SOFTWARE LICENSE AND SUPPORT AGREEMENT
General Terms and Conditions
("GTC")

1. DEFINITIONS.

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

1.2 "API" means SAP's application programming interfaces, as well as other SAP code that allow other software products to communicate with or call on SAP Software (for example, SAP Enterprise Services, BAPIs, Idocs, RFCs and ABAP or other user exits) provided under this Agreement.

1.3 "Affiliate" mean any legal entity in the Territory in which the Licensee, directly or indirectly, holds more than fifty percent (50%) of the shares or voting rights. Any such legal entity shall be considered an Affiliate for only such time as such equity interest is maintained.

1.4 "Business Partner" means a legal entity that requires access to the Software in connection with Licensee's internal business operations, such as customers, distributors and/or suppliers of Licensee.

1.5 "Confidential Information" means, with respect to SAP, all information which SAP protects against unrestricted disclosure to others, including but not limited to: (a) the Software and Documentation and other SAP Materials, including without limitation the following information regarding the Software: (i) computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in the Software; (ii) benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats; and (iii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to the Software; (b) the research and development or investigations of SAP; (c) product offerings, content partners, product pricing, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, marketing plans, forecasts and strategies, and any other information disclosure of which to an unauthorized person could clearly cause substantial damage; and (d) any information about or concerning any third party (which information was provided to SAP subject to an applicable confidentiality obligation to such third party). With respect to Licensee, "Confidential Information" means all information which Licensee protects against unrestricted disclosure to others and which (i) if in tangible form, Licensee clearly identifies as confidential or proprietary at the time of disclosure; and (ii) if in intangible form (including disclosure made orally or visually), Licensee identifies as confidential at the time of disclosure, summarizes the Confidential Information in writing, and delivers such summary within thirty (30) calendar days of any such disclosure in accordance with section 12.6.

1.6 "Documentation" means SAP's documentation which is delivered or made available to Licensee with the Software under this Agreement.

POGODBI O LICENCI ZA PROGRAMSKO OPREMO IN PODPORO
Splošni pogoji
("GTC")

1. OPREDELITVE POJMOV.

1.1 "Dodatek" pomeni kakršenkoli razvoj s pomočjo SAP API, ki doda novo in neodvisno funkcionalnost, vendar ne spremeni obstoječe SAP-jeve funkcionalnosti.

1.2 "API" pomeni SAP-jeve vmesnike za programiranje aplikacij, kot tudi druge SAP-jeve oznake, ki drugi programski opremi dopuščajo komunikacijo z ali klicanje v SAP-jevo Programsko opremo (na primer: storitve SAP Enterprise Service, BAPI-ji, Idoci, RFC-ji in ABAP ali drugi uporabniški izhodi), dobavljene s to Pogodbo.

1.3 "Izpostava" pomeni vsako pravno osebo na območju, kjer Lastnik licence, bodisi neposredno ali posredno, razpolaga z več kot petdeset odstotki (50 %) delnic ali glasov. Kakršnakoli taka pravna oseba velja za Izpostavo samo, dokler je takšen kapitalski delež ohranjen.

1.4 "Poslovni partner" pomeni pravno osebo, ki potrebuje dostop do programske opreme v povezavi z notranjimi poslovnimi dejavnostmi Lastnika licence, na primer stranke, distributerji in/ali dobavitelji Lastnika licence.

1.5 Za SAP so "Zaupni podatki" vsi podatki, ki jih SAP ne želi razkriti drugim, vključno z: (a) SAP-jevo Programsko opremo in Dokumentacijo in drugimi SAP-jevimi gradivi, med drugim vključno z naslednjimi podatki v zvezi s SAP-jevo Programsko opremo: (i) računalniško programsko opremo (objekti in izvorne kodi), tehnikami in koncepti programiranja, načini procesiranja, koncepti izdelave sistemov, zajetih v SAP-jevi Programski opremi; (ii) rezultati primerjalnih testov, navodili, seznami programov, podatkovnimi strukturami, shematskimi prikazi, logičnimi diagrami, funkcijskimi specifikacijami, formati datotek; in (iii) odkritji, izumi, koncepti, zasnovami, shematskimi prikazi, dokumentacijo, specifikacijami produktov, specifikacijami za aplikacijski programski vmesnik, tehnike in procese, povezane s SAP-jevo Programsko opremo; (b) raziskavami in razvojem ali preiskavami SAP-ja; (c) ponudbami produktov, vsebinskimi partnerji, oblikovanjem cen produktov, razpoložljivostjo produktov, tehničnimi risbami, algoritmi, procesi, zamislimi, tehnikami, formulami, podatki, shemami, poslovnimi skrivnostmi, znanjem, izboljšavami, marketinškimi načrti, napovedmi in strategijami; in (d) kakršnimikoli podatki o tretji osebi ali podatki, povezanimi s tretjo osebo (podatki, ki jih je prejel SAP in so predmet ustrezne obveznosti varovanja tajnosti podatkov tretje osebe). Za Lastnika licence so "Zaupni podatki" vsi podatki, ki jih Lastnik licence ščiti pred neomejenim razkritjem drugim, in jih, (i) kadar so v stvarni obliki, Lastnik licence v času razkritja jasno označi kot zaupne ali lastniške; in (ii) kadar so v nestvarni obliki (kar vključuje tako ustno kot vizualno razkritje), Lastnik licence v času razkritja obe vrsti označi kot zaupni ali lastniški, povzame Zaupne podatke v pisni obliki in takšen povzetek pošlje v tridesetih (30) koledarskih dneh po kakršnemkoli razkritju take vrste v skladu s tem členom 12.6.

