor will make available to OEM New Releases, if and when such Releases are made generally available by Licensor to its OEM-type partners. If OEM has licensed Software with limited functionality or a limited configuration, any New Release of such Software provided to OEM as New Releases shall be limited to the same Software functionality and configuration originally included in the Software as described in Exhibit A.

6.3 New Releases. OEM shall not provide New Releases to any existing licensed End Users unless the applicable maintenance fees for the New Releases as set forth in Exhibit C have been paid. End Users not covered by a valid support and maintenance agreement with the OEM may purchase an Upgrade License for a New Release for the specified Software as set forth in the applicable Exhibit C. Licensor has no obligations to provide any support or New Releases to End Users directly.

7. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

7.1 Intellectual Property Rights. The Software, Licensor Materials, Integration, and all Intellectual Property Rights embodied in the foregoing, shall be the sole and exclusive property of Licensor or its Group Companies, or its or their licensors. All rights in and to the Software, Integration and Licensor Materials not expressly granted in this Agreement are reserved by Licensor.

7.2 Trademarks. Nothing in this Agreement grants OEM the right to use or display any Licensor or Group Company's names, trademarks, trade names, logos or service marks. OEM shall not remove, delete or in any manner alter the Trademarks or other Intellectual Property Rights notices of Licensor and Licensor' suppliers, if any, appearing on the Software, Cloud Services or Licensor Materials as delivered to OEM. Except as otherwise set forth in Exhibit A, OEM may market the Bundled Products under its own marks provided OEM states in the documentation or "help-about" box (or other similar location where third-party technology is identified) that the Software is the technology of Licensor. Licensor shall have the sole and exclusive right to protect and defend the Trademarks, at its sole cost and expense. OEM shall reasonably cooperate with Licensor, at Licensor' expense, in the defense and protection of the Trademarks, and shall promptly advise Licensor of the use of any mark infringing any of the Trademarks of which it has knowledge.

7.3 Modifications/Add-ons.

7.3.1 Modifications. Except as permitted under this Agreement, OEM shall not modify, adapt, enhance, localize, translate or make derivatives of the Software and Licensor Materials. Except for OEM Add-Ons, any and all Modifications, adaptations, enhancements, localizations, translations and derivative works shall be deemed to be the sole property of Licensor or its designated Group Company, and OEM hereby assigns all rights in them (including moral rights) to Licensor or its designated Group Company. OEM agrees to execute those documents reasonably necessary to secure Licensor or its Group Company's rights in the foregoing. In no event shall OEM remove or alter the electronic registration capture screen which may appear when any End User first installs or accesses the Software.

7.3.2 Add-Ons.

(i) Conditioned on OEM's compliance with the terms and conditions of this Agreement, OEM may make Add-ons to the Software in furtherance of its permitted Use under this Agreement, and shall be permitted to distribute or sublicense Add-ons with the Software to the same extent as that applied to OEM's grant to the Software set forth herein. All Add-ons developed by Licensor or its Group Company (either independently or jointly with OEM) and all rights associated therewith shall be the exclusive property of Licensor or its Group Company. OEM agrees to execute those documents reasonably necessary to secure Licensor or its Group Company's rights in the foregoing. All Add-ons developed by or on behalf of OEM without Licensor or its Group Company's participation ("OEM Add-on"), and all rights associated therewith, shall be the exclusive property of OEM subject to Licensor's rights in and to the Software.

(iv) Any Add-on to the Software developed by OEM must not (and subject to other limitations set forth herein): enable the bypassing or circumventing any of the restrictions set forth in the Agreement and/or provide End Users with access to the Software to which End Users are not directly licensed; nor permit mass data extraction from the Software to any non-SAP software, including use, modification saving or other processing of data in the non-SAP software; nor unreasonably impair, degrade or reduce the performance or security of the Software; nor render or provide any information concerning the software license terms, Software, or any other information related to Licensor or its Group Companies' products; nor change the source code to the Software by way of or through any Add-On; nor use or access the Software in order to develop any application or interface functionality that accesses the Software functionality or database used with the Software in any other manner other than in the manner provided by Licensor's API.

(iii) Licensor or its Group Companies may, at its discretion, independently (on its own or through third parties) develop Add-Ons or other functionality that is the same or similar to Add-On(s) developed by OEM (and in its discretion include them in the Software), with no liability to OEM or any third parties. Licensor and OEM will not engage in joint development of any Add-On(s) except under separate written agreement more fully stating the respective rights of the parties.

(v) Any SAP SDK provided for the modification or customization of specified Software may not be used to modify or customize any other software from Licensor or its Group Company, OEM or any other third party. Licensor does not provide Apple's iOS SDK to OEM, however certain SAP SDKs provided for use to develop mobile applications for iOS if licensed under Exhibit A of this Agreement may include iOS related software. With respect to an SAP SDK that is for iOS, Licensor's licenses under this Agreement to use such SAP SDK for iOS are strictly limited to use within OEM's own applications created by OEM only for specific use with iOS mobile applications pursuant to an Apple iOS Developer Program License Agreement or an Apple iOS Developer Program Enterprise License Agreement ("Program Agreement"). OEM guarantees that it has entered in to a Program Agreement with Apple and that it will maintain such Program Agreement throughout the term of this Agreement. OEM is prohibited from redistributing the SDK provided by Licensor hereunder or any part thereof.

(vi) OEM covenants, on behalf of itself and its successors and assigns, not to assert against Licensor or its Group Company, or their resellers, distributors, suppliers, commercial partners and customers, any rights in any Modifications developed by or on behalf of OEM or OEM Add-ons, or any other functionality of the SAP Software accessed by such Modification developed by or on behalf of OEM or OEM Add-on.

