

SAP Hybris Cloud for Customer Supplemental Terms and Conditions

These supplemental terms and conditions (“the Supplement”) are part of an agreement for certain SAP cloud services (“Agreement”) between SAP and Customer and apply solely to SAP Hybris Cloud for Customer (the “Cloud Service”) and not any other SAP product or service.

1. CLOUD SERVICE

- 1.1** There are three (3) independent modules available for a subscription to SAP Hybris Cloud for Customer – SAP Hybris Cloud for Sales, SAP Hybris Cloud for Service and SAP Hybris Cloud for Social Engagement (“**Base Packages**”).
- 1.2** SAP Hybris Cloud for Customer, edge edition includes specific functions of the SAP Hybris Cloud for Customer modules as described in the Documentation.
- 1.3** The SAP Hybris Cloud for Customer, enterprise edition, includes the modules and user type described in Section 2.7 of this Supplement.
- 1.4** Each subscription to any of the Base Packages includes the use of the SAP Cloud Applications Studio. Customer’s use of the SAP Cloud Applications Studio is subject to the terms set forth in **Attachment 1** to this Supplement.
- 1.5** Customer may subscribe to test tenants that are described in the Documentation (each a “**Test Tenant**”) for non-productive purposes only. No more than fifty (50) Users may access each Test Tenant.
- 1.6** SAP will provide up to ten (10) gigabytes of disk storage space per User at no additional charge. Additional storage may be obtained based on then-current pricing.
- 1.7** SAP Hybris Cloud for Customer, private edition, is an optional service and includes a single production tenant within a dedicated multi-tenant system for single customer usage and customized maintenance windows. Each individual accessing a production tenant must be covered by a User subscription; a minimum subscription of 1,000 Users is required.
- 1.8** If Customer integrates the Cloud Service with licensed SAP on-premise software, Customer may access such licensed SAP on-premise software through the Cloud Service solely to perform functions in conjunction with its use of the Cloud Service without requiring additional SAP named user licenses for such SAP on-premise software.

2. FEES

- The Usage Metric for the Cloud Service is Users. Users are individuals who are authorized to access the Cloud Service. Customer must subscribe to separate Users for each of the three Base Packages. The following User types are available as Usage Metrics for SAP Hybris Cloud for Customer:
- 2.1.** The *SAP Hybris Cloud for Customer, advanced user option* and the *SAP Hybris Cloud for Customer, B2B industry user option* may each be subscribed to as add-on services to the Base Packages.
 - 2.2.** *SAP Hybris Cloud for Customer, enhanced package, user*, provides access rights to the Base Packages, the *SAP Hybris Cloud for Customer, advanced user option* and the *SAP Hybris Cloud for Customer, B2B industry user option*.
 - 2.3.** *SAP Hybris Cloud for Customer, limited package, user*, provides access rights (i) for up to four hundred (400) dialog steps per month (cumulative) for the Base Packages; (ii) to the *SAP Hybris Cloud for Customer, advanced user option*; and (iii) to the *SAP Hybris Cloud for Customer, B2B industry user option*. A dialog step is measured each time a User initiates data movement in the Cloud Service. Each movement of data in a multi-step process, even if initiated by a single User action, is counted as a separate dialog step.
 - 2.4.** *SAP Hybris Cloud for Sales, service option, user*, allows Users of *SAP Hybris Cloud for Sales* to access *SAP Hybris Cloud for Service*.

- 2.5. *SAP Hybris Cloud for Service, sales option, user*, allows Users of SAP Hybris Cloud for Service to access SAP Hybris Cloud for Sales.
- 2.6. *SAP Hybris Cloud for Customer, enterprise edition, user*, includes the SAP Hybris Cloud for Customer, enhanced package, user, plus access to the SAP HANA Cloud Platform resources identified under the section entitled “SAP Hybris Cloud for Customer, enterprise edition”, in the SAP HANA Cloud Platform Service Description Guide, located at <https://hcp.sap.com/capabilities/service-description.html> (also available from SAP upon request).
- 2.7. *SAP Hybris Cloud for Customer, edge edition, user*, includes access to certain functionalities from the Base Packages, the SAP Hybris Cloud for Customer B2B industry user option, and the SAP Hybris Cloud for Customer advanced user option as described in the Documentation.
- 2.8. *SAP Hybris Cloud for Customer, imaging intelligence add on* is an optional service that can be included in the Cloud Service subscription for an additional fee. The Usage Metric for SAP Hybris Cloud for Customer, imaging intelligence add on is images per month, in blocks of 1000 images. An image is a single picture taken by a User and uploaded to the Cloud Service for image recognition. As a prerequisite to SAP Hybris Cloud for Customer, imaging intelligence add on, Customer must subscribe to either (i) SAP Hybris Cloud for Sales and SAP Hybris Cloud for Customer, B2B industry option, or (ii) SAP Hybris Cloud for Customer, limited package user, or (iii) SAP Hybris Cloud for Customer, enhanced package user, or (iv) SAP Hybris Cloud for Customer, enterprise edition.