1.6 "Dokumentacija" pomeni SAP-jevo dokumentacijo, ki se po tej Pogodbi dostavi Lastniku licence skupaj s Programsko opremo.

1.7 "Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, additional safety certificate, copyrights, rights in topography of integrated circuits, 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.

1.7 Izraz "Pravice intelektualne lastnine" pomeni patente vseh vrst, oblikovalske pravice, pravice za uporabne modele ali druge podobne izumiteljske pravice, dodatne varnostne certifikate, avtorske pravice, pravice topografije vgrajenih vezij, pravice do maske vezja, pravice poslovne skrivnosti ali tajnosti podatkov, blagovne znamke, trgovska imena in storitvene znamke ter katerekoli druge nematerialne premoženjske pravice, vključno z aplikacijami in registracijami katerekoli od navedenih pravic, v katerikoli državi, ki bi bile pridobljene v skladu s predpisi ali s pogodbo, so že prijavljene, izdane ali pridobljene ali še bodo.

1.8 "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 interfacesor the extension of SAP data structures; or (iii) any other change to the Software (other than an Add-on) utilizing or incorporating any SAP Materials (defined below).

1.8 "Sprememba" pomeni (i) spremembe izvorne kode ali metapodatkov; ali (ii) ves drug razvoj, razen spremembe izvorne kode ali metapodatkov, s katerim se prilagodi, izboljša ali spremeni obstoječe funkcionalnosti Programske opreme, vključno z ustvarjanjem novih aplikativnih programskih vmesnikov ali alternativnih uporabniških vmesnikov, razširjanjem SAP-jevih podatkovnih struktur; ali (iii) kakršnakoli druga sprememba Programske opreme (ki ni Dodatek), ki uporablja ali vsebuje SAP-jeva gradiva (opredeljeno spodaj).

1.9 "Professional Services Schedule" means the terms and conditions governing SAP's delivery of professional services, attached hereto and made a part hereof.

1.9 "Časovni načrt za profesionalne storitve" pomeni pogoje, ki urejajo SAP-jevo nudenje profesionalnih storitev, je priložen Pogodbi in je njen sestavni del.

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

1.10 "SAP-jeva gradiva" pomenijo vso programsko opremo, programe, orodja, sisteme, podatke oziroma druga gradiva, ki jih SAP da na razpolago Lastniku licence med izvajanjem te Pogodbe, vključno s Programsko opremo in Dokumentacijo ter vsemi informacijami, gradivi ali povratnimi informacijami, ki jih Lastnik licence sporoči SAP-ju v zvezi s Programsko opremo in Dokumentacijo.

1.11 "SAP Support" means SAP's then-current SAP support offering made available to Licensee, as stated in the applicable SAP Support Schedule attached hereto and made a part hereof.

1.11 "SAP-jeva podpora" pomeni aktualno SAP-jevo nudeno podporo, ki je na voljo Lastniku licence, kot je navedeno v priloženem veljavnem Časovnem načrtu SAP-jeve podpore, ki je del te Pogodbe.

1.12 "Software" means (i) any and all software products licensed to Licensee under this Agreement as specified in Software Order Forms hereto, all as developed by or for SAP, SAP AG, Business Objects Software Limited and/or any of their affiliated companies and delivered to Licensee hereunder; (ii) any new releases thereof made available through unrestricted shipment pursuant to the respective support agreement and (iii) any complete or partial copies of any of the foregoing.

1.12 "Programska oprema" pomeni (i) programsko opremo licencirano Lastniku licence s to Pogodbo, kot je specificirano v Naročilnicah za programsko opremo, ki jo razvije ali je bila razvita za SAP, SAP AG, Business Objects Software Limited in/ali katerokoli od njihovih povezanih gospodarskih družb, in dostavljena Lastniku licence v skladu s to Pogodbo; (ii) vsako novo različico le-te, ki je na voljo z neomejeno pošiljko v skladu z ustrezno pogodbo za podporo, in (iii) nepopolno ali delno izdajo česarkoli prej navedenega.

1.13 "Software Order Form" means the order form for the Software and related SAP Support ordered by Licensee thereunder, including information on Software, SAP Support, fees, and other information necessary for the delivery of such items to Licensee. The Software Order Form does not include fees for professional services, which shall be billed under separate statements of work in accord with the Professional Services Schedule.

1.13 "Naročilnica za programsko opremo" pomeni naročilnico za Programsko opremo in ustrezno SAP-jevo Podporo, ki jo naroči Lastnik licence, in vključuje informacije o Programski opremi, SAP-jevi Podpori, provizijah in druge informacije, ki so potrebne za dobavo navedenega Lastniku licence. Naročilnica za programsko opremo ne vsebuje provizij za profesionalne storitve, ki bodo obračunane na osnovi ločenih poročil o opravljenem delu v skladu s Časovnim načrtom za profesionalne storitve.

1.14 "Territory" means the territory stated in the Software Order Form.

1.14 "Območje" pomeni območje, navedeno v Naročilnici za programsko opremo.

1.15 "Third Party Software" means (i) any and all software products and content licensed to Licensee under this Agreement as specified in Software Order Forms hereto, all as developed by companies other than SAP, SAP AG, Business Objects Software Limited and/or any of their affiliated companies and delivered to Licensee hereunder; (ii) any new releases thereof made available through unrestricted shipment

1.15 "Programska oprema tretjih oseb" pomeni (i) katerokoli in vso programsko opremo in vsebino licencirano Lastniku licence s to Pogodbo, kot je specificirano v Naročilnicah za programsko opremo, ki jo razvije ali je bila razvita za SAP, SAP AG, Business Objects Software Limited in/ali katerokoli od njihovih povezanih gospodarskih družb, in je dostavljena Lastniku licence v skladu s to Pogodbo; (ii) vsako novo različico

pursuant to the respective SAP Support Schedule and (iii) any complete or partial copies of any of the foregoing.