7.4 Reverse Engineering, Source Code. OEM shall not disassemble, reverse engineer or decompile, nor otherwise create or attempt to create the source code from the object code of the Software or Licensor Materials in any manner, unless such action is indispensible in order to obtain information necessary to achieve interoperability of the Software with an

independently created computer program and OEM has not been provided such information, despite a written request, within a reasonable period of time. Information obtained through such action may not be used for purposes other than to achieve interoperability, and may not be given to third parties, unless this is necessary to establish interoperability, in particular is not to be used for the development, creation or marketing of programs similar to the Software. If OEM wishes to exercise any right to reverse engineer to ensure interoperability in accordance with applicable law, OEM shall first provide written notice to Licensor and permit Licensor, at its option, to make an offer to provide information and assistance reasonably required to ensure interoperability of the Software with other products for a fee to be mutually agreed upon (if any). OEM shall have no right to the source code of any Software.

7.5 Confidential Information.

(a) Confidential Information shall not be reproduced in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information of a Disclosing Party shall remain the property of the Disclosing Party and shall contain any and all confidential or proprietary notices or legends which appear on the original. The Receiving Party:

(i) shall take all reasonable steps (defined below) to keep all Confidential Information strictly confidential;

(ii) shall not disclose or reveal any Confidential Information to any person other than its Representatives who are actively and directly involved in the performance under this Agreement, or who otherwise need to know the Confidential Information for the purpose of the Party's performance under this Agreement;

(iii) shall not use Confidential Information for any purpose other than in connection with the parties' performance under this Agreement; and

(iv) shall not disclose to any person (other than those of its Representatives who are actively and directly participating in the scope of work under this Agreement or who otherwise need to know for the purpose of the Party's performance under the Agreement) any information about the Agreement, or the terms or conditions or any other facts relating thereto, including, without limitation, the fact that Confidential Information has been made available to the Receiving Party or its Representatives.

As used herein "reasonable steps" means those steps the Receiving Party takes to protect its own similar proprietary and confidential information, which shall not be less than a reasonable standard of care. As used herein, "Representatives" shall mean (i) employees of Receiving Party; (ii) attorneys, accountants, or other professional business advisors; and, additionally, (iii) employees of SAP and/or any of the Group Companies, and (iv) employees of any entity who are directly involved in the performance of obligations under this Agreement. The Receiving Party shall be responsible for any breach of the terms of this Agreement by it or its Representatives

(b) The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that:

(i) is independently developed by Receiving Party without reference to the Disclosing Party's Confidential Information, or is lawfully received free of restriction from a third party having the right to furnish such Confidential Information;

(ii) has become generally available to the public without breach of this Agreement by Receiving Party;

(iii) at the time of disclosure to Receiving Party was known to such Party free of restriction; or

(iv) Disclosing Party agrees in writing that information is free of such restrictions

(c) In the event that the Receiving Party or any of its Representatives are requested pursuant to, or required by, applicable law or regulation or by legal process to disclose any Confidential Information or any other information concerning the Disclosing Party, this Agreement, or the parties' performance hereunder, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or requirement in order to enable the Disclosing Party (i) to seek an appropriate protective order or other remedy; (ii) to consult with the Receiving Party with respect to the Disclosing Party's taking steps to resist or narrow the scope of such request or legal process; or (iii) to waive compliance, in whole or in part, with the terms of this Agreement. In the event that such protective order or other remedy is not obtained in a timely manner, or the Disclosing Party waives compliance, in whole or in part, with the terms of this Agreement, the Receiving Party or its Representative shall use commercially reasonable efforts to disclose only that portion of the Confidential Information which is legally required to be disclosed and to require that all Confidential Information that is so disclosed will be accorded confidential treatment.

(d) Licensor and OEM's liability for any breach of the foregoing confidentiality undertakings shall not be subject of any liability limitation as otherwise may be applicable under this Agreement.

7.6 OEM shall inform Licensor as soon as practicable if it is aware of any third party that has acquired or used unauthorized copies the Software or Licensor Materials (including End Users that exceed licensed levels) or markets, sells, or uses the Software or Licensor Materials without authorization. Moreover, OEM must also assist Licensor in every reasonable way in the pursuance of Licensor's rights and, upon consultation with Licensor, must immediately take all steps for the protection of those rights. OEM must temporarily stop selling and marketing the Software to any such third party unless and until such ambiguity is resolved to OEM's and Licensor's satisfaction.

7.7 The parties recognize that either Party has the right to develop independently software that would compete with the other

Party's software without use of any Confidential Information disclosed such other party hereunder. Further, either Party shall be free to use for any purpose the residuals resulting from access to or work with confidential information disclosed hereunder. The term "residuals" means information in non-tangible form, which may be retained inadvertently in the unaided memory by persons who have had access to the confidential information, including ideas, concepts, know-how or techniques contained herein, so long as such persons have not studied the information for the purpose of replicating the same from memory. Neither Party shall have any obligation to limit or restrict the assignment of such persons or to pay Product Fees for any work resulting from the use of residuals. However, the foregoing shall not be deemed to grant to either Party a license under the other party's copyrights or patents.