3. TERMS FOR SAP HYBRIS CLOUD FOR SOCIAL ENGAGEMENT

SAP Hybris Cloud for Social Engagement includes integration to social media services and web sites and other similar services operated by third parties (“**Social Media Services**”). Customer will not transmit any personally identifiable information to any Social Media Service via the Cloud Service. Customer will not sell user data obtained through a Social Media Service. Customer shall maintain a privacy policy on any of its customer-facing pages on a Social Media Service, including any “fan page” or Twitter page, that details how Customer handles data submitted through such websites, and which includes all necessary information to tell end users how “SAP Hybris Cloud for Social Engagement” collects, stores, uses, displays, shares or transfers a user’s data. Customer will include a statement that reflects all material aspects of the following statement:

*“This page uses the SAP Cloud solution. This solution calls available [**Social Media Service Name**] Application Programming Interfaces (APIs) which may deliver your [**Social Media Service Name**] Profile information you made available for the public, including, but not limited to, your name, first name, last name, gender, country, location, a link to your profile and picture. All messages including likes and contents that you post or otherwise add on this [**Social Media Service Name**] page can be collected, exported, and used by [**Customer Name**] or a contracted third party for the business purposes of [**Customer Name**]. You may request deletion of your user data collected by [**Customer Name**] by sending an e-mail to xxxx@customer-name.com or any other means.”*

4. INTEGRATION COMPONENT

In addition to the hosted portion of the Cloud Service, SAP shall make available for download by Customer the SAP Hybris Cloud for Customer integration component (the “**Integration Component**”). The Integration Component may only be used with the Cloud Service and may only be used by Authorized Users. Use of the Integration Component is not permitted with SAP Hybris Cloud for Customer, Edge edition. The Integration Component may not be modified or altered in any way except by SAP. The Integration Component is part of the Cloud Service, provided however, that notwithstanding anything in the Agreement to the contrary, once

Customer downloads the Integration Component, Customer shall be responsible for the security of the same and the System Availability SLA does not apply.

5. MOBILE ACCESS

Users may access the Cloud Service through a mobile application obtained by Users via third-party websites. The use of such mobile applications is governed by the terms and conditions presented to the User upon download/access to the mobile application and not by the terms of the Agreement. Customer acknowledges that the third party that operates the website through which the mobile application is distributed may stop distributing the mobile application at any time, and SAP is not responsible for the unavailability of the mobile application due to the actions of the third party distributor.

6. GOOGLE MAPS SERVICE (“GM SERVICE”)

In case the Cloud Service accesses the GM Service through a Google Maps API, Customer’s use of the GM Service is subject to Google’s Terms of Service, which are set forth at <http://www.google.com/intl/en/policies/terms/>. If Customer does not accept such Google Terms of Service, including, but not limited to, all limitations and restrictions therein, Customer may not use the GM Service in the Cloud Service. Use of the GM Service in or through the Cloud Service will constitute Customer’s acceptance of Google’s Terms of Service. Customer’s usage of the GM Service in or through the Cloud Service can be terminated by SAP without reason at any time and SAP will not be required to provide an equivalent service via another provider.

7. ADDITIONAL TERMS FOR SAP HYBRIS CLOUD FOR CUSTOMER, IMAGING INTELLIGENCE ADD ON

7.1 Customer may not upload any images containing personal data (including photographs of any natural person) or otherwise transmit any personal data to SAP Hybris Cloud for Customer, imaging intelligence add on. As such, the Data Privacy and Security – Data Controller to Data Processor Agreement referenced in or attached to the Order Form does not apply to SAP Hybris Cloud for Customer, imaging intelligence add on.