1.16 "Use" means to activate the processing capabilities of the Software, load, execute, access, employ the Software, or display information resulting from such capabilities.

2. LICENSE GRANT.

2.1 License.

2.1.1 Subject to Licensee's compliance with all the terms and conditions of this Agreement, SAP grants to Licensee a non-exclusive, perpetual (except for subscription based licenses) license to Use the Software, Documentation, and other SAP Materials at specified site(s) within the Territory to run Licensee's and its Affiliates' internal business operations (including customer back-up and passive disaster recovery) and to provide internal training and testing for such internal business operations and as further set forth in the Software Order Form, unless terminated in accordance with Section 5 herein. This license does not permit Licensee to: (i) use the SAP Materials to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training) other than to Affiliates (subject to Section 2.2); (ii) lease, loan, resell, sublicense or otherwise distribute the SAP Materials, other than distribution to Affiliates (subject to Section 2.2); (iii) distribute or publish keycode(s); (iv) make any Use of or perform any acts with respect to the SAP Materials other than as expressly permitted in accordance with the terms of this Agreement; (v) use Software components other than those specifically identified in the Software Order Form, even if it is also technically possible for Licensee to access other Software components. Business Partners may Use the Software only through screen access and solely in conjunction with Licensee's Use and may not Use the Software to run any of Business Partners' business operations.

2.1.2 Licensee agrees to install the Software only on information technology devices (e.g. hard disks or central processing units) identified by Licensee pursuant to this Agreement that has been previously approved by SAP in writing or otherwise officially made known to the public as appropriate for Use or interoperation with the Software (the "Designated Unit") and which are located at Licensee's facilities and are in Licensee's direct possession. Where SAP has agreed in writing, the information technology devices may also be located in the facilities of an Affiliate and be in the Affiliate's direct possession. Licensee must hold the required licenses as stated in the Use Terms for any individuals that Use the Software, including employees or agents of Affiliates and Business Partners. Use may occur by way of an interface delivered with or as a part of the Software, a Licensee or third-party interface, or another intermediary system. If Licensee receives licensed Software that replaces previously licensed Software, its rights under this Agreement with regard to the previously licensed Software end when it deploys the replacement Software for Use on productive systems. At that time, Licensee shall comply with Section 5.2 of this Agreement with respect to such previously licensed Software.

2.1.3 The terms and conditions of this Agreement relative to "Software" apply to Third Party Software except as otherwise stated in the Software Use Rights Schedule.

2.2 Affiliate Use. Affiliates' Use of the Software, Documentation and other SAP Materials to run their internal business operations as permitted under Section 2.1.1 is subject

le-te, ki je na voljo z neomejeno pošiljko v skladu z ustreznim Časovnim načrtom SAP-jeve podpore, in (iii) vsako nepopolno ali delno izdajo česarkoli prej navedenega.

1.16 "Uporaba" pomeni aktiviranje Programske opreme, nalaganje, izvrševanje, dostop in uporabo Programske opreme ali prikaz informacij, ki so rezultat teh zmožnosti.

2. PODELITEV LICENCE.

2.1 Licenca.

2.1.1 Če Lastnik licence izpolnjuje vse pogoje iz te Pogodbe, mu SAP podeli neizključno, trajno (razen za licence na osnovi naročnine) licenco za Uporabo Programske opreme, Dokumentacije in drugih SAP-jevih Gradiv na navedeni lokaciji (lokacijah) znotraj Območja, za interno poslovanje Lastnika licence in njegovih Izpostav (vključno z varnostno kopijo kupca in pasivno obnovo po izrednem dogodku), in poskrbi za interno izobraževanje in testiranje za interno poslovanje in kot je nadalje navedeno na Naročilnici za programsko opremo, razen če je prekinjena v skladu s 5. poglavjem. Ta licenca Lastniku licence ne dovoljuje: (i) uporabljati SAP-jevega Gradiva za nudenje storitev tretjim osebam (npr. oddajanje poslovnih procesov, aplikacije storitvene pisarne ali izobraževanje tretje osebe), razen Izpostavam (predmet poglavja 2.2); (ii) dajati v zakup, posojati, preprodajati, podlicencirati ali kako drugače distribuirati SAP-jevih Gradiv, razen svojim Izpostavam (predmet poglavja 2.2); (iii) distribuirati ali objavljati kodo oz.kode; (iv) kakorkoli drugače uporabiti ali izvajati kakršnakoli druga dejanja s SAP-jevimi Gradivi, razen kot je izrecno dovoljeno v skladu s pogoji te Pogodbe; (v) uporabljati komponente Programske opreme drugače, kot je posebej določeno na Naročilnici za programsko opremo, četudi je tehnično mogoče, da Lastnik licence dostopa do drugih komponent Programske opreme. Poslovni partnerji lahko uporabljajo Programsko opremo, vendar le z dostopom do določenega dela Programske opreme ter samo v povezavi z uporabo Lastnika licence, in ne smejo uporabljati Programske opreme za vodenje kateregakoli dela svojega poslovanja.