8. INDEMNIFICATION

8.1 Third Party Rights.

(a) Except as otherwise set forth in Exhibit A for the applicable Software, Licensor will, at its discretion and at its cost, either defend or settle, any claim which is brought against the OEM on the basis of the alleged direct infringement of any patent or copyright, or misappropriation of any Licensor trademark or trade secret right of a third party as a consequence of the OEM's authorized use of the Software in the Territory, and will pay damages finally awarded against the OEM in connection with any such claim, provided that:

a. OEM notifies Licensor in writing of any such alleged claim without undue delay, and

b. OEM authorizes Licensor to have sole control over the defense or settlement any such claim,

c. OEM cooperates fully in the defense of such claim and provides Licensor with all relevant information and reasonable support, and

d. OEM shall not undertake any action in response to any infringement, or alleged infringement, of the Software that is prejudicial to Licensor's rights.

Licensor expressly reserves the right to cease such defense of any claim(s) in the event the Software is no longer alleged to infringe or misappropriate, or is held not to infringe or misappropriate, the third party's rights.

(b) Licensor shall have no obligation under this Section 8.1 if the claim results from (i) Software or Documentation that has been altered by anyone other than Licensor or (ii) the Combination Use of the Software, Documentation or Licensor Materials if such claim could have been avoided without such Combination Use, or (iii) failure to use a New Release promptly provided by Licensor if such infringement or misappropriation could have been avoided by use of the New Release, or (iv) unlicensed activities. As used herein, "Combination Use" means use of the Software or Licensor Materials in combination or conjunction with any of the following: (i) any software, data or systems not provided by Licensor; or (ii) any activities of OEM (or its End User) not licensed under this Agreement.

(c) If an infringement or misappropriation of the intellectual property rights of a third party by the Software in accordance with Section 8.1 above is alleged or, in the reasonable opinion of Licensor, an infringement or misappropriation of the intellectual property rights of a third party is likely to occur or be alleged, Licensor may, at its discretion:

(i) procure for OEM the continued right to use the Software at no additional charges to OEM, or

(ii) modify the Software or substitute alternative substantially equivalent non-infringing programs and supporting Documentation for the Software, or

(iii) if none of the foregoing alternatives can be achieved at a reasonable cost, Licensor may terminate the Agreement and refund the prices paid by OEM less an appropriate amount covering the period of actual use of the Software by the OEM.

8.2 Indemnification by OEM. If an action is brought against Licensor and/or a Group Company by a third party arising from (a) any taxes and related costs, interest and penalties paid or payable by Licensor and/or Group Company, (b) OEM's representations not authorized by Licensor, (c) OEM or its Group Companies' breach of this Agreement, including but not limited to, any breach or violation of applicable export laws or regulations, or action in excess of OEM's authority hereunder and arising out of any claims by any End Users or OEM's failure to comply with the End User licensing requirements set forth in this Agreement, (d) any agreement between OEM and its distributors, resellers or End Users, (e) a claim that any OEM Product infringes, misappropriates or violates any patent, copyright or trademark of any third party or OEM's combining (or its authorizing others to combine) the Software with any products not provided by Licensor, or (f) a third party's assertion that OEM acted as Licensor's agent or otherwise on its behalf, then OEM shall defend Licensor, at OEM's expense, and shall pay any settlement amounts OEM authorizes and all damages, costs and attorneys' fees finally awarded against Licensor and/ or the SAP Group Company in the action. OEM shall indemnify and hold harmless Licensor from any damages and costs Licensor incurs as a consequence of any infringement of intellectual property rights of third parties caused by any of the circumstances set forth in this Section or the use of the Software not in accordance with this Agreement.

8.3 THE PROVISIONS OF SECTION 8.1 STATE THE SOLE, EXCLUSIVE AND ENTIRE LIABILITY AND OBLIGATION OF LICENSOR TO OEM, AND OEM'S SOLE REMEDY WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS THAT MAY ARISE RELATED IN ANY WAY TO THE SOFTWARE, LICENSOR MATERIALS, BUNDLED PRODUCTS, CLOUD SERVICES OR DOCUMENTATION. The liability limitations contained in Section 13 below shall apply to all claims made under Section 8.1. Any limitations to the liability and

obligations of Licensor according to Sections 8.1 and 8.3 shall also apply for the benefit of Group Companies and their respective licensors.

9. TERM AND TERMINATION

9.1 This Agreement is entered for an initial term as described in Exhibit C-1 ("Initial Term"), unless earlier terminated as set forth herein. The Agreement may be extended by a term to be defined upon mutual written agreement of the parties only.

9.2 This Agreement and the license granted under this Agreement may be terminated by either Party for good cause upon written notice to the other in accordance with the following:

(a) thirty days after Licensor gives OEM notice of OEM's breach of any provision of the Agreement (other than OEM's breach of its obligations under Sections 2.1, 7.1 - 7.5, 10, 11 or 12.1, which breach shall give right to immediate termination), unless OEM has cured such breach during such thirty day period;

(b) immediately if OEM does not pay on the due date any amount payable to Licensor unless payment is made within 30 days of its due date;

(c) immediately if (1) OEM commences negotiations with one or more of its creditors with a view to rescheduling major parts of its indebtedness or (2) OEM files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors.

9.3 For the avoidance of any doubt, termination of the Agreement shall strictly apply to all licenses under the Agreement, its appendices, exhibits, schedules, addenda, Order Form, and order documents and any partial termination of the Agreement by OEM shall not be permitted in respect of any part of the Agreement, its appendices, schedules, exhibits, addenda, or other order documents.

9.4 Obligations on Termination.

(a) Any terms of this Agreement which by their nature extend beyond the day this Agreement ends remain in effect until fulfilled, in particular any terms protecting the Intellectual Property Rights of an SAP Group Company, and apply to respective successors and assignees.

