

ORDINANCE NUMBER 3197

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT WITH SAP CONCUR FOR SOFTWARE TO REIMBURSE EMPLOYEES FOR TRAVEL EXPENSES

WHEREAS, The City has used paper-heavy methods to reimburse employees for travel which require manual calculations and possibilities for error; and

WHEREAS, The City has been pursuing efforts in minimizing paper to reduce paper usage in City government; and

WHEREAS, the Finance Department has reviewed software from SAP Concur for a cloud-based employee reimbursement program with credit card reconciliation; and

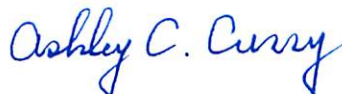
WHEREAS, the Finance Department, City Manager and City Attorney have reviewed the agreements needed to obtain said software and recommend approval; a copy of which is marked as Exhibit A, attached to and incorporated into this Ordinance Number 3197 as if written fully therein; and

WHEREAS, the Mayor and City Council of the City of Vestavia Hills feel it is in the best public interest to accept said recommendation and secure said software.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The Mayor and City Manager are authorized to execute and deliver said agreement as detailed in Exhibit A; and
2. Software expense shall be funded as detailed in the City's FY24 General Fund Budget; and
3. This Ordinance Number 3197 shall become effective upon adoption and publishing/posting as required by Alabama law.

DONE, ORDERED, ADOPTED and APPROVED this the 25th day of September, 2023.



Ashley C. Curry
Mayor

ATTESTED BY:



Rebecca Leavings
City Clerk

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

1. DEFINITIONS

- 1.1. **“Affiliate”** means any legal entity in which SAP SE or Customer, directly or indirectly, holds more than 50% of the entity’s shares or voting rights. Any legal entity will be considered an Affiliate as long as that interest is maintained.
- 1.2. **“Agreement”** means the agreement as defined in the applicable Order Form.
- 1.3. **“Authorized User”** means any individual to whom Customer grants access authorization to use the Cloud Service that is an employee, agent, contractor or representative of Customer, Customer’s Affiliates, or Customer’s and Customer’s Affiliates’ Business Partners.
- 1.4. **“Business Partner”** means a legal entity that requires use of a Cloud Service in connection with Customer’s and its Affiliates’ internal business operations. These may include customers, distributors, service providers and/or suppliers of Customer and its Affiliates.
- 1.5. **“Cloud Service”** means any distinct, hosted, supported and operated on-demand solution provided by SAP under an Order Form.
- 1.6. **“Confidential Information”** means all information which the disclosing party protects against unrestricted disclosure to others that the disclosing party or its representatives designates as confidential, internal and/or proprietary at the time of disclosure, should reasonably be understood to be confidential at the time of disclosure given the nature of the information and the circumstances surrounding its disclosure.
- 1.7. **“Customer Data”** means any content, materials, data and information that Authorized Users enter into the production system of a Cloud Service or that Customer derives from its use of and stores in the Cloud Service (e.g. Customer-specific reports). Customer Data and its derivatives will not include SAP’s Confidential Information.
- 1.8. **“Documentation”** means SAP’s then-current technical and functional documentation relating to the Cloud Services located at <https://help.sap.com> or which SAP makes available to Customer as part of the Cloud Service, including technical and functional specifications as updated from time to time in accordance with the Agreement.
- 1.9. **“Export Laws”** means all applicable import, export control and sanctions laws, including without limitation, the laws of the United States, the EU, and Germany.
- 1.10. **“Feedback”** means input, comments or suggestions regarding SAP’s business and technology direction, and the possible creation, modification, correction, improvement or enhancement of the Cloud Service.
- 1.11. **“Intellectual Property Rights”** means patents of any type, design rights, utility models or other similar invention rights, copyrights and related rights, trade secret, know-how or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, whether registered or unregistered, including applications (or rights to apply) 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.
- 1.12. **“Order Form”** means the ordering document for a Cloud Service that references the GTC.
- 1.13. **“Professional Services”** means implementation services, consulting services or other related services provided under an Order Form and may also be referred to in the Agreement as “Consulting Services”.
- 1.14. **“Representatives”** means a party’s Affiliates, employees, contractors, sub-contractors, legal representatives, accountants, or other professional advisors.
- 1.15. **“SAP Materials”** means any materials (including statistical reports) provided, developed or made available by SAP (independently or with Customer’s cooperation) in the course of performance under the Agreement, including in the delivery of any support or Professional Services to Customer. SAP Materials do not include the Customer Data, Customer Confidential Information or the Cloud Service. SAP Materials may also be referred to in the Agreement as “Cloud Materials”.

- 1.16. **"SAP SE"** means SAP SE, the parent company of SAP.
- 1.17. **"Subscription Term"** means the initial subscription term and if applicable any renewal subscription term of a Cloud Service identified in the Order Form.
- 1.18. **"Taxes"** means all transactional taxes, levies and similar charges (and any related interest and penalties) such as federal, state or local sales tax, value added tax, goods and services tax, use tax, property tax, excise tax, service tax or similar taxes.
- 1.19. **"Usage Metric"** means the standard of measurement for determining the permitted use and calculating the fees due for a Cloud Service as set forth in an Order Form.

2. USAGE RIGHTS AND RESTRICTIONS

2.1. Grant of Rights

SAP grants to Customer a non-exclusive and non-transferable right to use the Cloud Service (including its implementation and configuration), SAP Materials and Documentation solely for Customer's and its Affiliates' internal business operations. Customer may use the Cloud Service world-wide, except Customer shall not use the Cloud Service from countries where such use is prohibited by Export Laws. Permitted uses and restrictions of the Cloud Service also apply to SAP Materials and Documentation.

2.2. Authorized Users

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

2.3. Verification of Use

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

2.4. Suspension of Cloud Service

SAP may suspend or limit use of the Cloud Service if:

- a) continued use may result in material harm to the Cloud Service or its users; or
- b) to comply with laws and regulations applicable to SAP, its Affiliates' or subcontractors.

SAP will promptly notify Customer of the suspension or limitation. SAP will limit a suspension or limitation in time and scope as reasonably possible under the circumstances.

2.5. Third Party Web Services

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

2.6. Mobile Access to Cloud Service

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

2.7. On-Premise Components

The Cloud Service may include on-premise components that can be downloaded and installed (including updates) by Customer. The System Availability SLA does not apply to these components. Customer may only use the on-premise components during the Subscription Term.

3. SAP RESPONSIBILITIES

3.1. Provisioning

SAP provides access to the Cloud Service as described in the Agreement. SAP makes the Cloud Service available and is responsible for its operation.

3.2. Support

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

3.3. Security

SAP will implement and maintain appropriate technical and organizational measures to protect the personal data processed by SAP as part of the Cloud Service as described in the Data Processing Agreement incorporated into the Order Form in compliance with applicable data protection law.

3.4. Modifications

3.4.1. Scope

SAP may modify the Cloud Service (including support services, Maintenance Windows and Major Upgrade Windows), provided that SAP shall not materially degrade the core functionality of the Cloud Service during the Subscription Term.

3.4.2. Modification Notices

SAP shall provide Customer with reasonable advance notice of modifications to the functionality of the Cloud Service in accordance with Section 13.5, except for any change to a Maintenance Window or Major Upgrade Window which shall be in accordance with the Service Level Agreement.

3.4.3. Customer Termination

If the modification materially degrades the Cloud Service and SAP does not provide equivalent functionality, Customer may terminate its subscription to the affected Cloud Service by providing written notice to SAP within 1 month of SAP's notice. If SAP does not receive timely notice, Customer is deemed to have accepted the modification.

4. CUSTOMER AND PERSONAL DATA

4.1. Customer Ownership

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

4.2. Customer Data

Customer is responsible for the Customer Data and entering it into the Cloud Service. Customer grants to SAP (including SAP SE, its Affiliates and subcontractors) a non-exclusive right to process and use Customer Data to provide and support the Cloud Service and as set out in the Agreement.

4.3. Personal Data

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

4.4. Security

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

4.5. Access to Customer Data

4.5.1. During the Subscription Term, Customer can access its Customer Data at any time. Customer may export and retrieve its Customer Data in a standard format. Export and retrieval may be subject to technical

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

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

5. FEES AND TAXES

5.1. Fees and Payment

Customer shall pay fees as stated in the Order Form. If Customer does not pay fees in accordance with the terms of the Agreement then, in addition to any other available remedies, SAP may suspend Customer's use of the applicable Cloud Service until payment is made. SAP shall provide Customer with prior written notice before any such suspension. Any fees not paid when due shall accrue interest at the maximum legal rate. Purchase orders are for administrative convenience only. SAP may issue an invoice and collect payment without a corresponding purchase order. Customer may not withhold, reduce or set-off fees owed. Customer may not reduce Usage Metrics during the Subscription Term. All Order Forms are non-cancellable. All fees are non-refundable except per Sections 6.3 or 7.4.2.

5.2. Taxes

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

6. TERM AND TERMINATION

6.1. Term

The Subscription Term is as stated in the Order Form.