2.1.2 Lastnik licence se strinja, da se Programska oprema namesti le na napravah za informacijsko tehnologijo (npr. trdi diski ali procesorji), ki jih je določil Lastnik licence in jih je SAP v skladu s to Pogodbo predhodno pisno odobril ali je kako drugače uradno objavil, da so primerni za Uporabo ali delovanje s Programsko opremo ("Določena enota"), in so v prostorih Lastnika licence in v njegovi neposredni lasti. Če SAP da pisno soglasje, so naprave za informacijsko tehnologijo lahko tudi v prostorih Izpostave in so v neposredni lasti Izpostave. Lastnik licence mora v skladu s Pogoji uporabe imeti potrebne licence za vse posameznike, ki Uporabljajo Programsko opremo, vključno z zaposlenimi ali predstavniki Izpostav in Poslovnih partnerjev. Do Uporabe lahko pride z uporabo vmesnika, dobavljenega skupaj z ali kot del Programske opreme, vmesnika Lastnika licence ali tretje osebe ali drugega vmesniškega sistema. Če Lastnik licence prejme Programsko opremo, ki nadomesti predhodno licencirano programsko opremo, njegove pravice za predhodno licencirano programsko opremo v skladu s to Pogodbo prenehajo ob postavitvi nadomestne Programske opreme za Uporabo v produkcijskih sistemih. Takrat mora Lastnik licence v zvezi s predhodno licencirano Programsko opremo delovati v skladu s poglavjem 5.2 te Pogodbe.

2.1.3 Pogoji te Pogodbe, ki se nanašajo na "Programsko opremo", veljajo za Programsko opremo tretjih oseb, razen če je v Časovnem načrtu za pravice uporabe programske opreme določeno drugače.

2.2 Uporaba v izpostavi. Uporaba Programske opreme, Dokumentacije in drugih SAP-jevih Gradiv v Izpostavah za interno poslovanje je dovoljena v skladu s poglavjem 2.1.1 in

to the following: (i) the Affiliate agrees to be bound by the terms herein in the form of Schedule A ("Affiliate Use Agreement") attached hereto; and (ii) a breach of such Affiliate Use Agreement by Affiliate shall be considered a breach by Licensee hereunder. If Licensee has an affiliate or subsidiary with a separate agreement for SAP software licenses and/or support services with SAP AG, any SAP AG affiliate (including SAP) or any other distributor of SAP software, the Software shall not be Used to run such affiliate's or subsidiary's business operations and such affiliate or subsidiary shall not receive any support services under this Agreement even if such separate agreement has expired or is terminated, unless otherwise agreed to in writing by the parties.

2.3 Outsourcing Services. With SAP's prior written consent, Licensee may permit services providers to access the Software solely for the purpose of providing facility, implementation, systems, application management or disaster recovery services to Licensee in connection with the business of Licensee for which the Software is herein licensed provided: (i) Licensee and such services provider execute a written agreement that includes provisions requiring such services provider's compliance with the terms of this Agreement prior to such access, including without limitation non-disclosure of SAP Confidential Information; (ii) Licensee shall hold the required licenses as stated in the Use Terms for all employees of such services provider authorized to access the Software; (iii) such services provider shall be permitted to Use the Software solely to install and configure the Software in accordance with the business of Licensee as set forth herein (or in the case of a disaster recovery vendor, to provide disaster recovery services only); (iv) under no circumstances may such services provider Use the Software to operate or provide processing services to Licensee or any other party, or in connection with such services provider's own business operations; (v) Licensee shall be responsible for any additional Software, migration tools, or third party software needed to effect such transition; and (vi) Licensee expressly agrees to indemnify SAP, its officers, employees, agents and subcontractors from and against all claims, liabilities, losses, damages and costs (including reasonable attorney fees) suffered by SAP arising from a breach by the services provider of the conditions of this Agreement. Upon SAP request, Licensee shall provide written confirmation to SAP that items (i)-(iv) are fulfilled.

3. VERIFICATION. SAP shall be permitted to audit (at least once annually and in accordance with SAP standard procedures, which may include on-site and/or remote audit) the usage of the SAP Materials. Licensee shall cooperate reasonably in the conduct of such audits. In the event an audit reveals that (i) Licensee underpaid license fees and/or SAP Support fees to SAP and/or (ii) that Licensee has Used the Software in excess of the license quantities or levels stated in the Software Order Form, Licensee shall pay such underpaid fees and/or for such excess usage based on SAP List of Prices and Conditions Software and Support governing use in effect at the time of the audit, and shall execute an additional Software Order Form in accordance with the terms of this Agreement to affect the required licensing of any additional quantities or levels. Reasonable costs of SAP's audit shall be paid by Licensee if the audit results indicate usage in excess of the licensed quantities or levels. SAP reserves all rights at law and equity with respect to both Licensee's underpayment of License fees or SAP Support fees and usage in excess of the license quantities or levels.

4. PRICE AND PAYMENT.

4.1 Fees. Licensee shall pay to SAP license fees for the Software and fees for SAP Support on the terms in Software

pod naslednjimi pogoji: (i) Izpostava se strinja, da jo zavezujejo pogoji iz obrazca v priloženem Časovnem načrtu A ("Dogovor o uporabi v izpostavah"); in (ii) če Izpostava krši tak Dogovor o uporabi v Izpostavah, to pomeni kršitev s strani Lastnika licence. Če ima Lastnik licence izpostavo ali podružnico, ki ima ločeno pogodbo za SAP-jevo licenco za programsko opremo in/ali storitve podpore s SAP AG, katerokoli izpostavo SAP AG (vključno s SAP-jem) ali katerimkoli distributerjem SAP-jeve programske opreme, Programska oprema ne bo uporabljena za poslovne procese te izpostave ali podružnice in nobena ne bo prejela storitev podpore v skladu s to Pogodbo, tudi če je taka pogodba potekla ali je bila prekinjena, razen če se stranki pisno ne dogovorita drugače.