(b) Upon termination or expiration of this Agreement for any reason:

(i) OEM shall immediately cease distributing or sublicensing the Software, Cloud Services or Address Directories, as applicable, to any End Users, including renewing any subscription based license agreements with existing customers, or marketing the Software as part of the Bundled Software under this Agreement;

(ii) OEM shall immediately cease (a) use of all Licensor Materials and Confidential Information, and (b) to identify itself as an authorized OEM for Licensor or otherwise affiliated in any manner with Licensor;

(iii) OEM may use its Test and Demonstration licenses of the Software to provide support to its End Users and for archival purposes subject to OEM continuing compliance with the terms of the Agreement and provided OEM is not in breach with the terms of the Agreement;

(iv) any fees previously paid by OEM are non-refundable except as otherwise expressly set forth in this Agreement;

(v) any paid-up perpetual license to the Software previously granted to an End User on an on-premise basis shall survive according to the terms of such license;

(vi) OEM's right to initiate providing ASP Services using the Software to new customers shall immediately terminate; however, OEM may continue to use its ASP Licenses purchased on a perpetual basis to provide ASP Services to its ASP End Users that are contracted with OEM as of the date of the termination of this Agreement subject to OEM's continuing compliance with the terms of this Agreement, provided OEM is not in breach with terms of this Agreement; and

(vii) OEM may request to receive, and Licensor may agree to provide for a limited time, support and/or maintenance services for the Software after the termination of this Agreement upon mutual agreement in writing.

9.5 Within 30 days after any termination or expiration of the Agreement, OEM shall irretrievably destroy or upon Licensor's request deliver to Licensor all copies of the Licensor Materials and Confidential Information in every form, except to the extent it is legally required to keep it for a longer period in which case such return or destruction shall occur at the end of such period. OEM must certify to Licensor in writing that it has satisfied its obligations under this Section. Termination shall not relieve OEM from its obligation to pay fees that remain unpaid. Additionally, the parties hereto agree that communications to End Users and any publications/press releases regarding such termination shall be mutually agreed upon, in writing, prior to distribution.

10. IMPORT AND EXPORT CONTROLS

10.1 The Software, Documentation and Licensor Materials are subject to the export control laws of various countries, including without limit the laws of Ireland, United States and Germany. OEM agrees that it will not submit the Software, Documentation or other Licensor Materials to any government agency for licensing consideration or other regulatory approval without the prior written consent of Licensor. OEM agrees to comply with the laws and regulations restricting import, export, re-export, transfer or release to certain entities or destinations of the United States, E.U., Irish and other applicable jurisdictions ("Export Regulations"). With respect to any export, re-export, transfer, or release otherwise

permitted under this Agreement to persons within OEM or its Affiliates or to unrelated third parties of: (i) such technology, software, services or commodities; or (ii) the direct product of any such technology; or (iii) any product that OEM creates with content that is supplied by Licensor; or (iv) any technology that OEM creates that is based upon or commingled with technology provided by Licensor, OEM will comply with the Export Regulations.

10.2 Any import into and/or operation in countries where the import and/or operation is subject to authorization by the authorities of such country shall be in the sole responsibility of OEM. Licensor assumes no responsibility or liability for OEM's failure to obtain any necessary export approvals. OEM shall take all necessary actions and precautions to ensure that its distributors, resellers and other customers do not contravene the Export Regulations. Licensor will reasonably cooperate with OEM to identify the export status and requirements of the Software or other Licensor Materials. Notwithstanding anything to the contrary, Licensor may refuse the fulfillment of its obligations under this Agreement if and for as long as such fulfillment violates the Export Regulations. The parties shall then consult each other if and how compliance with the Export Regulations may be achieved with commercially reasonable efforts. For the avoidance of doubt: Licensor may request money for any modification of its Software that the parties may agree to, in their sole discretion, in order to make the item compliant. This Section 10 shall survive the expiration or earlier termination of this Agreement.

10.3 With respect to any delivery of Software, Documentation and Licensor Materials to be made by Licensor to OEM and/or any other party under this Agreement, OEM acknowledges that the delivery of the Software (including New Releases), Documentation and Licensor Materials may be subject to the prior obtaining of export and/or import authorizations from the competent authorities and that this process may considerably delay or prevent the delivery and/or impact Licensor's ability to provide maintenance and support. OEM shall support Licensor in obtaining any required authorization by providing information and/or declarations, e.g. End Use Certificates, as may be requested by Licensor.

11. OEM'S COMPLIANCE OBLIGATIONS

11.1 OEM shall conduct its operations at all times in strict compliance with all applicable anticorruption laws including the US Foreign Corrupt Practices Act (FCPA), the U.K Anti-Bribery Act, and Licensor's then current local SAP Code of Business Conduct. Such obligation shall also apply to the OEM´s subcontractors, Affiliates, resellers and distributors. If OEM has in place or adopts policies which establish similar standards to the SAP Code of Business Conduct, OEM may comply with its own policies to fulfil the requirements of this Section.

11.2 OEM shall not obtain on Licensor´s behalf or provide to Licensor any information which is not legally available in the Territory, or which is procurement-sensitive, proprietary, or classified, where there is reason to believe that possession of such information is unauthorized, illegal, or unethical.

11.3 OEM shall not make, offer or promise any payments or gifts directly or indirectly to any employee of potential End Users. Any business entertainment offered to potential End Users must comply with the spirit and letter of the limits established in the relevant then current local SAP Code of Business Conduct.