6.2. Termination

A party may terminate the Agreement:

- a) for cause upon 30 days' prior written notice of the other party's material breach of any provision of the Agreement (including Customer's failure to pay any money due hereunder within 30 days of the payment due date) unless the breaching party has cured the breach during such 30 day period;
- b) as permitted under Sections 3.4.3, 7.3.b), 7.4.3, 8.1.4, or 13.4 (with termination effective thirty days after receipt of notice in each of these cases); or
- c) immediately if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or otherwise materially breaches Sections 11 or 13.6.

6.3. Refund and Payments

For termination by Customer (including but not limited to Sections 3.4.3, 6.2(a), 7.3 (b) or 7.4.3) or termination under Sections 8.1.4 or 13.4 Customer will be entitled to:

- a) a pro-rata refund in the amount of the unused portion of prepaid fees for the terminated subscription calculated as of the effective date of termination (unless such refund is prohibited by Export Laws); and
- b) a release from the obligation to pay fees due for periods after the effective date of termination.

6.4. Effect of Expiration or Termination

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

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

6.5. Survival

Sections 1, 5, 6.3, 6.4, 6.5, 8, 9, 10, 11, 12 and 13 will survive the expiration or termination of the Agreement.

7. WARRANTIES

7.1. Compliance with Law

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

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

7.2. Good Industry Practices

SAP warrants that it will provide the Cloud Service:

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

7.3. Remedy

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

- a) correction of the deficient Cloud Service; and
- b) if SAP fails to correct the deficient Cloud Service, Customer may terminate its subscription for the affected Cloud Service. Any termination must occur within 3 months of SAP's failure to correct the deficient Cloud Service.

7.4. System Availability

7.4.1. SAP warrants to maintain an average monthly system availability for the production system of the Cloud Service as defined in the applicable Service Level Agreement or Supplement ("SLA").

7.4.2. Customer's sole and exclusive remedy for SAP's breach of the SLA is the issuance of a credit in the amount described in the SLA. Customer will follow SAP's posted credit claim procedure. When the validity of the service credit is confirmed by SAP in writing (email permitted), Customer may apply the credit to a future invoice for the Cloud Service or request a refund for the amount of the credit if no future invoice is due.

7.4.3. In the event SAP fails to meet the SLA (i) for 4 consecutive months, or (ii) for 5 or more months during any 12 month period, or (iii) at a system availability level of at least 95% for 1 calendar month, Customer may terminate its subscriptions for the affected Cloud Service by providing SAP with written notice within 30 days after the failure.

7.5. Warranty Exclusions

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

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

7.6. Disclaimer

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

8. **THIRD PARTY CLAIMS**

8.1. Claims Brought Against Customer

8.1.1. SAP will defend Customer against claims brought against Customer and its Affiliates by any third party alleging that Customer's and its Affiliates' use of the Cloud Service infringes or misappropriates a patent claim, copyright, or trade secret right. SAP will indemnify Customer against all damages finally awarded against Customer (or the amount of any settlement SAP enters into) with respect to these claims.

8.1.2. SAP's obligations under Section 8.1 will not apply if the claim results from:

- a) use of the Cloud Service in conjunction with any product or service not provided by SAP;
- b) use of the Cloud Service provided for no fee;
- c) Customer's failure to timely notify SAP in writing of any such claim if SAP is prejudiced by Customer's failure to provide or delay in providing such notice; or
- d) any use of the Cloud Service not permitted under the Agreement.

8.1.3. If a third party makes a claim or in SAP's reasonable opinion is likely to make such a claim, SAP may at its sole option and expense:

- a) procure for Customer the right to continue using the Cloud Service under the terms of the Agreement; or
- b) replace or modify the Cloud Service to be non-infringing without a material decrease in functionality.

8.1.4. If these options are not reasonably available, SAP or Customer may terminate Customer's subscription to the affected Cloud Service upon written notice to the other.

8.1.5. SAP expressly reserves the right to cease such defense of any claim(s) if the applicable Cloud Service is no longer alleged to infringe or misappropriate the third party's rights.

8.2. Claims Brought Against SAP

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

8.3. Third Party Claim Procedure

All third party claims under Section 8 shall be conducted as follows:

- a) The party against whom a third party claim is brought (the "**Named Party**") will timely notify the other party (the "**Defending Party**") in writing of any claim. The Named Party shall reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the Defending Party subject to Section 8.3b).
- b) The Defending Party will have the right to fully control the defense.
- c) Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by the Named Party.

8.4. Exclusive Remedy

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

9. **LIMITATION OF LIABILITY**

9.1. No Cap on Liability

Neither party's liability is capped for damages resulting from:

- a) the parties' obligations under Section 8.1.1 and 8.2 (excluding SAP's obligation under Section 8.1.1 where the third party claim(s) relates to a Cloud Service(s) not developed by SAP);
- b) death or bodily injury arising from either party's gross negligence or willful misconduct; and/or
- c) Customer's unauthorized use of any Cloud Service and/or any failure by Customer to pay any fees due under the Agreement.

9.2. Liability Cap

Except as set forth in Section 9.1, the maximum aggregate liability of either party (or its respective Affiliates or SAP's subcontractors) to the other or to any other person or entity for all events (or series of connected events) arising in any 12 month period will not exceed the annual subscription fees paid for the applicable Cloud Service associated with the damages for that 12 month period. Any "12 month period" commences on the Subscription Term start date or any of its yearly anniversaries.

9.3. Exclusion of Damages

In no case will:

- a) either party (or its respective Affiliates or SAP's subcontractors) be liable to the other party for any special, incidental, consequential, or indirect damages, loss of goodwill or business profits, work stoppage or for exemplary or punitive damages; and/or
- b) SAP be liable for any damages caused by any Cloud Service provided for no fee.

10. **INTELLECTUAL PROPERTY RIGHTS**

10.1. SAP Ownership

10.1.1. Except for any rights expressly granted to Customer under the Agreement, SAP, SAP SE, their Affiliates or licensors own all Intellectual Property Rights in and derivative works of:

- a) the Cloud Service;
- b) SAP Materials;
- c) Documentation; and
- d) any Professional Services, design contributions, related knowledge or processes, whether or not developed for Customer.

10.1.2. Customer shall execute such documentation and take such other steps as is reasonably necessary to secure SAP's or SAP SE's title over such rights.

10.2. Acceptable Use Policy

10.2.1. With respect to the Cloud Service, Customer will not:

- a) copy, translate, disassemble, decompile, make derivative works, or reverse engineer the Cloud Service or SAP Materials (or attempt any of the foregoing);
- b) enter, store, or transfer any content or data on or via the Cloud Service that is unlawful or infringes any Intellectual Property Rights;
- c) circumvent or endanger the operation or security of the Cloud Service; or
- d) remove SAP's copyright and authorship notices.

11. CONFIDENTIALITY

11.1. Use of Confidential Information

11.1.1. The receiving party shall:

- a) maintain all Confidential Information of the disclosing party in strict confidence, taking steps to protect the disclosing party's Confidential Information substantially similar to those steps that the receiving party takes to protect its own Confidential Information, which shall not be less than a reasonable standard of care;
- b) not disclose or reveal any Confidential Information of the disclosing party to any person other than its Representatives whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under obligations of confidentiality substantially similar to those in Section 11;
- c) not use or reproduce any Confidential Information of the disclosing party for any purpose outside the scope of the Agreement; and
- d) retain any and all confidential, internal, or proprietary notices or legends which appear on the original and on any reproductions.

11.1.2. Customer shall not disclose any information about the Agreement, its terms and conditions, the pricing or any other related facts to any third party.

11.1.3. Confidential Information of either party disclosed prior to execution of the Agreement will be subject to Section 11.

11.2. Compelled Disclosure

The receiving party may disclose the disclosing party's Confidential Information to the extent required by law, regulation, court order or regulatory agency; provided, that the receiving party required to make such a disclosure uses reasonable efforts to give the disclosing party reasonable prior notice of such required disclosure (to the extent legally permitted) and provides reasonable assistance in contesting the required disclosure, at the request and cost of the disclosing party. The receiving party and its Representatives shall use commercially reasonable efforts to disclose only that portion of the Confidential Information which is legally requested to be disclosed and shall request that all Confidential Information that is so disclosed is accorded confidential treatment.

11.3. Exceptions

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

- a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information;
- b) has become generally known or available to the public through no act or omission by the receiving party;
- c) at the time of disclosure, was known to the receiving party free of confidentiality restrictions;
- d) is lawfully acquired free of restriction by the receiving party from a third party having the right to furnish such Confidential Information; or
- e) the disclosing party agrees in writing is free of confidentiality restrictions.

11.4. Destruction and Return of Confidential Information

Upon the disclosing party's request, the receiving party shall promptly destroy or return the disclosing party's Confidential Information, including copies and reproductions of it. The obligation to destroy or return Confidential Information shall not apply:

- a) if legal proceedings related to the Confidential Information prohibit its return or destruction, until the proceedings are settled or a final judgment is rendered;
- b) to Confidential Information held in archive or back-up systems under general systems archiving or backup policies; or

c) to Confidential Information the receiving party is legally entitled or required to retain.

12. FEEDBACK

12.1. Customer may at its sole discretion and option provide SAP with Feedback. In such instance, SAP, SAP SE and its Affiliates may in their sole discretion retain and freely use, incorporate or otherwise exploit such Feedback without restriction, compensation or attribution to the source of the Feedback.