2.3 Storitve zunanjega izvajanja. Lastnik licence lahko brez predhodnega SAP-jevega pisnega soglasja dovoli ponudniku storitev dostop do Programske opreme izključno z namenom, da ta Lastniku licence nudi storitve upravljanja infrastrukture, implementacij in aplikacij ali obnove po izrednem dogodku, kar je povezano z njegovim poslovanjem, za katerega je Programska oprema s to Pogodbo licencirana: (i) Lastnik licence in ponudnik storitev skleneta pisno pogodbo, ki vključuje določila, da mora tak ponudnik storitev še pred dostopanjem izpolnjevati vse pogoje te Pogodbe, kar med drugim vključuje varovanje zaupnih SAP-jevih podatkov; (ii) Lastnik licence mora v skladu s Pogoji uporabe imeti za vse zaposlene tega ponudnika storitev zahtevane licence z dovoljenjem za dostop do Programske opreme; (iii) tak ponudnik storitve sme uporabljati Programsko opremo izključno za namestitev in konfiguracijo Programske opreme za poslovanje Lastnika licence, kot je navedeno v Pogodbi (ali v primeru ponudnika obnove po izrednem dogodku samo za storitve take obnove); (iv) pod nobenim pogojem tak ponudnik storitev ne sme uporabljati Programske opreme za poslovanje ali nudenje storitev obdelave Lastniku licence ali katerikoli drugi stranki, ali za lastno poslovanje tega ponudnika storitev; (v) Lastnik licence je odgovoren za vso dodatno Programsko opremo, orodje za migracijo ali programsko opremo tretjih oseb, potrebno za izvedbo prenosa; in (vi) Lastnik licence se izrecno strinja, da bo SAP-ju, njegovim zaposlenim, predstavnikom in kooperantom povrnil stroške, ki bi jih imeli zaradi morebitnih zahtevkov, izgub, obveznosti, škode ali drugih stroškov (vključno z razumnimi stroški za odvetnike), ki bi jih povzročil ponudnik storitev s kršenjem pogojev te Pogodbe. Lastnik licence mora na zahtevo SAP-ja izdati pisno potrdilo SAP-ju, da so določila (i) - (iv) izpolnjena.

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4.1 Vzdrževalnina. Lastnik licence mora SAP-ju plačati licenčnine za Programsko opremo in provizije za SAP-jevo

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7.2 Zanikanje odgovornosti. SAP IN NJEGOVI IZDAJATELJI LICENCE ZANIKAJO VSA DRUGA JAMSTVA, TAKO IZRECNA KOT IMPLICIRANA, VKLJUČNO Z VSEMI IMPLICIRANIMI JAMSTVI GLEDE PRODAJNOSTI ALI USTREZNOSTI ZA DOLOČEN NAMEN, RAZEN ZAKONSKO IMPLICIRANIH JAMSTEV, KI NE SMEJO BITI VELJAVNO ODPOVEDANA.

8. ODŠKODNINA.

8.1 Kršitev in zaščita Lastnika licence. SAP bo na Območju branil Lastnika licence pred tožbami tretjih oseb, da Lastnik licence z uporabo Programske opreme v skladu s pogoji te Pogodbe neposredno krši ali si nezakonito lasti patentne pravice, avtorske pravice ali pravice poslovnih skrivnosti, in bo plačal dosojene odškodnine v takih primerih (ali znesek za poravnavo, ki jo sklene SAP) v imenu Lastnika licence. Ta SAP-jeva obveznost ne velja, če je domnevna kršitev ali nezakonito prilaščanje posledica Uporabe Programske opreme skupaj s katerokoli programsko opremo ali napravo, ki ni Določena enota, neuporabe SAP-jeve posodobitve, ki bi lahko preprečila kršitev ali nezakonito prilaščanje, ali delovanja brez licence. SAP-jeva obveznost ne velja tudi, če Lastnik licence SAP-ja pisno ne obvesti pravočasno o taki tožbi. SAP lahko v celoti nadzoruje obrambo in vsako poravnavo take tožbe, če takšna poravnava ne predstavlja finančne obveznosti za Lastnika licence. Če Lastnik licence zavrne ponujeno SAP-jevo obrambo ali SAP-ju ne omogoči nadzora nad obrambo svetovalcu, ki ga določi SAP, se Lastnik licence odpove SAP-jevi obveznosti iz tega poglavja 8.1 (razen v primerih, ko takšna odpoved ni dovoljena). Lastnik licence bo sodeloval pri obrambi takega zahtevka in lahko na svoje stroške pooblasti odvetnika, ki je razumno sprejemljiv tudi za SAP. SAP si pridržuje izključno pravico, da odreče pravico do obrambe pri tožbi, če domnevna kršitev ali nezakonito prilaščanje Programske opreme preneha oziroma ne predstavlja več kršitve ali nezakonitega prilaščanja pravic tretje osebe. SAP lahko za vsako tožbo sklene poravnavo, tako da SAP za Programsko opremo zagotovi alternativne nadomestne programe, ki ne kršijo pravic tretjih oseb, in ustrezno dokumentacijo za podporo. Lastnik licence ne bo z nobenim dejanjem odgovoril na kršitev ali nezakonito prilaščanje oziroma na domnevno kršitev ali nezakonito

Licensee shall not undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation of the Software that is prejudicial to SAP's rights.

prilaščanje Programske opreme, ki predstavljajo kršenje SAP-jevih pravic.