11.4 OEM represents and warrants to Licensor that OEM and any other person acting on the OEM`s behalf have not directly or indirectly paid, offered or promised to pay, or authorized the payment of, and will not directly or indirectly pay, offer or promise to pay, or authorize the payment of any monies or gifts or anything of value to any employee or representative of an End User or prospect, or government official or employee, political party official or candidate, or officer or employee of any public international organization,(or an immediate family member of such persons) for the purpose of influencing their acts or decisions in order to secure or retain business on behalf of Licensor.

11.5 OEM represents and warrants that it is not listed by any government agency as debarred, suspended, and proposed for suspension or debarment or otherwise ineligible for government procurement programs. OEM certifies that neither it nor its employees or subcontractors are members of management or in a position to influence decisions related to work performed under this Agreement with respect to any End User.

11.6 Licensor shall be entitled to require OEM to certify – once per year – that OEM is in compliance with the terms of this Section 11.

12. MISCELLANEOUS

12.1 Assignment. This Agreement may be assigned by Licensor to any entity which assumes its obligations or acquires ownership of or the right to use and license the Software. Neither this Agreement, nor any right or obligation hereunder, may be assigned, transferred, delegated or subcontracted, by operation of law or otherwise, in whole or in part, by OEM without Licensor's prior written consent, such consent not to be unreasonably withheld. Due to the importance of OEM's ownership and management, a Change of Control of OEM shall be deemed an assignment of this Agreement. "Change of Control" of OEM shall mean a transaction or series of transactions (i) pursuant to which Control of OEM is acquired by persons or entities other than those who Control OEM on the Effective Date of this Agreement, or (ii) resulting in the sale of all or substantially all of OEM's assets or all or substantially all of OEM's assets utilizing any Software or Licensor Materials. Subject to the foregoing, the provisions of this Agreement shall be binding upon and inure to the benefit of the parties, and their permitted successors and assigns. OEM shall provide to Licensor written notice at least sixty (60) days prior to any proposed assignment or transfer. Any attempted assignment or transfer of this Agreement is in violation of this Section is void. .

12.2 Independent Contractors. The relationship of Licensor and OEM established by this Agreement is that of independent contractors. This Agreement does not give either party the power to direct and control the day to day activities of the other,

constitute the parties as partners, joint venturers, co-owners, principal-agent, or otherwise participants in a joint or common undertaking, or allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever. OEM has no actual, apparent, or ostensible authority to act on behalf of Licensor unless expressly stated in this Agreement. OEM must indemnify and hold harmless Licensor in respect of any third party claims against Licensor and its Group Companies arising or relating to a third party's assertion that the OEM acted as Licensor's agent or otherwise on this behalf.

12.3 Entire Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between Licensor and OEM, and all previous representations, discussions, and writings are merged in, and superseded by this Agreement and the parties disclaim any reliance on any such representations, discussions and writings. Each party acknowledges that it is entering into this Agreement as a result of its own independent investigation and not as a result of any representation of the other party not contained herein. Any additional or different terms in OEM's documents (including any preprinted terms contained on purchase orders) are hereby deemed to be material alterations and notice of objection to, and rejection of, them is hereby given, and such additional or different terms shall be void. Signatures sent by electronic means (facsimile or scanned and sent via e-mail) shall be deemed original signatures.

12.4 Amendments; Waivers. This Agreement may not be modified or any term or condition waived except in a writing signed by a duly authorized representative of each party. This shall also apply to a possible waiver of the written form requirement established in the foregoing sentence. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision hereof.

12.5 Force Majeure. Except for a party's payment obligations, neither party shall be liable to the other for its failure to perform any of its obligations hereunder during any period in which such performance is delayed by circumstances beyond its reasonable control including, but not limited to, earthquake, fire, flood, war, embargo, strike, riot, inability to secure materials and transportation facilities, or the intervention of any governmental authority.

12.6 Publicity. The terms of this Agreement are confidential. OEM agrees, upon Licensor's request, to reasonably cooperate in the marketing activities identified in Exhibit E. Except for the foregoing, no press release or other like publicity regarding this Agreement may be made without the other party's approval.

12.7 Notices. All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered to OEM or Licensor at the addresses first set forth in this Agreement or applicable Order Form. Notices provided by OEM to Licensor shall be sent to the attention of: SAP Legal Department. Where in this Section 12.7 or elsewhere in this Agreement notices in written form are required, that requirement can be met by facsimile transmission, email or exchange of letters to the address, email or facsimile number of the respective parties set forth in any Order Form.

12.8 Non-Exclusivity. This is a non-exclusive relationship. Each party may have similar agreements with others and may independently develop, acquire, and market materials, equipment, or programs that may be competitive with (despite any similarity to) the other party's products or services. Each party is responsible for its own costs, including all business, travel and living expenses incurred by the performance of this Agreement.

12.9 Hierarchy. The following order of precedence shall be applied in the event of conflict or inconsistency between provisions of the components of this Agreement: (i) the Order Form or Addendum to the Agreement; (ii) the Exhibits; (iii) Software Use Rights, and (iii) this Agreement (excluding applicable exhibits and schedules attached or referenced thereto).