13. MISCELLANEOUS

13.1. Severability

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

13.2. No Waiver

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

13.3. Counterparts

The Agreement may be signed in counterparts, each of which is an original and together constitute one Agreement. Electronic signatures via DocuSign or any other form as determined by SAP are deemed original signatures.

13.4. Trade Compliance

13.4.1. SAP and Customer shall comply with Export Laws in the performance of this Agreement. SAP Confidential Information is subject to Export Laws. Customer, its Affiliates, and Authorized Users shall not directly or indirectly export, re-export, release, or transfer Confidential Information in violation of Export Laws. Customer is solely responsible for compliance with Export Laws related to Customer Data, including obtaining any required export authorizations for Customer Data. Customer shall not use the Cloud Service from Crimea/Sevastopol, Cuba, Iran, the People's Republic of Korea (North Korea) the so-called Luhansk Peoples Republic (LNR) and Donetsk Peoples Republic (DNR) or Syria.

13.4.2. Upon SAP's request, Customer shall provide information and documents to support obtaining an export authorization. Upon written notice to Customer SAP may immediately terminate Customer's subscription to the affected Cloud Service if:

- a) the competent authority does not grant such export authorization within 18 months; or
- b) Export Laws prohibit SAP from providing the Cloud Service or Professional Services to Customer.

13.5. Notices

All notices will be in writing and given when delivered to the address set forth in an Order Form. Notices from SAP to Customer may be in the form of an electronic notice to Customer's authorized representative or administrator. SAP may provide notice of modifications to the Cloud Service under Section 3.4.2 via Documentation, release notes or publication. System notifications and information from SAP relating to the operation, hosting or support of the Cloud Service can also be provided within the Cloud Service, or made available via the SAP Support Portal.

13.6. Assignment

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

13.7. Subcontracting

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

13.8. Relationship of the Parties

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

13.9. Force Majeure

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

13.10. Governing Law

The Agreement and any claims (including any non-contractual claims) arising out of or in connection with this Agreement and its subject matter will be governed by and construed under the laws of the State of New York. The United Nations Convention on Contracts for the International Sale of Goods and any conflicts of law principles and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement.

13.11. Jurisdiction and Mandatory Venue

The parties submit to the exclusive jurisdiction of the courts located in New York, New York. The parties waive any objections to the venue or jurisdictions identified in this provision. The mandatory, sole and exclusive venue, place or forum for any disputes arising from the Agreement (including any dispute regarding the existence, validity or termination of the Agreement) shall be New York, New York.

13.12. Waiver of Right to Jury Trial

Each party waives any right it may have to a jury trial for any claim or cause of action arising out of or in relation to the Agreement.

13.13. Statute of Limitation

Customer must initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within 1 year from the date when the Customer knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

13.14. Entire Agreement

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

DATA PROCESSING AGREEMENT FOR CLOUD SERVICES

1. DEFINITIONS

- 1.1. **"Controller"** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of Personal Data; for the purposes of this DPA, where Customer acts as processor for another controller, it shall in relation to SAP be deemed as additional and independent Controller with the respective controller rights and obligations under this DPA.
- 1.2. **"Data Protection Law"** means the applicable legislation protecting the fundamental rights and freedoms of persons and their right to privacy with regard to the processing of Personal Data under the Agreement.
- 1.3. **"Data Subject"** means an identified or identifiable natural person as defined by Data Protection Law.
- 1.4. **"EEA"** means the European Economic Area, namely the European Union Member States along with Iceland, Liechtenstein and Norway.
- 1.5. **"GDPR"** means the General Data Protection Regulation 2016/679.
- 1.6. **"My Trust Center"** means information available on the SAP support portal (see: <https://support.sap.com/en/my-support/trust-center.html>) or the SAP agreements website (see: <https://www.sap.com/about/trust-center/agreements.html>) or any subsequent website(s) made available by SAP to Customer.
- 1.7. **"New SCC Relevant Transfer"** means a transfer (or an onward transfer) to a Third Country of Personal Data that is either subject to GDPR or to applicable Data Protection Law and where any required adequacy means under GDPR or applicable Data Protection Law can be met by entering into the New Standard Contractual Clauses.
- 1.8. **"New Standard Contractual Clauses"** means the unchanged standard contractual clauses, published by the European Commission, reference 2021/914 or any subsequent final version thereof which shall automatically apply. To avoid doubt Modules 2 and 3 shall apply as set out in Section 8.
- 1.9. **"Personal Data"** means any information relating to a Data Subject which is protected under Data Protection Law. For the purposes of the DPA, it includes only personal data which is:
- a) entered by Customer or its Authorized Users into or derived from their use of the Cloud Service; or
 - b) supplied to or accessed by SAP or its Subprocessors in order to provide support under the Agreement. Personal Data is a sub-set of Customer Data (as defined under the Agreement).
- 1.10. **"Personal Data Breach"** means a confirmed:
- a) accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or unauthorized third-party access to Personal Data; or
 - b) similar incident involving Personal Data, in each case for which a Controller is required under Data Protection Law to provide notice to competent data protection authorities or Data Subjects.
- 1.11. **"Processor"** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller, be it directly as processor of a controller or indirectly as subprocessor of a processor which processes personal data on behalf of the controller.
- 1.12. **"Schedule"** means the numbered Appendix with respect to the Standard Contractual Clauses (2010) and the numbered Annex with respect to the New Standard Contractual Clauses.
- 1.13. **"Standard Contractual Clauses (2010)"** means the Standard Contractual Clauses (processors) published by the European Commission, reference 2010/87/EU.
- 1.14. **"Subprocessor"** or **"sub-processor"** means SAP Affiliates, SAP SE, SAP SE Affiliates and third parties engaged by SAP, SAP SE or SAP SE's Affiliates in connection with the Cloud Service and which process Personal Data in accordance with this DPA.

1.15. **"Technical and Organizational Measures"** means the technical and organizational measures for the relevant Cloud Service published on My Trust Center (see: <https://www.sap.com/about/trust-center/agreements/cloud/cloud-services.html?search=Technical%20Organizational%20Measures>).

1.16. **"Third Country"** means any country, organization or territory not acknowledged by the European Union under Article 45 of GDPR as a safe country with an adequate level of data protection.

2. BACKGROUND

2.1. Purpose and Application

2.1.1. This document ("**DPA**") is incorporated into the Agreement and forms part of a written (including in electronic form) contract between SAP and Customer.

2.1.2. This DPA applies to Personal Data processed by SAP and its Subprocessors in connection with its provision of the Cloud Service.

2.1.3. This DPA does not apply to non-production environments of the Cloud Service if such environments are made available by SAP. Customer shall not store Personal Data in such environments.

2.2. Structure

Schedules 1, 2 and 3 are incorporated into and form part of this DPA. They set out the agreed subject-matter, the nature and purpose of the processing, the type of Personal Data, categories of data subjects (Schedule 1) and the applicable Technical and Organizational Measures (Schedule 2). Schedule 3 describes the Israeli Local Requirements. In the event of any inconsistencies between Schedule 3 and the DPA (including Schedules 1 and 2) that cannot be settled by reasonable interpretation, the provisions of Schedule 3 shall prevail. Nothing stated in the DPA or Schedule 3 shall derogate in any manner from the Customer's general responsibility to fulfill all of its requirements, as the database owner under the Privacy Protection Regulations (Information Security), 5777- 2017 (the "**Regulations**").

2.3. Governance

2.3.1. SAP acts as a Processor and Customer and those SAP entities that it permits to use the Cloud Service act as Controllers under the DPA.

2.3.2. Customer acts as a single point of contact and shall obtain any relevant authorizations, consents and permissions for the processing of Personal Data in accordance with this DPA, including, where applicable approval by Controllers to use SAP as a Processor. Where authorizations, consent, instructions or permissions are provided by Customer these are provided not only on behalf of the Customer but also on behalf of any other Controller using the Cloud Service. Where SAP informs or gives notice to Customer, such information or notice is deemed received by those Controllers permitted by Customer to use the Cloud Service. Customer shall forward such information and notices to the relevant Controllers.

3. SECURITY OF PROCESSING

3.1. Applicability of the Technical and Organizational Measures

SAP has implemented and will apply the Technical and Organizational Measures. Customer has reviewed such measures and agrees that as to the Cloud Service selected by Customer in the Order Form the measures are appropriate taking into account the state of the art, the costs of implementation, nature, scope, context and purposes of the processing of Personal Data.

3.2. Changes

3.2.1. SAP applies the Technical and Organizational Measures to SAP's entire customer base hosted out of the same data center or receiving the same Cloud Service. SAP may change the Technical and Organizational Measures at any time without notice so long as it maintains a comparable or better level of security. Individual measures may be replaced by new measures that serve the same purpose without diminishing the security level protecting Personal Data.

3.2.2. SAP will publish updated versions of the Technical and Organizational Measures on My Trust Center and where available Customer may subscribe to receive e-mail notification of such updated versions.

4. SAP OBLIGATIONS

4.1. Instructions from Customer

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

4.2. Processing on Legal Requirement

SAP may also process Personal Data where required to do so by applicable law. In such a case, SAP shall inform Customer of that legal requirement before processing unless that law prohibits such information on important grounds of public interest.

4.3. Personnel

To process Personal Data, SAP and its Subprocessors shall only grant access to authorized personnel who have committed themselves to confidentiality. SAP and its Subprocessors will regularly train personnel having access to Personal Data in applicable data security and data privacy measures.

