

SAP Sales and Operations Planning OnDemand  
Supplemental Terms and Conditions

SAP and Customer have entered into an agreement for the purchase of certain SAP products and services ("Agreement") pursuant to which Customer is purchasing SAP Sales and Operations Planning OnDemand. SAP Sales and Operations Planning OnDemand is deemed part of the Service (as defined in the General Terms and Conditions for SPA Cloud Services) and is provided under the terms and conditions of the Agreement. The Agreement includes an Order Form, the General Terms and Conditions for SAP Cloud Services, these supplemental terms and conditions (the "Supplement") and any Schedules referenced by those documents. This Supplement and any modifications to the Agreement made herein apply solely to SAP Sales and Operations Planning OnDemand and not to any other SAP product or service.

1. Use of the Service

- (a) To the extent Customer has a current valid perpetual license for SAP Business Suite software, Named Users of the Service licensed under an Order Form are permitted to access the SAP Business Suite and other software through the Service only for the limited purposes of synchronizing master data and planning data with the following SAP systems: Supply Chain Management, Customer Relationship Management, Enterprise Core Component, Business Planning and Consolidation and Business Warehouse. If SAP Business Suite integration is required for any functions not specified above, then appropriate named user licenses that allow access to the SAP Business Suite /SAP ERP are required at an incremental cost (i.e., costs in addition to the pricing for the Service under an Order Form). Services to enable the integration with SAP Business Suite on-premise software are not included in the subscription service fee.
- (c) In addition to the hosted portion of the Service, SAP shall make available for download by Customer the following components (collectively, the Downloads"):
  - a. the SAP StreamWork Enterprise Edition Agent (the "Agent");
  - b. an EPM Client ("EPM Client"); and
  - c. data mapping templates for use in Customer's on-premise SAP system.

The use of the Downloads is limited to use with the Service and Customer may not use the Downloads for any other purpose. The Downloads are part of the Service and Customer's use is limited to use by Named Users and only for the term of the applicable Order Form. The Downloads may not be modified or altered in any way except by SAP. Any non-SAP modifications will negate SAP's obligation to provide Support and void SAP's warranty obligations under this Agreement. Customer is solely responsible for the security of the Downloads and is responsible for maintaining adequate security measures, including firewalls, to prevent unauthorized access to the Downloads. Upon termination or expiration of the applicable Order Form, Customer's right to use the Downloads shall automatically cease. Terms applicable to the use of the Novell software component of the Agent are incorporated into the applicable Order Form and set forth in Attachment 1 to this Supplement. Customer shall utilize the most current version of the Agent made available by SAP, and Customer acknowledges that failure to use the most current version may result in diminished performance of the Service.

- (d) Portions of the Service may be accessed by Named Users through a mobile application obtained by Named Users via third-party websites. Customer acknowledges that the use of such mobile applications is governed by the terms and conditions presented to the Named User upon download/access to the mobile application and not by the terms of this Agreement. Customer acknowledges that the third party that operates the website through which the mobile application is distributed may stop distributing the mobile application at any time, and SAP is not responsible for the unavailability of the mobile application due to the actions of the third party distributor.
- (e) The fees set forth in the applicable Order Form are applicable solely to the use of the SAP service for which they are paid. Fees set forth in the Order Form are based on Customer's corporate group's most recent annual gross revenue ("Annual Revenue"), as contained in Customer's annual audited income statement. Customer's corporate group shall include Customer and all its Affiliates. Customer's Annual Revenue may be based on the annual gross revenue of a subset of entities that comprise Customer's corporate group if (i) the data being processed using the Service is limited to the data directly associated with the subset of entities whose revenue comprises the subset of corporate group annual gross revenue (ii) the Service is not used to process any data not directly associated with the subset of entities for which revenue is included in the subset of corporate group annual gross revenue and (iii) the annual gross revenue of the subset of entities can be verified by annual audited income statements. In the event Annual Revenue increases during the term of the applicable Order Form such that the then-current SAP fee for increased Annual Revenue is higher than the amounts stated in the applicable Order Form, Customer agrees to execute an addendum to the applicable Order Form to reflect the increased fees based on the pricing in effect under the applicable Order Form. In the event of such addendum the term of each such addendum shall be co-terminus with the then-current term of the applicable Order Form irrespective of the effective date of such addendum. In no event shall the fees under the applicable Order Form decline.

- (f) Customer may license test tenants that are described on the Site (each a "Test Tenant"). The number of Named Users licensed to access the Service as specified in the applicable Order Form may access each Test Tenant, not to exceed fifty (50) Named Users for each Test Tenant.
- (g) Blocks of Annual Revenue as set forth in applicable SAP pricing shall include the license for a limited number of Named Users and disk storage in gigabytes per Customer as follows:

<i>Millions of Annual Revenue</i>	<i>Number of Named Users</i>	<i>Storage (GB)</i>
<i>Tier 1</i>	<i>200</i>	<i>50</i>
<i>Tier 2</i>	<i>300</i>	<i>100</i>
<i>Tier 2</i>	<i>400</i>	<i>150</i>
<i>Tier 4</i>	<i>600</i>	<i>200</i>

- (h) SAP will provide disk storage space as set forth in the Order Form. In the event the total relevant disk storage limit is exceeded by Customer, SAP may offer additional storage as a value-added service to Customer. Pricing is available from Customer's SAP sales representative on request. SAP reserves the right to revise such prices annually.