13. WARRANTIES AND DISCLAIMER

13.1 Licensor warrants that the Software will substantially conform to the specifications contained in the Documentation when in use without modification on the hardware prescribed by the Documentation as compatible for use with the Software ("Designated Unit") for six months following delivery. OEM shall not be entitled to warrant to End User on behalf of Licensor. Any warranty provided by OEM to its End Users shall be on OEM's own behalf. The warranty shall not apply: (i) if the Software is not used in accordance with the Documentation; (ii) to any third party software, including the third party database; or (iii) if the Software has been subjected to any modification; or (iv) if the Software is not installed on a Designated Unit; or (v) to the extent that the defect is caused by or is contributed to by OEM or End User; or (vi) if OEM or End User does not provide access, including remote access, to the Software to Licensor's support personnel; or (vii) if the defect is caused by any third party software, OEM or Third Party Products. Licensor does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of OEM or End Users' business requirements. To the extent the problem is reported by an End User, OEM shall cause its End Users to provide Licensor with sufficient test time and support to duplicate the problem, to verify that the problem is with the Software, and to confirm that the problem has been corrected. Provided OEM notifies Licensor in writing with a specific description of the Software's nonconformance within the warranty period and Licensor validates the existence of such nonconformance, Licensor will, at its option: a) repair or replace the nonconforming Software, or b) refund the license fees paid for the applicable nonconforming Software in exchange for a return of such nonconforming Software. This is OEM's sole and exclusive remedy under this warranty.

13.2 Express Disclaimer. LICENSOR AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A

PARTICULAR PURPOSE, AND NON-INFRINGEMENT, EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

13.3 OEM represents and warrants that within industry standards it has and will maintain sufficient facilities and adequate capital, resources, and personnel to market and support the Software and to perform its obligations under this Agreement. Further, OEM represents and warrants that it will comply with all legal requirements applicable in the Territory and that it knows the essential functional characteristics of the Software and bears the risk that the Software does not meet OEM's or any End User's wishes and requirements.

13.4 OEM shall not make any representations or warranties as to the performance of the Software, Support or other services on behalf of Licensor or otherwise make commitments on behalf of Licensor.

14. LIMITATION OF LIABILITY

14.1 Notwithstanding anything to the contrary herein, OEM's sole and exclusive remedy for damages or loss in any way connected with the Software, or services furnished by Licensor or their licensors, whether due to negligence or breach of any duty, shall be, at Licensor's option: (i) replacement of the Software, or re-performance of services, or (ii) return or credit of an appropriate portion of any payment made or to be made by OEM with respect to the applicable portion of the Software or services. The foregoing limitation of remedies does not apply to personal injury or death caused solely by the gross negligence or willful misconduct of Licensor.

14.2 Neither Licensor nor its licensors will be responsible under this Agreement for: (i) the modification, enhancement or other improvement of the Software to fit the particular requirements of OEM or End Users, or (ii) the correction of any program errors as a result of misuse of the Software by OEM or by any End Users. Under no condition will Licensor or its licensors be responsible under this Agreement for preparation or conversion of data into the form required for use with the Software.

14.3 UNDER NO CIRCUMSTANCES SHALL LICENSOR OR ITS LICENSORS BE LIABLE TO OEM, ANY END USER, OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE TOTAL AMOUNT PAID BY OEM TO LICENSOR FOR THE SOFTWARE, THIRD PARTY PRODUCTS OR SERVICES DIRECTLY CAUSING THE LIABILITY DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM, AND UNDER NO CIRCUMSTANCES IN THE AGGREGATE FOR ALL CLAIMS TO EXCEED AN AMOUNT PAID TO LICENSOR DURING TERM OF THIS AGREEMENT. UNDER NO CIRCUMSTANCES SHALL LICENSOR OR ITS LICENSORS BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOODWILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

14.4 IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES OR EXCLUSION OF DAMAGES, IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH.

14.5 OEM ACKNOWLEDGES THAT NONE OF LICENSOR OR ITS LICENSORS ARE ENGAGED IN THE BUSINESS OF RENDERING LEGAL, TAX, OR OTHER PROFESSIONAL SERVICES AND THAT THE INFORMATION PROVIDED BY LICENSOR RELATIVE TO THIS AGREEMENT OR IN RESPONSE TO OEM INQUIRIES ARE NOT INTENDED TO PROVIDE LEGAL, TAX OR OTHER EXPERT ADVICE TO OEM, OR BE A SUBSTITUTE FOR A LAWYER, ACCOUNTANT, OR OTHER PROFESSIONAL. IF OEM NEEDS LEGAL OR TAX ADVICE OR OTHER EXPERT ASSISTANCE, THE SERVICES OF A COMPETENT LAWYER, ACCOUNTANT, OR OTHER PROFESSIONAL LICENSED TO PRACTICE IN THE APPLICABLE JURISDICTION SHOULD BE SOUGHT.

14.6 The foregoing limitation of liability on direct damages only does not apply to personal injury or death caused by the gross negligence or willful misconduct of Licensor, or tangible property damage (excluding data) up to the amount by which such damage is paid by Licensor's liability insurance.

14.7 Claims. Neither party will bring a legal action under this Agreement more than two more than two years after the cause of action arose.

15. GOVERNING LAW

This Agreement and any claims arising out of or relating to this Agreement and its subject matter shall be governed by and construed under the laws of Commonwealth of Pennsylvania without reference to its conflicts of law principles. In the event of any conflicts between foreign law, rules, and regulations, and United States law, rules, and regulations, United States law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The Uniform Computer Information Transactions Act as enacted shall not apply. The parties hereby submit to the exclusive jurisdiction and venue of the state and federal courts of the Commonwealth of Pennsylvania for all disputes arising from or in connection with this Agreement.

16. SEVERABILITY; INJUNCTIVE RELIEF

16.1 The terms of this Agreement are severable. If any term hereof is held invalid, illegal, or unenforceable for any reason whatsoever, such term shall be enforced to the fullest extent permitted by applicable law, and the validity, legality, and enforceability of the remaining terms shall not in any way be affected or impaired thereby.