4.4. Cooperation

4.4.1. At Customer's request, SAP will reasonably cooperate with Customer and Controllers in dealing with requests from Data Subjects or regulatory authorities regarding SAP's processing of Personal Data or any Personal Data Breach.

4.4.2. If SAP receives a request from a Data Subject in relation to the Personal Data processing hereunder, SAP will promptly notify Customer (where the Data Subject has provided information to identify the Customer) via e-mail and shall not respond to such request itself but instead ask the Data Subject to redirect its request to Customer.

4.4.3. In the event of a dispute with a Data Subject as it relates to SAP's processing of Personal Data under this DPA, the Parties shall keep each other informed and, where appropriate, reasonably co-operate with the aim of resolving the dispute amicably with the Data Subject.

4.4.4. SAP shall provide functionality for production systems that supports Customer's ability to correct, delete or anonymize Personal Data from a Cloud Service, or restrict its processing in line with Data Protection Law. Where such functionality is not provided, SAP will correct, delete or anonymize any Personal Data, or restrict its processing, in accordance with the Customer's instruction and Data Protection Law.

4.5. Personal Data Breach Notification

SAP will notify Customer without undue delay after becoming aware of any Personal Data Breach and provide reasonable information in its possession to assist Customer to meet Customer's obligations to report a Personal Data Breach as required under Data Protection Law. SAP may provide such information in phases as it becomes available. Such notification shall not be interpreted or construed as an admission of fault or liability by SAP.

4.6. Data Protection Impact Assessment

If, pursuant to Data Protection Law, Customer (or its Controllers) are required to perform a data protection impact assessment or prior consultation with a regulator, at Customer's request, SAP will provide such documents as are generally available for the Cloud Service (for example, this DPA, the Agreement, Audit Reports and Certifications). Any additional assistance shall be mutually agreed between the Parties.

5. DATA EXPORT AND DELETION

5.1. Export and Retrieval by Customer

During the Subscription Term and subject to the Agreement, Customer can access its Personal Data at any time. Customer may export and retrieve its Personal Data in a standard format. Export and retrieval may be subject to technical limitations, in which case SAP and Customer will find a reasonable method to allow Customer access to Personal Data.

5.2. Deletion

Before the Subscription Term expires, Customer may use SAP's self-service export tools (as available) to perform a final export of Personal Data from the Cloud Service (which shall constitute a "return" of Personal Data). At the end of the Subscription Term, Customer hereby instructs SAP to delete the Personal Data remaining on servers hosting the Cloud Service within a reasonable time period in line with Data Protection Law (not to exceed 6 months) unless applicable law requires retention.

6. CERTIFICATIONS AND AUDITS

6.1. Customer Audit

Customer or its independent third party auditor reasonably acceptable to SAP (which shall not include any third party auditors who are either a competitor of SAP or not suitably qualified or independent) may audit SAP's control environment and security practices relevant to Personal Data processed by SAP only if:

- a) SAP has not provided sufficient evidence of its compliance with the Technical and Organizational Measures that protect the production systems of the Cloud Service through providing either: (i) a certification as to compliance with ISO 27001 or other standards (scope as defined in the certificate); or (ii) a valid ISAE3402 or ISAE3000 or other SOC1-3 attestation report. Upon Customer's request audit reports or ISO certifications are available through the third party auditor or SAP;
- b) a Personal Data Breach has occurred;
- c) an audit is formally requested by Customer's data protection authority; or
- d) provided under mandatory Data Protection Law conferring Customer a direct audit right and provided that Customer shall only audit once in any 12 month period unless mandatory Data Protection Law requires more frequent audits.

6.2. Other Controller Audit

Any other Controller may assume Customer's rights under Section 6.1 only if it applies directly to the Controller and such audit is permitted and coordinated by Customer. Customer shall use all reasonable means to combine audits of multiple other Controllers to avoid multiple audits, unless the audit must be undertaken by the other Controller itself under Data Protection Law. If several Controllers whose Personal Data is processed by SAP on the basis of the Agreement require an audit, Customer shall use all reasonable means to combine the audits and to avoid multiple audits.

6.3. Scope of Audit

Customer shall provide at least 60 days advance notice of any audit unless mandatory Data Protection Law or a competent data protection authority requires shorter notice. The frequency and scope of any audits shall be mutually agreed between the parties acting reasonably and in good faith. Customer audits shall be limited in time to a maximum of 3 business days. Beyond such restrictions, the parties will use current certifications or other audit reports to avoid or minimize repetitive audits. Customer shall provide the results of any audit to SAP.

6.4. Cost of Audits

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

7. SUBPROCESSORS

7.1. Permitted Use

SAP is granted a general authorization to subcontract the processing of Personal Data to Subprocessors, provided that:

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

7.2. New Subprocessors

SAP's use of Subprocessors is at its discretion, provided that:

- a) SAP will inform Customer in advance (by email or by posting on the My Trust Center) of any intended additions or replacements to the list of Subprocessors including name, address and role of the new Subprocessor; and
- b) Customer may object to such changes as set out in Section 7.3.

7.3. Objections to New Subprocessors

7.3.1. If Customer has a legitimate reason under Data Protection Law to object to the new Subprocessors' processing of Personal Data, Customer may terminate the Agreement (limited to the Cloud Service for which the new Subprocessor is intended to be used) on written notice to SAP. Such termination shall take effect at the time determined by the Customer which shall be no later than 30 days from the date of SAP's notice to Customer informing Customer of the new Subprocessor. If Customer does not terminate within this 30 day period, Customer is deemed to have accepted the new Subprocessor.

7.3.2. Within the 30 day period from the date of SAP's notice to Customer informing Customer of the new Subprocessor, Customer may request that the parties discuss in good faith a resolution to the objection. Such discussions shall not extend the period for termination and do not affect SAP's right to use the new Subprocessor(s) after the 30 day period.

7.3.3. Any termination under this Section 7.3 shall be deemed to be without fault by either party and shall be subject to the terms of the Agreement.

7.4. Emergency Replacement

SAP may replace a Subprocessor without advance notice where the reason for the change is outside of SAP's reasonable control and prompt replacement is required for security or other urgent reasons. In this case, SAP will inform Customer of the replacement Subprocessor as soon as possible following its appointment. Section 7.2 applies accordingly.

8. INTERNATIONAL PROCESSING

8.1. Conditions for International Processing

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

8.2. Applicability of the Standard Contractual Clauses (2010)

8.2.1. Where, for the period up to and including 26 September 2021, Personal Data of a Controller that is subject to GDPR is processed in a Third Country, or where Personal Data of a Swiss or United Kingdom based Controller

or another Controller is processed in a Third Country and such international processing requires an adequacy means under the laws of the country of the Controller and the required adequacy means can be met by entering into Standard Contractual Clauses (2010), then:

- a) SAP and Customer enter into the Standard Contractual Clauses (2010);
- b) Customer joins the Standard Contractual Clauses (2010) entered into by SAP or SAP SE and the Subprocessor as an independent owner of rights and obligations; or
- c) other Controllers whose use of the Cloud Services has been authorized by Customer under the Agreement may also enter into Standard Contractual Clauses (2010) with SAP or the relevant Subprocessors in the same manner as Customer in accordance with Section 8.2.1 a) and b) above. In such case, Customer will enter into the Standard Contractual Clauses (2010) on behalf of the other Controllers.

8.2.2. The Standard Contractual Clauses (2010) shall be governed by the law of the country in which the relevant Controller is established.

8.2.3. Where applicable Data Protection Law adopts the New Standard Contractual Clauses as meeting any required adequacy means as an alternative or update to the Standard Contractual Clauses (2010) then the New Standard Contractual Clauses shall apply in accordance with Section 8.3.

8.3. Applicability of New Standard Contractual Clauses

8.3.1. The following shall apply with effect from 27 September 2021 and shall solely apply in respect of New SCC Relevant Transfers:

8.3.1.1. Where SAP is not located in a Third Country and acts as a data exporter, SAP (or SAP SE on its behalf) has entered in to the New Standard Contractual Clauses with each Subprocessor as the data importer. Module 3 (Processor to Processor) of the New Standard Contractual Clauses shall apply to such New SCC Relevant Transfers.

8.3.1.2. Where SAP is located in a Third Country:

SAP and Customer hereby enter into the New Standard Contractual Clauses with Customer as the data exporter and SAP as the data importer which shall apply as follows:

- a) Module 2 (Controller to Processor) shall apply where Customer is a Controller; and
- b) Module 3 (Processor to Processor) shall apply where Customer is a Processor. Where Customer acts as Processor under Module 3 (Processor to Processor) of the New Standard Contractual Clauses, SAP acknowledges that Customer acts as Processor under the instructions of its Controller(s).

8.3.2. Other Controllers or Processors whose use of the Cloud Services has been authorized by Customer under the Agreement may also enter into the New Standard Contractual Clauses with SAP in the same manner as Customer in accordance with Section 8.3.1.28.3.1.2 above. In such case, Customer enters into the New Standard Contractual Clauses on behalf of the other Controllers or Processors.