7.2 The System Availability SLA for SAP Hybris Cloud for Customer, imaging intelligence add on is 95.0% per month, and this System Availability SLA supersedes the System Availability SLA contained in the Service Level Agreement for SAP Cloud Services referenced in the Order Form. Only Cloud Service Maintenance Windows for the EMEA region (UTC+1) as stated in the Service Level Agreement for SAP Cloud Services apply to SAP Hybris Cloud for Customer, imaging intelligence add on.

Attachment 1
to
SAP Hybris Cloud for Customer
Supplemental Terms and Conditions
Supplemental Terms for use of SAP Cloud Applications Studio

1. DEFINITIONS.

- 1.1** “**APIs**” means SAP’s application programming interfaces, as well as other commands or instructions that allow other software products to communicate with or call on the SAP Cloud Solution or the Cloud Applications Studio (for example, SAP enterprise services, ByDesign, Business Objects, BAPIs, Idocs, RFC, and ABAP customer exits) provided under this Agreement.
- 1.2** “**Background Materials**” means any pre-existing works that include intellectual property rights owned by either SAP or Customer that have been prepared by SAP or Customer outside the scope of the Agreement or that were licensed from a third party.
- 1.3** “**Cloud Applications Studio**” means the overall SAP development environment to which SAP grants Customer access as outlined in this Supplement for development of the Customer Solution. It consists of the following elements: Software Development Kit, and Key User Tools.
- 1.4** “**Customer Solution**” means a solution developed or packaged by Customer with the Cloud Applications Studio and/or the Key User Tools which adds new and independent functionality beyond that provided by the SAP Cloud Solution, including any new functional components for business processes not provided by the SAP Cloud Solution, that connect to and/or communicate through published SAP APIs or user exits, including new or modified user interface elements, new reports, new forms, new web services, and new or modified functionality. The Customer Solution must be custom-built to be used by Customer only without further distribution or licensing.
- 1.5** “**Key User Tools**” means a set of tools that are available to configure, customize and extend the Customer Solution. This includes extensibility and flexibility enhancements as well as reporting enhancement capabilities. Configurations prepared with the Key User Tools may be incorporated into the Customer Solution.
- 1.6** “**Modification**” means any alteration or modification to the SAP Cloud Solution, including but not limited to a change made to the source code and/or metadata of the SAP Cloud Solution.
- 1.7** “SAP Cloud Solution” refers to the SAP cloud product for which Customer has a valid subscription and with which the Cloud Application Studio will be used to develop the Customer Solution.
- 1.8** “**Software Development Kit**” means the frontend components of the Cloud Applications Studio which are based on a developer framework and a user interface design tool. Customer develops solutions within the frontend Software Development Kit and based on a scripting language called SAP Cloud Applications Studio script.
- 1.9** “**Test Tenant**” means an SAP Cloud Solution tenant which may be simulating a live situation of a Customer environment that is enabled for testing during software development and is operated by SAP. Frontend access is optionally available.

2. CUSTOMER OBLIGATIONS

- 2.1** Customer will be responsible for providing SAP with all necessary information on the Customer Solutions required for the applicable SAP Cloud Solution to interoperate with a Customer Solution and for SAP to fulfill its obligations under this Agreement.
- 2.2** Customer is responsible for ensuring that the Customer Solution remains compatible and interoperable with the SAP Cloud Solution during the term of Customer’s SAP Cloud Solution subscription.
- 2.3** Customer must subscribe to a Test Tenant with the SAP Cloud Solution for a term equal to the term of the subscription for the Cloud Application Studio.