16.2 Both parties acknowledge that remedies at law may be inadequate to provide Licensor or OEM with full compensation in the event of OEM's material breach of Sections 7.2 or 7.5 with respect to Licensor's Confidential Information and its Trademarks or Licensor's material breach of Section 7.5 with respect to OEM's Confidential Information, and that the non-breaching party shall therefore be entitled to seek injunctive relief in the event of any such material breach, without posting a bond.

EXHIBIT D
OEM QUALIFICATION REQUIREMENTS

REQUIRED QUALIFICATION:

- Qualification must begin within 120 days of the Effective Date of this Agreement for the number of support personnel as described under "recommended trainings".
- OEM must take and pass all required web assessment exams for the applicable Software on the OEM Partner Portal: http://partner.sap.com.
- Any training/qualification is at the OEM's expense.

RECOMMENDED TRAININGS:
All relevant trainings can be found on the OEM Partner Portal: https://websmp103.sap-ag.de/~form/handler?_APP=00200682500000002702&_EVENT=DISPLAY&_HIER_KEY=20110003587000001792&_HIER_KEY=50110003587000019833&_HIER_KEY=60110003587000249181&

NOTES:

- Level 1 Core Qualification: Courses and exams are found on the OEM Partner Portal > Education > Select Role > Select Level 1.
- Core training on products not listed above can be found at Licensor Education: www.sap.com\education
- Versions: Training is typically available for current and prior versions. Qualifications are only available for the latest product version, which may or may not be the product version detailed in this Agreement.

EXHIBIT E
MARKETING ACTIVITIES

Upon Licensor's request, OEM agrees to reasonably cooperate with Licensor in the activities listed below. Whether to pursue such activities is within Licensor' discretion, and Licensor is not obligated to pursue any of the activities listed below.

1. **Press Release.** Within sixty (60) days after effective date and upon Licensor's request, OEM agrees to review the content of one press release ("Press Release"), to be distributed by the OEM in North America or other global region via PR Newswire or other agreed upon PR distribution wire and possibly worldwide by some regional offices of Licensor. The Press Release will be posted on the Licensor website. Licensor agrees that OEM shall have final editorial control of the content of this Press Release.

2. **Partner and Analyst Reference.** OEM agrees that for the duration of the agreement that it shall designate one or two individuals familiar with the Software Products who may be contacted once per quarter for a discussion of not more than one hour in duration by industry analysts, media or other companies considering entering into an OEM relationship with Licensor. Companies that participate and provide a reference activity will be entered in the OEM Partner Reference Program if it exists within their region and will be able to earn Customer Appreciation Points.

3. **Case Study.** Within one (1) year of effective date and upon Licensor's request, OEM agrees to designate one individual to work with a Licensor writer to create an approximate 1200 word case study ("Study") documenting OEM's implementation of the Software Products and the support received from Licensor personnel. The Study will include the OEM's company logo. Licensor will agree to OEM's corporate logo guidelines. The Study will be available in PDF format or potentially video avi format on the Licensor website. Licensor agrees that OEM shall have final editorial control of the content of this Study. Companies that participate and provide a reference activity will be entered in the OEM Partner Reference Program if it exists within their region and will be able to earn Customer Appreciation Points.

EXHIBIT F
Data Protection Exhibit

It is not the intention under this Agreement for Licensor to process personal data of OEM or End Users. Rather, processing of OEM or End User personal data will take place only in exceptional circumstances as an incidental effect of Licensor's performing its contractual duties. To the extent Licensor does process personal data of OEM or End User and such processing constitutes commissioned data processing by Licensor under EU Directive 95/46/EC (hereinafter referred to as the "Data Protection Directive") and/or applicable national data protection laws of the EU/EEA Member States, this Exhibit F shall apply.

Commissioned Processing of Personal Data

This Exhibit stipulates the rights and obligations of OEM and Licensor in connection with personal data processed by Licensor on behalf of OEM under the Agreement. This exhibit shall be an integral part of the Agreement.

1. Obligations of OEM

1.1 As between Licensor and OEM, OEM shall be solely responsible for the permissibility of the processing of personal data as well as for safeguarding the rights of the data subjects. OEM shall enter into appropriate data protection agreements with End Users that procure that OEM is authorized to engage Licensor as a sub-processor of personal data controlled by End User, in accordance with the terms of this Exhibit F.

1.2 OEM shall give commissions related to the processing of personal data and parts thereof to Licensor in writing, by facsimile or via e-mail or implied by making use of the Software and/ or providing ASP or Cloud Services.

1.3 OEM shall make available the personal data for processing to Licensor and the results of the processing shall be transferred back by Licensor to OEM by using a defined transfer procedure or in accordance with the functionality implemented in the Licensor Software.

1.4 OEM shall inform Licensor without delay, if OEM detects errors or irregularities when examining the results of the processing of personal data.

2. Obligations of LICENSOR

2.1 Licensor shall process the personal data and other operating data of OEM exclusively in accordance with OEM's instructions and/or End User's instructions relayed to Licensor by OEM which may include (without limitation) the correction, erasure and/or the blocking of such data. The personal data shall not be used by Licensor for any other purpose. Licensor shall not preserve such personal data longer than instructed by OEM. The statutory preservation periods remain unaffected.

2.2 For processing personal data, Licensor shall only use personnel which provably committed themselves to observe data secrecy and secrecy of telecommunications pursuant to sec 5 German Federal Data Protection Act *[Bundesdatenschutzgesetz]* and sec 88 German Act on Telecommunication *[Telekommunikationsgesetz]*.