8.3.3. With respect to a New SCC Relevant Transfer, on request from a Data Subject to the Customer, Customer may make a copy of Module 2 or 3 of the New Standard Contractual Clauses entered into between Customer and SAP (including the relevant Schedules), available to Data Subjects.

8.3.4. The governing law of the New Standard Contractual Clauses shall be the law of Germany.

8.4. Relation of the Standard Contractual Clauses to the Agreement

Nothing in the Agreement shall be construed to prevail over any conflicting clause of the Standard Contractual Clauses (2010) or the New Standard Contractual Clauses. For the avoidance of doubt, where this DPA further specifies audit and Subprocessor rules, such specifications also apply in relation to the Standard Contractual Clauses (2010) and the New Standard Contractual Clauses.

- 8.5. Third Party Beneficiary Right under the New Standard Contractual Clauses
- 8.5.1. Where Customer is located in a Third Country and acting as a data importer under Module 2 or Module 3 of the New Standard Contractual Clauses and SAP is acting as Customer's sub-processor under the applicable Module, the respective data exporter shall have the following third party beneficiary right:
- 8.5.2. In the event that Customer has factually disappeared, ceased to exist in law or has become insolvent (in all cases without a successor entity that has assumed the legal obligations of the Customer by contract or by operation of law), the respective data exporter shall have the right to terminate the affected Cloud Service solely to the extent that the data exporter's Personal Data is processed. In such event, the respective data exporter also instructs SAP to erase or return the Personal Data.

9. DOCUMENTATION; RECORDS OF PROCESSING

- 9.1. Each party is responsible for its compliance with its documentation requirements, in particular maintaining records of processing where required under Data Protection Law. Each party shall reasonably assist the other party in its documentation requirements, including providing the information the other party needs from it in a manner reasonably requested by the other party (such as using an electronic system), in order to enable the other party to comply with any obligations relating to maintaining records of processing.

Schedule 1 Description of the Processing

This Schedule 1 applies to describe the Processing of Personal Data for the purposes of the Standard Contractual Clauses (2010), New Standard Contractual Clauses and applicable Data Protection Law.

1. A. LIST OF PARTIES

1.1. Under the Standard Contractual Clauses (2010)

1.1.1. Data Exporter

The data exporter under the Standard Contractual Clauses (2010) is the Customer who subscribed to a Cloud Service that allows Authorized Users to enter, amend, use, delete or otherwise process Personal Data. Where the Customer allows other Controllers to also use the Cloud Service, these other Controllers are also data exporters.

1.1.2. Data Importer

SAP and its Subprocessors that provide and support the Cloud Service are data importers under the Standard Contractual Clauses (2010).

1.2. Under the New Standard Contractual Clauses

1.2.1. Module 2: Transfer Controller to Processor

Where SAP is located in a Third Country, Customer is the Controller and SAP is the Processor, then Customer is the data exporter and SAP is the data importer.

1.2.2. Module 3: Transfer Processor to Processor

Where SAP is located in a Third Country, Customer is a Processor and SAP is a Processor, then Customer is the data exporter and SAP is the data importer.

2. B. DESCRIPTION OF TRANSFER

2.1. Data Subjects

Unless provided otherwise by the data exporter, transferred Personal Data relates to the following categories of Data Subjects: employees, contractors, business partners or other individuals having Personal Data stored in the Cloud Service, transmitted to, made available to, accessed or otherwise processed by the data importer.

2.2. Data Categories

The transferred Personal Data concerns the following categories of data:

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

2.3. Special Data Categories (if agreed)

2.3.1. The transferred Personal Data may comprise special categories of personal data set out in the Agreement ("**Sensitive Data**"). SAP has taken Technical and Organizational Measures as set out in Schedule 2 to ensure a level of security appropriate to protect also Sensitive Data.

2.3.2. The transfer of Sensitive Data may trigger the application of the following additional restrictions or safeguards if necessary to take into consideration the nature of the data and the risk of varying likelihood and severity for the rights and freedoms of natural persons (if applicable):

- a) training of personnel;
- b) encryption of data in transit and at rest;
- c) system access logging and general data access logging.

2.3.3. In addition, the Cloud Services provide measures for handling of Sensitive Data as described in the Documentation.

2.4. Purposes of the data transfer and further processing; Nature of the processing

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

- a) use of Personal Data to set up, operate, monitor and provide the Cloud Service (including operational and technical support);
- b) continuous improvement of service features and functionalities provided as part of the Cloud Service including automation, transaction processing and machine learning;
- c) provision of embedded Professional Services;
- d) communication to Authorized Users;
- e) storage of Personal Data in dedicated data centers (multi-tenant architecture);
- f) release, development and upload of any fixes or upgrades to the Cloud Service;
- g) back up and restoration of Personal Data stored in the Cloud Service;
- h) computer processing of Personal Data, including data transmission, data retrieval, data access;
- i) network access to allow Personal Data transfer;
- j) monitoring, troubleshooting and administering the underlying Cloud Service infrastructure and database;
- k) security monitoring, network-based intrusion detection support, penetration testing; and
- l) execution of instructions of Customer in accordance with the Agreement.

2.4.2. The purpose of the transfer is to provide and support the Cloud Service. SAP and its Subprocessors may support the Cloud Service data centers remotely. SAP and its Subprocessors provide support when a Customer submits a support ticket as further set out in the Agreement.

2.5. Additional description in respect of the New Standard Contractual Clauses:

2.5.1. Applicable Modules of the New Standard Contractual Clauses

- a) Module 2: Transfer Controller to Processor
- b) Module 3: Transfer Processor to Processor

- 2.5.2. For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing
In respect of the New Standard Contractual Clauses, transfers to Subprocessors shall be on the same basis as set out in the DPA.
- 2.5.3. The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).
Transfers shall be made on a continuous basis.
- 2.5.4. The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period.
Personal Data shall be retained for the duration of the Agreement and subject to Section 5.2 of the DPA.
- 3. C. COMPETENT SUPERVISORY AUTHORITY**
- 3.1. In respect of the New Standard Contractual Clauses:
- 3.1.1. Module 2: Transfer Controller to Processor
- 3.1.2. Module 3: Transfer Processor to Processor
- 3.2. Where Customer is the data exporter, the supervisory authority shall be the competent supervisory authority that has supervision over the Customer in accordance with Clause 13 of the New Standard Contractual Clauses.

Schedule 2 Technical and Organizational Measures

This Schedule 2 applies to describe the applicable technical and organizational measures for the purposes of the Standard Contractual Clauses (2010), New Standard Contractual Clauses and applicable Data Protection Law.

SAP will apply and maintain the Technical and Organizational Measures.

To the extent that the provisioning of the Cloud Service comprises New SCC Relevant Transfers, the Technical and Organizational Measures set out in Schedule 2 describe the measures and safeguards which have been taken to fully take into consideration the nature of the personal data and the risks involved. If local laws may affect the compliance with the clauses, this may trigger the application of additional safeguards applied during transmission and to the processing of the personal data in the country of destination (if applicable: encryption of data in transit, encryption of data at rest, anonymization, pseudonymization).

Schedule 3 Israeli Local Requirements

1. DATABASE DEFINITIONS DOCUMENT

As the database owner, Customer shall be fully responsible for the preparation, maintenance and update of the Database Definition Document, as such term is defined in section 2 of the Regulations, and meeting all of its additional requirements under said section 2.

2. PERIODIC AUDITS

Without derogating from Section 6 of the DPA, Customer and SAP shall each carry out their respective periodic audit requirements under the Regulations in a timely manner. Each party shall provide the other party with reasonable assistance in meeting its audit requirements under the Regulations in relation to the Cloud Services. With respect to such assistance provided by SAP, such may, at SAP's discretion, be deemed as services and as such shall be chargeable by SAP on a time and materials basis.

3. IDENTIFICATION AND AUTHENTICATION

Customer shall assure that any access to any database related to the Cloud Services, whether by Customer or SAP, is automatically disconnected after a period of no-activity and that it has in place a method of handling malfunctions connected with identification authentication, all in accordance with the requirements under section 9 of the Regulations.

4. ACCESS CONTROL AND DOCUMENTATION

In accordance with section 10 of the Regulations, and to the extent that Customer requires the processing of a database which would be classified under the Regulation as an intermediate or high level of security, Customer shall retain all documentation data of the Control Mechanism (as defined in the Regulations) for at least 24 months. Such retention by Customer shall be on behalf of SAP as well and copies shall be provided to SAP upon request. Customer shall further be responsible to ensure that the Control Mechanism shall not enable, to the extent possible, the cancellation or modification of its operation; the control mechanism will detect changes or cancellations in its operation and will send alerts to those responsible.

5. BREACH

In the event of a breach of Personal Data under Section 4.5 of the DPA or a "Security Event" as such is defined in the Regulations, and in the event that the Regulations regarding notification of such a breach shall apply to the specific instance of breach, SAP shall notify Customer of such breach within the time frame required under the Israeli law.

6. TERMINATION AND DELETION

SAP shall delete all Customer personal data following termination.