8.2 THE PROVISIONS OF THIS SECTION 8 STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF SAP AND ITS LICENSORS TO LICENSEE, AND IS LICENSEE'S SOLE REMEDY, WITH RESPECT TO THE INFRINGEMENT OR MISAPPROPRIATION OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

8.2 DOLOČILA TEGA 8. POGLAVJA DOLOČAJO IZKLJUČNO IN CELOTNO ODGOVORNOST SAP-JA TER NJEGOVIH IZDAJATELJEV LICENC LASTNIKU LICENCE IN JE EDINO PRAVNO SREDSTVO LASTNIKA LICENCE V PRIMERU KRŠITVE ALI NEZAKONITEGA PRILAŠČANJA PRAVIC INTELEKTUALNE LASTNINE TRETJE OSEBE.

9. LIMITATIONS OF LIABILITY.

9.1 Not Responsible. SAP and its licensors will not be responsible under this Agreement (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect or liability is caused by Licensee, a Modification or Add-on (other than a Modification or Add-on made by SAP which is provided through SAP Support or under warranty), or third-party software. SAP AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE SOFTWARE AND/OR THIRD-PARTY SOFTWARE LICENSED HEREUNDER.

9. OMEJITEV ODGOVORNOSTI.

9.1 Brez odgovornosti. SAP in njegovi izdajatelji licence nimajo odgovornosti v skladu s to Pogodbo, (i) če se Programska oprema ne uporablja v skladu z Dokumentacijo; ali (ii) če okvaro ali odgovornost povzroči Lastnik licence, Sprememba ali Dodatek (ki ni SAP-jeva Sprememba ali Dodatek in ni dobavljena s SAP-jevo Podporo ali garancijo) ali programska oprema tretje osebe. SAP IN NJEGOVI IZDAJALATELJI LICENC NISO ODGOVORNI ZA ZAHTEVKE ALI ŠKODO, KI SO POSLEDICA NEVARNE UPORABE PROGRAMSKE OPREME IN/ALI PROGRAMSKE OPREME TRETJE OSEBE, KI JE LICENCIRANA S TO POGODBO.

9.2 Exclusion of Damages; Limitation of Liability. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION OR DEATH OR PERSONAL INJURY ARISING FROM EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, UNDER NO CIRCUMSTANCES AND REGARDLESS OF THE NATURE OF ANY CLAIM SHALL SAP, ITS LICENSORS OR LICENSEE BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE PAID LICENSE FEES FOR THE SOFTWARE DIRECTLY CAUSING THE DAMAGES OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ATTORNEYS' FEES, COURT COSTS, INTEREST OR EXEMPLARY OR PUNITIVE DAMAGES. The provisions of this Agreement allocate the risks between SAP and Licensee. The license fees reflect this allocation of risk and the limitations of liability herein. The limitation of liability under this section applies also to the claims arising from Section 7 herein. This clause shall not be intended to limit liability where the minimum extent of liability is provided by mandatory law.

9.2 Izključitev škode; omejitev odgovornosti. NE GLEDE NA VSE NAVEDENO, SAP, NJEGOVI IZDAJATELJI LICENCE ALI LASTNIK LICENCE NE MOREJO NOSITI ODGOVORNOSTI ZA POVRAČILO ŠKODE DRUGI POGODBENI STRANKI, TRETJI OSEBI ALI SUBJEKTU V ZNESKU, KI JE VIŠJI OD PLAČANE LICENČNINE ZA PROGRAMSKO OPREMO, KI JE BILA VZROK TERJATVI ZA POVRAČILO ŠKODE, OZIROMA NIKAKOR IN NE GLEDE NA VRSTO ŠKODE NISO ODGOVORNI ZA POSEBNO, NENAMERNO, POSLEDIČNO ALI NEPOSREDNO ŠKODO, IZGUBO DOBREGA IMENA ALI DOBIČKA, ZASTOJA DELOVNEGA PROCESA, IZGUBE PODATKOV, OKVARE ALI NEDELOVANJA RAČUNALNIKOV, ODVETNIŠKIH IN SODNIH STROŠKOV, ZA KAKRŠNOKOLI ODŠKODNINO, RAZEN ZA ŠKODO, KI JE POSLEDICA NEPOOBLAŠČENE UPORABE ALI RAZKRITJA ZAUPNIH PODATKOV, OZIROMA SMRTI ALI OSEBNE POŠKODBE, KI JE POSLEDICA HUDE MALOMARNOSTI ALI NAMERNE KRŠTIVE KATEREKOLI OD POGODBENIH STRANK. Določila te Pogodbe razdelijo tveganja med SAP in Lastnika licence. Ta delitev tveganja se odraža v licenčninah in omejitvi odgovornsti. Omejitev odgovornosti v tem poglavju velja tudi za zahtevke v skladu s 7. poglavjem. Namen tega določila ni omejiti odgovornost, če njen minimalni obseg že ureja zakon.

10.1. Use of Confidential Information. 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 the other 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. With respect to the Confidential Information of the other, each party : (a) shall take all Reasonable Steps (defined below) to keep all Confidential Information strictly confidential; and (b) shall not disclose any Confidential Information of the other to any person other than its bona fide individuals whose access is necessary to enable it to exercise its rights hereunder. 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. Confidential Information of either party disclosed prior to execution of this Agreement shall be subject to the protections afforded hereunder.