2. Maintenance Windows

SAP can use the following maintenance windows for planned downtimes:

<b>Maintenance Windows</b>	
Regular Maintenance Windows	There will be weekly and quarterly maintenance windows. SAP will provide Customer with reasonable advance notice (not less than ten calendar days) of maintenance windows for planned downtimes.

Attachment 1  
to  
Supplemental Terms for SAP Sales and Operations Planning OnDemand

1. Customer's use of the Novell SUSE Linux ("Novell Software") under this Agreement is subject to the terms of the Agreement for the Service and the following terms and conditions contained in this Attachment 1. In the event of any conflict between the terms of the Agreement and this Attachment 1, the terms of this Attachment 1 shall control Customer's use of the Novell Software.
2. Customer may use the Novell Software pursuant to the terms of the Agreement only in conjunction with the Service, except as may be otherwise provided in this Attachment 1. Customer may make and use unlimited copies of the Novell Software within Customer's organization. Customer may make and distribute unlimited modified copies of the Novell Software outside Customer's organization provided Customer removes all Novell trademarks, trade dress, and logos from each modified copy of the Novell Software.
3. The Novell Software is a modular operating system comprised of numerous components that may be accompanied by separate license terms. The Novell Software is a collective work of Novell; although Novell does not own the copyright to every component of the Novell Software, Novell owns the collective work copyright for the Novell Software. Most of the components of the Novell Software are open source packages, developed independently, and accompanied by separate license terms. Customer's license rights with respect to individual components accompanied by separate license terms are defined by those terms; nothing in this Agreement shall restrict, limit, or otherwise affect any rights or obligations Customer may have, or conditions to which Customer may be subject, under such license terms; however, if Customer distributes copies of any component independent of the Novell Software, Customer must remove all Novell trademarks, trade dress, and logos from each copy.
4. For twelve (12) months from the Order Form Effective Date, SAP warrants that (1) any media on which the Novell Software is delivered is free from physical defects; and (2) the Novell Software will substantially conform to the documentation accompanying the Novell Software. If the defective Novell Software is returned to SAP or if Customer reports the nonconformity to SAP within twelve (12) months from the Order Form Effective Date, SAP will at its sole discretion either resolve the nonconformity or refund a portion of fees Customer paid for Service affected by the nonconformity. Any unauthorized use or modification of the Novell Software voids this warranty. THE FOREGOING WARRANTY IS YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THE NOVELL SOFTWARE AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.
5. FOR CUSTOMERS IN GERMANY, AUSTRIA AND SWITZERLAND: Should the above remedies set forth in Paragraph 4 of this Attachment 1 finally fail, Customer may reduce the remuneration or rescind or terminate the Agreement with respect to the defective components. SAP shall pay damages or reimburse expenses incurred in vain due to a defect within the limits as defined in the Agreement. Except for the rights stipulated in this Attachment 1, other rights due to defects are expressly excluded, in particular recovery of third party expenses. Should SAP provide defect identification or elimination works or services without being under obligation to do so, SAP is entitled to remuneration of any additional expenditure. This particularly applies if a reported defect cannot be reproduced, or if a defect is attributable to the fact that Customer has not duly fulfilled its co-operation obligations, that Customer uses the contractual services inappropriately, or that Customer does not use the free services offered by SAP. This Paragraph 5 of Attachment 2 shall not apply for services which are neither aimed at bringing about a work result nor consist of a temporary provision of an item or a right. However, also in these cases Customer shall notify SAP in writing of any service not performed or not duly performed, and grant SAP an extension period within which SAP is given the opportunity to duly perform the service or otherwise remedy the situation.
6. Customer acknowledges that Novell may perform warranty administration and defect correction services with respect to the Novell Software, and Customer shall provide Novell reasonable cooperation, access and assistance to permit Novell to perform such services.
7. Nothing in this Agreement shall restrict, limit or otherwise affect any rights or obligations Customer may have, or conditions to which Customer may be subject, under any applicable open sources licenses to any open source code contained in the Novell Software.
8. The Novell Software includes materials licensed to Novell under the GNU General Public License (GPL). The GPL requires that SAP makes available certain source code that corresponds to the GPL-licensed material. SAP has not modified the GPL licensed material and the source code for this is available for download at <http://www.novell.com/linux/source/>. In addition, for up to three years from SAP's distribution of the Novell product, upon request SAP will mail a copy of the source code. Requests should be sent by e-mail to [gpl@sapstreamwork.com](mailto:gpl@sapstreamwork.com). SAP may charge a fee to recover reasonable costs of distribution.