7. INTERNATIONAL PROCESSING

Notwithstanding Section 8 of the DPA, SAP confirms that when Customer Data is processed by SAP outside the State of Israel, the EU or the EEA or UK, SAP complies with the approved transfer mechanisms under the Protection of Privacy (Transfer of Data to Databases Abroad) Regulations, 5761-2001. Customer shall ensure that all necessary notices are provided to Data Subjects, and unless another legal bases set forth in the relevant data protection laws supports the lawfulness of the processing, that any necessary Data Subject consents to the processing are obtained, and that a record of such consent is maintained. Should such consent be revoked by a Data Subject, Customer shall communicate the fact of such revocation to SAP, and SAP shall act pursuant to Customer's instructions as seems appropriate.

8. COMPLIANCE WITH THE REGULATIONS

SAP shall comply with its obligations as a Processor under the Regulations and provide, upon reasonable request, documentation and information required by Customer in order to verify such compliance.

SERVICE LEVEL AGREEMENT FOR SAP CLOUD SERVICES

1. DEFINITIONS

- 1.1. **"Credit"** means 2% of: the Monthly Subscription Fees for the applicable Cloud Service or the list price of the monthly consumed Cloud Service for each 1% below the System Availability SLA, not to exceed 100% of the fees paid by the Customer for the relevant Month for the applicable Cloud Service.
- 1.2. **"Downtime"** means the Total Minutes in the Month during which the production version of the Cloud Service is not available, except for Excluded Downtimes.
- 1.3. **"Excluded Downtime"** means the Total Minutes in the Month attributable to a Maintenance Window; or any Major Upgrade Window for which the Customer has been notified at least five (5) business days in advance; or unavailability caused by factors outside of SAP's reasonable control, such as unpredictable and unforeseeable events that could not have been avoided even if reasonable care had been exercised.
- 1.4. **"Maintenance Window"** means the weekly maintenance windows for the Cloud Service identified in <https://support.sap.com/maintenance-windows>. SAP may update the Maintenance Window from time to time in accordance with the Agreement.
- 1.5. **"Major Upgrade Window"** means the extended upgrade maintenance windows for the Cloud Service identified in <https://support.sap.com/maintenance-windows>. SAP may update the Major Upgrade Window from time to time in accordance with the Agreement.
- 1.6. **"Month"** means a calendar month.
- 1.7. **"Monthly Subscription Fees"** means the monthly (or 1/12 of the annual fee) subscription fees paid for the applicable Cloud Service which did not meet the System Availability SLA.
- 1.8. **"System Availability Percentage"** is calculated and defined as follows:
- $$\left(\frac{\text{Total Minutes in the Month} - \text{Excluded Downtime} - \text{Downtime}}{\text{Total Minutes in the Month} - \text{Excluded Downtime}} \right) * 100$$
- 1.9. **"System Availability SLA"** means a 99.7% System Availability Percentage during each Month for the production version of the Cloud Service.
- 1.10. **"Total Minutes in the Month"** are measured 24 hours at 7 days a week during a Month.
- 1.11. **"UTC"** means Coordinated Universal Time standard being the start time for the applicable Maintenance Window and Major Upgrade Window.

2. SYSTEM AVAILABILITY SLA AND CREDITS

2.1. Credit

If SAP fails to meet the System Availability SLA for a particular Month, Customer may claim a Credit, which Customer may apply to a future invoice relating to the Cloud Service that did not meet the System Availability SLA (subject to Sections 2.1.1 and 2.1.2 below).

- 2.1.1. Claims for a Credit must be made in good faith and through a documented submission of a support case within thirty (30) business days after the end of the relevant Month in which SAP did not meet the System Availability SLA for the Cloud Service.
- 2.1.2. Customers who have not subscribed to the Cloud Service directly from SAP must claim the Credit from their applicable SAP partner.

2.2. System Availability Report

SAP will provide Customer with a monthly report describing the System Availability Percentage for the Cloud Service either by email following a request to Customer's assigned SAP account manager; through the Cloud Service; or through an online portal made available to Customer, if and when such online portal becomes available.

3. CHANGES TO WINDOWS

- 3.1. If Customer wishes to be notified of changes to Maintenance Windows and Major Upgrade Windows, it must subscribe to receive notifications at <https://support.sap.com/maintenance-windows>.

**SAP CONCUR CLOUD SERVICE
SUPPLEMENTAL TERMS AND CONDITIONS**

This Supplement is part of an Agreement for Cloud Services between Concur and Customer and applies only to the Concur product(s) for which Customer is subscribed. Capitalized terms used in this Supplement but not defined herein have the meanings assigned to them in the GTC, the applicable Order Form or Documentation.

1. CLOUD SERVICES

Each SAP Concur Cloud Service is described in and subject to the terms of the SAP Concur - Service Description Guide, which is incorporated in this Supplement by reference and available on the SAP Concur support portal website.

2. FEES

2.1. **Travel Fees.** If the "Travel & Expense" or "Travel" Service is provided under the Agreement, then Concur shall have the right to effect reasonable changes to the recurring fees under the Agreement to the extent of any general fee change assessed across Concur's customers of the applicable Cloud Service due to changes in Concur's third-party costs associated with its travel management business (e.g., GDS or other similar third party fees), upon notice to Customer at least 30 days before the effective date of the change and provided that such costs are passed through without markup by Concur.

2.2. **Invoicing.** Concur will invoice for the Fees set forth in an Order Form, as set forth herein and in such Order Form. Concur shall be entitled to invoice Customer for the Initial Set Up Fees specified in such Order Form at any time on or after the "Order Effective Date" set forth in such Order Form. Concur shall be entitled to invoice Customer for the recurring Transaction Fee for a given Service Type (and for all recurring Transaction Fees and Recurring Fees specified in the "Extended Services Ordered" section(s) set forth in such Order Form that pertain to such Service Type) beginning on the Transaction Fee Start Date (as defined in such Order Form) for such Service and continuing thereafter for each Billing Cycle during the term of the Agreement.

3. ADDITIONAL TERMS

3.1. **Monitoring.** Notwithstanding anything in the GTC to the contrary, Customer is not obligated to monitor its own use of the Cloud Service and report any use in excess of the Usage Metrics and volume.

3.2. **Customer Data.** Subject to the terms of the Agreement, Customer hereby grants Concur a non-exclusive, non-transferable, worldwide right to use and disclose the electronic data specifically pertaining to Customer and/or its Authorized Users that is submitted into the Cloud Service (collectively, "Customer Data") as necessary for the limited purpose of providing the Cloud Service.

3.3. **Feedback.** Customer may provide Concur with suggestions for product or service improvement or modification in connection with any present or future Concur product or service ("Feedback"). Accordingly, Feedback shall not be considered Confidential Information under the Agreement and neither Concur nor any of its customers or business partners shall have any obligation or liability to Customer with respect to any use or disclosure of such Feedback.

3.4. **Notices.** All notices hereunder by either party shall be in writing and given when delivered via email to Concur at notices@concur.com and to Customer at their email address for notices set forth in the initial Order Form.

3.5. **Term.** Except as otherwise set forth in an Order Form, the term of the Cloud Service will commence on the Order Effective Date set forth in the initial Order Form and will continue thereafter for the initial term specified in the initial Order Form (the "Initial Term"). After the Initial Term or any renewal term, the term for the Cloud Service shall continue thereafter, provided that either party may terminate the Agreement after the Initial Term or any renewal term by delivering written notice of termination to the other party at least 90 days (unless otherwise specified in an Order Form) before the desired effective date of such termination. All terms and conditions of the GTC and the Supplement shall remain in effect until termination of the Agreement, except as the parties expressly agree otherwise in writing.

3.6. **Optional Select Access Services.** Notwithstanding anything to the contrary, Customer will have the option to activate and use Concur's Select Access Services in conjunction with Customer's use of an applicable

Cloud Service for additional fees based on actual usage of such Select Access Services. A list of Concur's Select Access Services and corresponding fees and related terms are posted on the Concur support portal website, incorporated herein by this reference, and subject to change from time to time as specified on such website.

- 3.7. **Concur Cloud for Public Sector.** For purposes of the Concur Cloud for Public Sector Cloud Service, "Government or Public Sector Entity" means with regard to the United States Federal, State, municipal or local government or the government of any Native American tribe (a) a department, agency, branch or similar entity; (b) a government-owned or government-controlled company or subsidiary; or (c) a company performing services for or on behalf any of the entities described above. Customer may only use the Concur Cloud for Public Sector Service if Customer is a Government or Public Sector Entity. If Customer is not itself a Government or Public Sector Entity, Authorized Users of Customer may only use the Concur Cloud for Public Sector Cloud Service for the benefit of a Government or Public Sector Entity or the fulfillment of its contractual commitments to a Government or Public Sector Entity and not for Customer's other internal business purposes. Not all Cloud Services in the SAP Concur Service Description Guide are available to Customer within the Concur Cloud for Public Sector Cloud Service. The Concur Cloud for Public Sector Cloud Service is not certified under the Federal Risk and Authorization Management Program (FedRAMP). Customer will comply with Concur's reasonable security requirements set forth in Documentation as may be required to comply with applicable law or certification standards for the Concur Cloud for Public Sector Cloud Service. Where SAP Concur must access Customer Data to provide Cloud Services to Customer, such Cloud Services within the data center applicable to Customer under Concur Cloud for Public Sector Service are accessed only by citizens of the United States, and if Customer subscribes to User Support Desk, (1) the User Support Desk Cloud Service will be provided to Customer utilizing only citizens of the United States from a location within the United States, and (2) first-level support service is available 07:00 through 22:00 ET Monday through Friday, excluding Federal holidays.