2.3 Licensor shall implement all technical and organisational measures to comply with the requirements pursuant to sec 9 German Federal Data Protection Act. In particular, Licensor shall take and regularly check the following protection measures:

- *Physical access control*: Licensor shall install an access control system.
- *Access control*: Licensor shall control and log access to data processing systems.
- *Access limitation control*: Licensor shall define, implement and monitor a concept for user rights, rules for passwords and login procedures.
- *Transmission control*: Licensor shall ensure personal data transmission in encrypted form or by a secure alternative procedure. Transmissions must be logged and guidelines for personal data transmissions must be laid down in writing.
- *Input control*: Licensor shall implement a detailed logging system for input, modification and deletion of personal data.
- *Job control*: Licensor shall define in writing and establish control mechanisms to ensure that data are processed strictly in accordance with the instructions of the Provider.
- *Availability control*. Licensor shall run a state of the art backup system and define a restore operation procedure to protect personal data from accidental destruction or loss.
- *Data separation*: Licensor shall ensure by technical means and defined organisational procedures that personal data collected for different purposes (e.g. different Providers) can be processed separately. Technical means can be separated computer systems or demonstrably logical separation. Access by one OEM to the data of any other OEM must be prevented.

2.4 If the security measures implemented by Licensor do not meet the legal requirements, Licensor shall notify OEM without delay.

2.5 Licensor shall notify OEM, if Licensor considers an instruction given by OEM to be in violation of data protection regulations. Licensor shall not be obliged to perform a comprehensive legal examination.

2.6 Licensor shall inform OEM immediately in case of serious disruptions of the operating process, suspected data protection violations or other irregularities in connection with the processing of OEM's Data.

2.7 At OEM's written request and at OEM's expense, Licensor shall reasonably support OEM in dealing with requests from individual data subjects and/or a supervisory authority with respect to the processing of personal data controlled by OEM. Licensor shall notify OEM about inspections and measures of a supervisory or any other competent authority.

2.8 Upon expiry or termination of the OEM Agreement, Licensor shall in accordance with the terms of the OEM Agreement and OEM's instructions, either (i) return to OEM or all personal data controlled by OEM and all of OEM's media under Licensor's power of disposal and any copies or reproductions thereof; or (ii) erase and/or destroy such personal data and media and confirm the erasure and/or destruction to OEM in writing.

3. Subcontractors

3.1 Licensor is authorized to engage subcontractors for the processing of personal data in such manner that they shall act as sub-commissioned processors of personal data (*Unter-Auftragsdatenverarbeiter*) for OEM. Licensor shall pass on to - commissioned processors of personal data all Licensor's obligations as commissioned data processor vis-à-vis OEM and obligate sub-commissioned processors of personal data to obey all relevant data protection rules.

3.2 Licensor may engage sub-contractors that may provide support, including access to personal data, in connection with performing its contractual obligations under the Agreement and which are not to be regarded as sub-commissioned processors of personal data. Such support may be provided by sub-contractors engaged by Licensor. In such cases Licensor shall be obliged to provide in the sub-contracting agreement with such support provider for appropriate contractual provisions in accordance with applicable data protection laws and to take the appropriate control measures, in order to ensure the protection and security of the personal data processed hereunder.

4. Monitoring Rights of OEM

4.1 OEM shall have all necessary right to verify in accordance with sec 11 para 2 sentence 4 German Federal Data Protection Act that Licensor processes the personal data duly. These monitoring rights shall be carried out in coordination with Licensor. After notifying Licensor the monitoring can be carried out, in particular, during Licensor's usual business hours on Licensor's premises where the personal data processing is performed. To the extent that any personal data controlled by End User is processed by Licensor, the End User shall have the same monitoring rights as OEM under this Exhibit F.

4.2 Licensor shall ensure that OEM has the monitoring rights set forth in Section 4.1 also vis-à-vis sub-commissioned processors of personal data (Unter-Auftragsdatenverarbeiter) retained by Licensor.

4.3 Licensor shall reasonably support OEM throughout these verification processes and provide OEM with the required information.

4.4 Licensor shall contractually safeguard OEM's powers of disposal and monitoring rights under this agreement vis-à-vis Licensor's subcontractors who may come into contact with the Data. Where applicable data protection law requires the OEM to enter into a direct contractual relationship with Licensor's subcontractors, OEM hereby authorizes and empowers Licensor to enter into the necessary agreements with Licensor's subcontractors on OEM's behalf.

4.5 Services rendered by Licensor in connection with OEM's monitoring rights shall be at OEM's expense.

5. Special Confidentiality Obligation; Obligation to Observe Data Secrecy

5.1 Licensor undertakes to treat the personal data, which have become known to Licensor, confidential and to use such data exclusively for the commissioned data processing.

5.2 Any data media provided and any copies or reproductions made thereof shall remain property of OEM. Licensor shall store these with due care, ensuring that they are not accessible to third parties. Licensor may not make copies or reproductions thereof without OEM's consent, unless this is necessary to achieve the purposes pursued with the commissioned data processing. On OEM's request, Licensor must immediately return to OEM all data media of OEM under Licensor's power of disposal and any copies or reproductions thereof or destroy them in accordance with the laws on data protection and confirm the destruction to OEM in writing.

5.3 Licensor undertakes to impose on its employees, who may obtain knowledge of personal data, the same obligations as entered into above by Licensor.

6. **Applicable Law**

For each instance where personal data are processed under this Exhibit F, the provisions of this data protection exhibit shall be governed by the law of the EU / EEA Member State in which the respective controller of the personal data (OEM and/or End User) is established.