3. SAP OBLIGATIONS

- 3.1** SAP will provide Customer access to the Cloud Applications Studio for the purposes of this Agreement.
- 3.2** SAP will provide Customer with reasonably required information to allow Customer to keep the Customer Solution compatible and interoperable with the Customer's SAP Cloud Solution subscription.
- 3.3** SAP will incorporate the Customer Solution into Customer's SAP Cloud Solution environment. Customer grants SAP a non-exclusive license to operate the Customer Solution within the SAP Cloud Solution Environment for the term of the Agreement. SAP shall not be responsible for the support of the Customer Solution. SAP will activate or de-activate the Customer Solution upon notification by Customer. SAP is not responsible for uploading the Customer Solution into Customer's SAP Cloud Solution environment. SAP reserves the right to refuse to incorporate the Customer Solution into Customer's SAP Cloud Solution Environment, or to temporarily or permanently deactivate the Customer Solution at any time if (i) SAP reasonably believes such Customer Solution may have a negative impact on Customer's SAP Cloud Solution system or (ii), Customer is in breach of any term or condition of its Agreement with SAP. Use of the Customer Solution is at Customer's sole risk and SAP shall not be responsible for any changes or modifications of Customer Data by or through the Customer Solution. SAP incorporates the Customer Solution into Customer's SAP Cloud Solution environment free of charge, "AS IS". SAP is not responsible for ensuring that the Customer Solution is or will be available without interruption, including, without limitation, during any standard maintenance windows for the SAP Cloud Solution. However, SAP will use reasonable endeavors to make the Customer Solution available based on the SAP Cloud Solution service level agreement applicable to the SAP Cloud Solution. SAP shall not be responsible for any negative impact of the Customer Solution -on the availability, functionality or performance of Customer's SAP Cloud Solution system.

4. USE RIGHTS / INTELLECTUAL PROPERTY RIGHTS

- 4.1** SAP hereby grants Customer, for the term of the Order Form, a non-exclusive, limited license for Authorized Users to access and use the Cloud Applications Studio and its Documentation to develop and test the Customer Solution.
- 4.2** Any use not expressly set forth herein is strictly prohibited and subject to a separate written agreement.
- 4.3** Subject to the terms set out herein, Customer shall own the portions of the Customer Solution developed by Customer hereunder and the intellectual property rights therein, excluding any SAP Background Materials, SAP APIs or SAP libraries and any derivative works thereof.
- 4.4** Except to the extent explicitly specified, nothing in this Supplement shall be construed, whether by implication, estoppel or otherwise, to transfer ownership rights in or grant license rights to the Background Materials of the other party. Nothing shall restrict SAP or any SAP Affiliate from independently developing any new or improved functionalities, products, means, systems and/or processes related to the SAP Cloud Solution, including but not limited to the Customer Solution, which in whole or in part are congruent, similar and/or comparable to developments by Customer. SAP reserves the rights to provide additional or new SAP software products.
- 4.5** Customer shall be entitled to grant subcontractors, agents or freelancers access to the Cloud Applications Studio to develop on Customer's behalf. Customer must ensure and shall be responsible that such third parties adhere to the terms of the Agreement and Customer is liable to SAP for any breach of these terms due to such access by subcontractors, agents or freelancers.
- 4.6** SAP may provide Customer with certain front-end components of the Cloud Applications Studio which must be installed by Customer on its hardware. Customer is responsible for installing such front-end components of the Cloud Applications Studio.

- 4.7** Nothing shall restrict SAP or any SAP Affiliate from independently developing any new or improved functionalities, products, means, systems and/or processes related to the SAP Cloud Solution, including but not limited to the Customer Solution, which in whole or in part are congruent, similar and/or comparable to developments by Customer. SAP reserves the rights to provide additional or new SAP software products.

5 ADDITIONAL LICENSING TERMS

- 5.1** In order to create the Customer Solution, and subject to Customer's full compliance with the following additional licensing terms, SAP hereby grants to Customer a limited, royalty-free, fully paid-up, non-exclusive, worldwide, non-transferable right and license to reproduce APIs solely for the purpose of incorporating them into the Customer Solution, provided however that Customer has no right to transfer, sublicense or otherwise distribute any APIs. Customer shall not modify or create a derivative work of any APIs, in whole or in part, except to create the Customer Solution in accordance with this Supplement.
- 5.2** The Customer Solution must not: (i) unreasonably impair, degrade or reduce the performance or security of the SAP Cloud Solution or the Cloud Applications Studio; (ii) enable the bypassing or circumventing of SAP license restrictions and/or provide users with access to the SAP Cloud Solution or the Cloud Applications Studio to which such users are not directly licensed; or (iii) render or provide, without written consent from SAP, any information concerning SAP products; and/or (iv) permit mass data or metadata extraction from SAP software to a non-SAP software (including cloud solutions), including use, modification, saving or other processing of such data in the non-SAP software.
- 5.3** To the extent SAP accesses Customer Solutions in accordance with this Agreement, Customer agrees that any such access shall not be deemed to satisfy any element of a claim of trade secret misappropriation or copyright infringement.
- 5.4** APIs are subject to ongoing changes. Customer is responsible for adapting the Customer Solution to such changes to APIs.