SUPPORT SCHEDULE FOR CLOUD SERVICES

This Support Schedule is part of the Agreement for Cloud Services between SAP and Customer.

1. DEFINITIONS

- 1.1. "Go-Live" marks the point in time from when, after set-up of the Cloud Services for Customer, the Cloud Services can be used by Customer for processing real data in live operation mode and for running Customer's internal business operations in accordance with its agreement for such Cloud Services.
- 1.2. "Local Business Hours" means 8 a.m. (08:00) to 6 p.m. (18:00) Monday to Friday excluding local holidays, in accordance with local time zone applicable to the Customer's address.
- 1.3. "SAP's Customer Support Website" means SAP's customer facing support website (see: <https://support.sap.com> unless a different support website is listed in the Agreement or <https://support.sap.com/contactus>). In selected Cloud Services, support can also be accessed via the application itself.

2. SCOPE OF SUPPORT AND SUCCESS OFFERINGS

2.1. General

2.1.1. SAP offers the following:

- a) SAP Enterprise Support, cloud editions: Foundational engagement support as part of the Cloud Service with focus on customer interaction and case resolution.
- b) SAP Preferred Success: An add-on to SAP Enterprise Support, cloud editions that includes strategic guidance, solution-specific best practices and success programs to help drive consumption and value realization.-
- c) SAP Enterprise Support, cloud editions is included in the subscription fees for the Cloud Services stated in the Order Form unless alternative support terms are agreed. SAP Preferred Success may be purchased for eligible Cloud Services for an additional fee, as an add-on to SAP Enterprise Support, cloud editions. SAP Preferred Success is not available, and not provided, for any third-party cloud services purchased through SAP.

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

2.1.3. Customer Interaction Center languages: SAP provides initial telephone contact for Customer Contacts through the SAP one support phone number "CALL-1-SAP" (see CALL-1-SAP page: <https://support.sap.com/contactus>) or via other solution specific hotlines in the following languages: English (24x7) and, depending on local office hours and availability, in German, French, Italian, Spanish, Polish, Russian (during European office hours); Japanese, Chinese, Korean, Bahasa (during Asia/Pacific office hours); Portuguese and Spanish (during Latin America office hours). Issues which lead to a support case which is processed by specialized technical or third party support engineers worldwide are handled in English only.

2.2. Mission Critical Support

Feature	SAP Enterprise Support, cloud editions	SAP Preferred Success
24x7 mission critical support for P1 and P2 cases (English only)	Global case handling by SAP for issues related to support, including Service Level Agreements for Initial Response, Ongoing Communications and Corrective Action Targets (as set forth in Section 3 below).	24x7 prioritized case handling and enhanced Initial Response and Corrective Action Targets (as set forth in Section 3 below).
Non-mission critical support for P3 and P4 cases (English only)	Available during Local Business Hours(as set forth in Section 3 below).	Enhanced Initial Response Targets (as set forth in Section 3 below).

Feature	SAP Enterprise Support, cloud editions	SAP Preferred Success
24x7 Customer interaction center	Support center that customers may contact for general support related inquiries through the contact channels described in Section 2.1.3.	Delivered as part of SAP Enterprise Support, cloud editions.
Global support backbone	SAP's knowledge database and extranet where SAP makes available content and services to customers and partners of SAP only. This includes SAP's Customer Support Website.	
End-to-end supportability	Support for cases that occur in integrated business scenarios consisting of SAP Cloud Services or both SAP Cloud Services and SAP Software with a valid SAP support agreement.	

2.3. Learning and Empowerment

Feature	SAP Enterprise Support, cloud editions	SAP Preferred Success
Remote SAP support content and services	Remote support content and services (e.g., Meet-the-Expert sessions) in various formats which may include live and recorded webinars, tutorials, best practices, self-paced learning materials and workshop-style interactive remote sessions. Content and session schedules are stated on SAP's Customer Support Website in the SAP Enterprise Support Academy section. Scheduling, availability and delivery methodology is at SAP's discretion.	Access to demo systems, live sessions with instructors, examinations and certifications specific to the Cloud Service for up to 5 Customer Contacts. SAP Preferred Success exclusive learning content related to the Cloud Service in various formats which may include live and recorded webinars, best practices, and workshop-style interactive remote sessions. Scheduling, availability and delivery methodology is at SAP's discretion.
Release update information	Generally available documented summaries, webinars and videos provided by SAP to inform and instruct customers on new product release changes. Self-service through web and community.	Release guidance specific to the Cloud Service.

2.4. Collaboration

Feature	SAP Enterprise Support, cloud editions	SAP Preferred Success
SAP support advisory services	Access to experts who help customers with support-related requests and advise on the appropriate SAP Enterprise Support content and services for their needs.	Delivered as part of SAP Enterprise Support, cloud editions.
Support via chat	Available during business hours in English language for non-Mission Critical Support issues, where available for the Cloud Service.	

Feature	SAP Enterprise Support, cloud editions	SAP Preferred Success
Support via web and platform for social business collaboration	Access to SAP's Customer Support Website, including social media-based empowerment and collaboration, with peers and SAP experts.	Access to exclusive SAP Preferred Success collaboration platform.
Support and success reporting	SAP Enterprise Support reporting: A report or dashboard analyzing and documenting the status of support services and achievements hereunder.	Reports, dashboards, or other reporting components and capabilities regarding the overall engagement, full customer lifecycle, and productive use of the solution, including relevant feature adoption, technical and product usage and status of support services and achievements hereunder, specific to the Cloud Service.
Preferred Success resources and guidance		Access to success resources to provide guidance on onboarding, product adoption and usage, best practices and operational excellence. This may include a customer success partner as the primary contact for ongoing success management, success planning, technical guidance and mentorship, and support case oversight throughout the Customer lifecycle. Assignment of a customer success partner is at SAP's discretion.
Regular checkpoint		Periodic review of Cloud Service, success plan, critical issues, reporting and best practices. May include in-person delivery, at SAP's discretion.
Success Plan		A success plan outlines steps towards achieving key business milestones and objectives throughout the customer lifecycle. Focus topics include challenges, consumption, adoption and cycle planning.

2.5. Innovation and Value Realization

Feature	SAP Enterprise Support, cloud editions	SAP Preferred Success
Proactive checks proposed by SAP	Support services, providing recommendations for the specific customer situation. Such services are delivered remotely upon Customer request.	Expert-led checks, providing recommendations based on SAP best practices or recommended configuration(s).
Product roadmaps	Self-service through web.	Delivered as part of SAP Enterprise Support, cloud editions.
Refresh of test instance	Self-service or request through web for initiating the refresh as offered and required by respective solution.	Access to SAP assistance with managing the refreshing of test instances up to 2 times per year, where applicable.

2.6. Application Lifecycle Management

Feature	SAP Enterprise Support, cloud editions	SAP Preferred Success
Application lifecycle management ("ALM")	Software or online services for application lifecycle management made available by SAP. Feature scope and availability details are set forth on SAP's Customer Support Website (see: https://support.sap.com/en/alm) and usage rights (see: https://support.sap.com/en/alm/usage-rights).	Delivered as part of SAP Enterprise Support, cloud editions.

3. CUSTOMER RESPONSE LEVELS

3.1. SAP responds to submitted support cases as described in the table below.

Priority	Definition	Response Level
P1	<p>Very High</p> <p>A case should be categorized with the priority "very high" if the problem has very serious consequences for normal business processes or IT processes related to core business processes. Urgent work cannot be performed.</p> <p>This is generally caused by the following circumstances:</p> <ul style="list-style-type: none"> a) a productive service is completely down; b) the imminent system Go-Live or upgrade of a production system cannot be completed; c) the customer's core business processes are seriously affected <p>A workaround is not available for each circumstance.</p> <p>The case requires immediate processing because the malfunction may cause serious losses.</p>	<p>Initial Response: Within 1 hour of case submission.</p> <p>Ongoing Communication: Unless otherwise communicated by SAP, once every hour.</p> <p>Corrective Action Target: SAP to provide for cases either a resolution; or workaround; or action plan within 4 hours.</p>
P2	<p>High</p> <p>A case should be categorized with the priority "high" if normal business processes are seriously affected. Necessary tasks cannot be performed. This is caused by incorrect or inoperable functions in the SAP service that are required immediately.</p> <p>The case is to be processed as quickly as possible because a continuing malfunction can seriously disrupt the entire productive business flow.</p>	<p>Initial Response: Within 4 hours of case submission for SAP Enterprise Support, cloud edition customers and within 2 hours of case submission for SAP Preferred Success customers.</p> <p>Ongoing Communication: Unless otherwise communicated by SAP, once every 6 hours.</p> <p>Corrective Action Target: SAP to provide for cases either a resolution; or workaround; or action plan within 3 business days for SAP Preferred Success customers only.</p>
P3	<p>Medium</p> <p>A case should be categorized with the priority "medium" if normal business processes are affected. The problem is caused by incorrect or inoperable functions in the SAP service.</p>	<p>Initial Response: Within 1 business day of case submission for SAP Enterprise Support, cloud edition customers, and within 4 business hours of case being received for SAP Preferred Success customers.</p> <p>Ongoing Communication: Unless otherwise communicated by SAP, once every 3 business days</p>

Priority	Definition	Response Level
		for non-defect Issues and 10 business days for product defect issues. A non-defect issue is a reported support case that does not involve a defect in the applicable Cloud Service and does not require engineering, development or operations personnel to resolve.
P4	Low A case should be categorized with the priority "low" if the problem has little or no effect on normal business processes. The problem is caused by incorrect or inoperable functions in the SAP service that are not required daily or are rarely used.	Initial Response: Within 2 business days of case submission for SAP Enterprise Support, cloud editions customers and within 1 business day of case submission for SAP Preferred Success customers. Ongoing Communication: Unless otherwise communicated by SAP, once every week.