10.1. Uporaba Zaupnih podatkov. Zaupnih podatkov se ne sme razmnoževati v nobeni obliki, razen če je to potrebno za uresničevanje te Pogodbe. Vsaka kopija zaupnih podatkov druge stranke mora ostati last stranke, ki jih je razkrila, in mora vsebovati vse oznake o zaupnosti in lastništvu ter navodila na originalu. Glede Zaupnih podatkov druge stranke bo vsaka stranka: (a) sprejela ustrezne ukrepe (zapisani spodaj), potrebne za ohranitev Zaupnih podatkov; in (b) ne bo razkrila nobenih Zaupnih podatkov drugemu razen svojim dobrovernim posameznikom, katerih dostop je potreben za uveljavljanje svojih pravic v skladu s to Pogodbo. V tej pogodbi "Ustrezni ukrepi" pomenijo ukrepe, ki jih pogodbena stranka prejemnica sprejme za zavarovanje svojih podobnih lastniških in zaupnih podatkov. Zaupni podatki katerekoli od strank, razkriti pred veljavnostjo te Pogodbe, so predmet zaščite v skladu s to Pogodbo.

10.2 Exceptions. The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that: (a) is independently developed by the 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; (b) has become generally available to the public without breach of this Agreement by the receiving party; (c) at the time of disclosure, was known to the receiving party free of restriction; or (d) the disclosing party agrees in writing is free of such restrictions.

10.2 Izjeme. Zgornje omejitve glede uporabe ali razkritja Zaupnih podatkov ne veljajo za Zaupne podatke, ki: (a) jih je pogodbena stranka prejemnica razvila neodvisno in brez povezave z Zaupnimi podatki razkrivajoče stranke ali jih je zakonito pridobila od tretje osebe, ki ima pravico, da posreduje takšne Zaupne podatke; (b) so postali splošno dostopni javnosti brez kršitve te Pogodbe s strani pogodbene stranke prejemnice; (c) jih je v času razkritja pogodbena stranka prejemnica poznala brez omejitev; ali (d) je razkrivajoča stranka zanje dala pisno soglasje, da so brez omejitev.

10.3 Confidential Terms and Conditions; Publicity. Licensee shall not disclose the terms and conditions of this Agreement or the pricing contained therein to any third party. Neither party shall use the name of the other party in publicity, advertising, or similar activity, without the prior written consent of the other, except that Licensee agrees that SAP may use Licensee's name in customer listings or, at times mutually agreeable to the parties, as part of SAP's marketing efforts (including without limitation reference calls and stories, press testimonials, site visits, SAPPHIRE participation). SAP will make reasonable efforts to avoid having the reference activities unreasonably interfere with Licensee's business.

10.3 Zaupnost vsebine; Javna objava. Lastnik licence pogojev te Pogodbe ali cenovnih pogojev ne sme razkriti nobeni tretji osebi. Nobena od pogodbenih strank brez predhodne pisne odobritve druge pogodbene stranke ne sme uporabiti imena druge pogodbene stranke v obvestilih javnosti, oglaševanju ali podobni dejavnosti, razen takrat, ko se Lastnik licence strinja, da SAP lahko uporabi ime Lastnika licence v seznamu strank ali ga, kadar je medsebojno dogovorjeno med pogodbenimi strankami, uporabi kot del SAP-jevih marketinških aktivnosti (kar vključuje referenčne zgodbe, pričevanja v medijih, obisk v družbi in sodelovanje na SAPPHIRE). SAP se bo skušal izogniti referenčnim dejavnostim, ki nerazumno posegajo v poslovanje Lastnika licence.

11. ASSIGNMENT. Licensee may not, without SAP's prior written consent, assign, delegate, pledge, or otherwise transfer this Agreement, or any of its rights or obligations under this Agreement, or the SAP Materials or SAP Confidential Information, to any party, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation. SAP may assign this Agreement to any of its affiliates.

11. PRENOS PRAVIC IN OBVEZNOSTI. Lastnik licence brez predhodnega SAP-jevega pisnega soglasja te Pogodbe ali katerekoli od pravic ali obveznosti iz nje, oziroma SAP-jevih Gradiv ali Zaupnih podatkov, ne sme dodeliti, pooblastiti, zastaviti ali kako drugače prenesti na katerokoli stranko, najsi bo to prostovoljno ali po zakonu, kar vključuje prodajo osnovnih sredstev, združitev ali konsolidacijo. SAP lahko to Pogodbo dodeli katerikoli od svojih Izpostav.

12. GENERAL PROVISIONS.

12. SPLOŠNA DOLOČILA.

12.1 Severability. It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

12.1 Neodvisnost. Pogodbeni stranki se strinjata, če eno ali več določil te Pogodbe postane neveljavno ali neizvršljivo, ta neveljavnost ali neizvršljivost ne sme vplivati na druga določila te Pogodbe in se ta Pogodba razume, kot da v njej nikoli ni bilo tega neveljavnega ali neizvršljivega določila.

12.2 No Waiver. If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

12.2 Brez odpovedi. Odpoved katerekoli od pogodbenih strank v primeru kršitve kateregakoli določila te Pogodbe, ne sme biti razumljena kot odpoved uveljavljanju pravic v primeru prejšnje ali naslednje kršitve istega ali drugega določila.

12.3 Counterparts. This Agreement may be signed in two counterparts, each of which shall be deemed an original and which shall together constitute one Agreement.

12.3 Izvodi pogodbe. Ta Pogodba se podpiše v dvojnikih in vsak velja za original, vendar pa skupaj predstavljata eno in isto Pogodbo.

12.4 Regulatory Matters. The Software, Documentation and SAP Materials are subject to the export control laws of various

12.4 Zakonska določila. Programska oprema, Dokumentacija in SAP-jeva Gradiva so predmet izvoznih predpisov različnih

countries, including without limit the laws of the United States and Germany. Licensee agrees that it will not submit the Software, Documentation or other SAP Materials to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP, and will not export the Software, Documentation and SAP Materials to countries, persons or entities prohibited by such laws. Licensee shall also be responsible for complying with all applicable governmental regulations of the country where Licensee is registered, and any foreign countries with respect to the use of the Software, Documentation or other SAP Materials by Licensee and/or its Affiliates.

držav, kar vključuje zakonodajo Združenih držav Amerike in Nemčije. Lastnik licence se strinja, da brez predhodnega pisnega soglasja SAP-ja Programske opreme, Dokumentacije ali drugih SAP-jevih Gradiv ne bo posredoval državnim organom za licenciranje ali drugo pravno odobritev, in ne bo pošiljal Programske opreme, Dokumentacije in drugih SAP-jevih Gradiv v države, osebam ali subjektom, ki so zakonsko prepovedani. Lastnik licence je tudi odgovoren za skladnost z vsemi veljavnimi zakonskimi predpisi države, v kateri je registriran Lastnik licence, in katerekoli druge tuje države, v kateri Lastnik licence in/ali njegove Izpostave uporabljajo Programsko opremo, Dokumentacijo ali druga SAP-jeva Gradiva.

12.5 Governing Law; Limitations Period. 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 Slovenia, without reference to its conflicts of law principles. In the event of any conflicts between foreign law, rules, and regulations, and Slovenian law, rules, and regulations, Slovenian 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. Licensee must initiate a cause of action for any claim(s) arising out of or relating to this Agreement and its subject matter within one (1) year from the date when Licensee knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s). This provision does not in any way shorten or prolong the mandatory limitation periods.

12.5 Zakonska pristojnost; Obdobje omejevanja. Ta Pogodba in vsi z njo povezani zahtevki ter predmet Pogodbe se urejajo in razlagajo v skladu s slovensko zakonodajo, ne glede na določila o koliziji zakonov. V primeru konflikta med tujimi in slovenskimi zakoni, pravili in predpisi, se uporabljajo slovenski zakoni, pravila in predpisi. Konvencija ZN o mednarodni prodaji blaga za to Pogodbo ne velja. Lastnik licence mora sprožiti tožbo za vse zahtevke, ki bi nastali ali se navezovali na to Pogodbo in predmet te Pogodbe, v roku enega (1) leta od dne, ko je Lastnik licence izvedel ali bi na podlagi raziskave moral vedeti za dejstva, ki so podlaga za zahtevek. Ta določilo na noben način ne skrajša ali podaljša obveznih obdobij omejevanja.

12.6 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 the respective executive offices of SAP and Licensee at the addresses first set forth in any Software Order Form. Where in this section 12.6 or elsewhere in this Agreement written form is required, that requirement can be met by facsimile transmission, exchange of registered letters or other written form.

12.6 Obveščanje. Vsa obvestila ali poročila, ki so obvezna ali opcijska v skladu s to Pogodbo, morajo biti v pisni obliki in so veljavna, če so poslana ustreznim oddelkom SAP-ja in Lastnika licence na naslove, navedene v Naročilnici za programsko opremo. Če je v poglavju 12.6 ali v katerem drugem delu Pogodbe zahtevana pisna oblika, je ta zahteva izpolnjena, če je obvestilo poslano po telefaksu, s priporočenim pismom ali drugi pisni obliki.

12.7 Force Majeure. Any delay or nonperformance of any provision of this Agreement (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

12.7 Višja sila. Vsaka zamuda ali neupoštevanje kateregakoli od določil te Pogodbe (razen plačil navedenih zneskov), ki je posledica pogojev izven razumnega vpliva pogodbene stranke izvajalke, ne sme predstavljati kršitve Pogodbe in velja, da je čas za izvedbo takega določila podaljšan za čas, enak času trajanja pogojev, ki so preprečili izvedbo določila.

12.8 Entire Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between SAP and Licensee, 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. This Agreement may be modified only by a writing signed by both parties. This Agreement shall prevail over any additional, conflicting, or inconsistent terms and conditions which may appear on any purchase order or other document furnished by Licensee to SAP. This Agreement shall prevail over any additional, conflicting or inconsistent terms and conditions which may appear in any clickwrap end user agreement included in the Software. Signatures sent by electronic means (facsimile or scanned and sent via e-mail) shall be deemed original signatures.

12.8 Celotna pogodba. Ta Pogodba predstavlja celoten in izključen dogovor med SAP-jem in Lastnikom licence ter vključuje vse predhodne pogovore, razprave in dopise, ki jih nadomešča ta Pogodba. Spremembe te Pogodbe so lahko samo v pisni obliki in jih morata podpisati obe pogodbeni stranki. V primeru kakršnihkoli dodatnih, nasprotujočih ali nekonsistentnih pogojev v kakršnikoli naročilnici ali drugem dokumentu, ki ga izda Lastnik licence ali SAP, veljajo določila te Pogodbe. V primeru kakršnihkoli dodatnih, nasprotujočih ali nekonsistentnih pogojev v katerikoli click-wrap pogodbi za končnega uporabnika, priloženi Programski opremi, veljajo določila te Pogodbe. Podpisi, poslani prek elektronskih medijev (telefaks ali skeniran in poslan z e-pošto), veljajo za originalne podpise.

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 Software Order Form; (ii) the Schedules; (iii) the Use Terms; and (iv) the GTC.

12.9 Hierarhija. V primeru neskladja oziroma nasprotij določil posameznih sestavin te Pogodbe se uporablja naslednji prednostni vrstni red: (i) Naročilnica za programsko opremo; (ii) Časovni načrti; (iii) Pogoji uporabe; ter (iv) Splošni pogoji.