- 3.2. The following types of cases are excluded from customer response levels as described above:
- a) cases regarding a release, version or functionalities of Cloud Services developed specially for Customer (including those developed by SAP Custom Development or by SAP subsidiaries or individual content services);
 - b) the root cause behind the case is not a malfunction but missing functionality (development request);
 - c) the case is a consulting or how-to request.

4. CUSTOMER RESPONSIBILITIES

4.1. Customer Contact

4.1.1. Customer shall designate at least 2 and up to 5 qualified English-speaking contact persons per Cloud Service (each a "Customer Contact"). Customer Contacts include designated support contact, authorized support contact, key user, application administrator or system administrators whose roles within specific Cloud Services are authorized to contact or access the Customer Interaction Center, SAP Support Advisory Services and Mission Critical Support services.

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

- a) support end users and manage their cases. This includes searching for known solutions in available documentation and liaising with SAP in the event of new problems;
- b) manage background jobs and the distribution of business tasks across users (if available);
- c) manage and monitor connections to Customer's third-party systems (if available);
- d) support the adoption of the Cloud Service.

4.2. Contact Details

Customer will provide contact details (in particular, e-mail address and telephone number) by which the Customer Contact or the authorized representative of the Customer Contact can be contacted at any time. Customer will update its Customer Contacts for a Cloud Service through SAP's Customer Support Website. Only authorized Customer Contacts may contact SAP's support organization.

4.3. Cooperation

Customer Contact shall reasonably cooperate with SAP to resolve support cases, and will have adequate technical expertise and knowledge of its configuration of the Cloud Services to provide relevant information to enable SAP to reproduce, troubleshoot and resolve the experienced error.

**Concur Technologies, Inc.
ORDER FORM**

Professional Edition

GENERAL INFORMATION

Customer Name: City of Vestavia Hills	Order Effective Date: September 11, 2023
Order Type: Initial Sale	PO to be Issued: No
Currency for Fees: USD	Tax Exemption Claimed: Yes
Service Type Billing Cycle: Annually beginning on the Transaction Fee Start Date	
Initial Term: 36 months beginning on the Order Effective Date	
Email Address For Notice: zclifton@vhal.org	

SERVICES ORDERED (primary service offerings)	Pre-Production System Fee	Initial Set Up Fee
Travel & Expense	\$ 00.00	\$ 10,000.00

SERVICES ORDERED FEE DETAILS (recurring fees for the primary service offerings ordered above)

Service	Billing Cycle(s) (beginning on the Transaction Fee Start Date)	Base Transactions (per Billing Cycle)	Base Transaction Fee (per Billing Cycle)	Incremental Transaction Fee (per incr. Trans.)
Travel & Expense	1 and beyond	480	\$ 5,073.60	\$ 13.21

EXTENDED SERVICES ORDERED (Transaction-based recurring services pertaining to the above or previously-ordered Service Types)	Initial Set Up Fee
Company Bill Statements 1 - 2 Policies	\$ 0.00

EXTENDED SERVICES ORDERED FEE DETAILS (recurring fees for the transaction-based extended services ordered above)

Extended Service	Billing Cycle(s) (beginning on the Transaction Fee Start Date)	Base Transactions (per Billing Cycle)	Base Transaction Fee (per Billing Cycle)	Incremental Transaction Fee (per incr. Trans.)
Company Bill Statements 1 - 2 Policies	1 and beyond	240	\$ 1,420.80	\$ 7.40

EXTENDED SERVICES ORDERED (additional unit-based recurring services pertaining to the above or previously-ordered Service Types)

Description	Unit Quantity	Initial Set Up Fee
Intelligence for Travel & Expense	1 Bundle(s)	\$ 1,000.00
Expenselt for Travel & Expense	1 Set Up(s)	\$ 0.00
Concur Request - Add-on	1 Each	\$ 1,237.50
User Support Desk	1 Set Up(s)	\$ 0.00
Verify	1 Set Up(s)	\$ 0.00
Essential Care - Travel & Expense	1 Set Up(s)	\$ 0.00

EXTENDED SERVICES ORDERED FEE DETAILS (recurring fees for the unit-based extended service ordered above)

Extended Service	Billing Cycle(s) (beginning on the Transaction Fee Start Date)	Recurring Fee (per Billing Cycle)	Incremental Transaction Fee (per incr. Trans.)
Intelligence for Travel & Expense	1 and beyond	\$ 1,065.60	\$ 2.78
Expenselt for Travel & Expense	1 and beyond	\$ 302.40	\$ 0.80
Concur Request - Add-on	1 and beyond	\$ 408.00	\$ 1.06
User Support Desk	1 and beyond	\$ 710.40	\$ 1.85
Verify	1 and beyond	\$ 1,017.60	\$ 2.65
Essential Care - Travel & Expense	1 and beyond	\$ 7,200.00	\$ 18.75

ADDITIONAL SERVICES ORDERED (additional services with one-time fees pertaining to the above or previously ordered Service Type)

Description	Unit Quantity	Initial Set Up Fee
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ORDER TERMS

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

Notification period after expiration of initial Term or any Renewal Term: Ninety (90) days

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

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

Payment Terms: Customer will pay each accurate invoice within 30 days after the applicable invoice date.

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

"Transaction Fee Start Date" means the first calendar month after the date set forth above as the "Order Effective Date"

Tax Exemption Claimed: A tax exemption certificate must be provided to SAP Concur by Order Effective date; in the United States, the tax exemption certificate is usually the state sales tax exemption certificate; for U.S. federal government entities, a copy of the federal purchase order will be accepted as the tax exemption certificate; if the certificate is not provided by the Order Effective Date, tax will be assessed and credits/rebills will not be given.

Waiver of Fees: Concur shall waive the Recurring or Base Transaction Fees (as applicable) for additionally ordered Service Types and/or Extended Services as specified below that may come due under the Agreement for a period of six (6) calendar months, beginning on the Transaction Fee Start Date set forth above.

- Travel & Expense
- Intelligence for Travel & Expense
- Expenselt for Travel & Expense
- Concur Request - Add-on
- Company Bill Statements 1 - 2 Policies
- User Support Desk
- Verify
- Essential Care - Travel & Expense

Publicity: SAP may include Customer's name and subscribed Cloud Services in SAP customer lists and earnings communications.

Additional Agreement Terms: Notwithstanding anything in the GTC and/or Supplement to the contrary, Concur and Customer agree that the following terms set forth in Exhibit 1 attached hereto and incorporated herein by reference shall apply to the Agreement

[signature page follows]

City of Vestavia Hills

Signature _____

Print Name

Title

Exhibit 1**Additional Agreement Terms**

The following terms apply with respect to the Service under the Agreement. In the event that any terms of this Exhibit are inconsistent with the terms of the GTC and/or Supplement, then the terms of this Exhibit shall control.

GTC Amendment: The GTC for Cloud Services (Direct) enUS.v.1-2023

1. Section 8.2 of the GTC is deleted in its entirety and replaced with the following:

"Claims Brought Against SAP: Customer will defend SAP against claims brought against SAP, SAP SE, its Affiliates, and subcontractors by any third party related to Customer Data. Customer will be responsible to SAP for all damages finally awarded against SAP, SAP SE, its Affiliates, and subcontractors (or the amount of any settlement Customer enters into) with respect to these claims.

2. Section 9.1 of the GTC is deleted in its entirety and replaced with the following:

"No Cap on Liability: Unless expressly prohibited or limited by State of Alabama Law or Code, neither party's liability is capped for damages resulting from:

- a) the parties' obligations under Section 8.1.1 and 8.2 (excluding SAP's obligation under Section 8.1.1 where the third party claim(s) relates to a Cloud Service(s) not developed by SAP);
- b) death or bodily injury arising from either party's gross negligence or willful misconduct; and/or
- c) Customer's unauthorized use of any Cloud Service and/or any failure by Customer to pay any fees due under the Agreement.

3. Section 13.10 of the GTC is deleted in its entirety and replaced with the following:

"CISG and UCITA: The United Nations Convention on Contracts for the International Sale of Goods and any conflicts of law principles and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement."

4. Section 13.11 of the GTC is deleted in its entirety and replaced with the following:

"Jurisdiction and Mandatory Venue: Intentionally Omitted."

5. Section 13.13 of the GTC is deleted in its entirety and replaced with the following:

"Statute of Limitation: Intentionally Omitted."

6. Section 13.15 is added to the GTC and will read as follows:

"Immigration: By signing this Agreement, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien with the State of Alabama."

7. Section 13.16 is added to the GTC and will read as follows:

"Compliance With Title 41-16-5, Code of Alabama, 1975, Boycott Limitations: SAP represents that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade".