SOFTWARE SUBSCRIPTION LICENCE AND CLOUD SERVICES AGREEMENT

This Software Subscription Licence and Cloud Services Agreement, including all integrated exhibits and Order Forms referencing this Agreement (collectively, the "**Agreement**") is entered into by and between Supplier and Customer (each defined below) and will be effective as of the date last signed below (" **Effective Date**"). Supplier and Customer are each a "**Party**" and together the "**Parties**". The Agreement governs the basis on which Supplier will make available (i) services provided by the Supplier as an on-demand solution hosted by Supplier on a shared infrastructure environment, indicated by being provided "on Hosted Software" ("**Cloud Services**"); and/or (ii) the software indicated by being provided on any operating system other than "on Hosted Software", and provided by Supplier in executable code ("**Software**"); each as identified in an Order Form (together "**Products**").

1 USE OF SERVICES

1.1 **Provision of Cloud Services**: Supplier grants Customer a non-exclusive, non-transferable, non-sublicensable right to access and use the Cloud Services, including the then current version of any user manuals and operating instructions generally provided with the Cloud Services (collectively, "**Cloud Services Documentation**"), for the term set out in the Order Form ("**Cloud Services Term**"). Customer may use the Cloud Services subject to the terms of this Agreement. Customer will not receive a copy of any programs listed in the Order Form other than for temporary download of plug-ins or fat clients (which will be deemed part of the Cloud Services) as described in the applicable Order Form. "**Users**" of the Cloud Services mean employees or contractors of Customer who are authorized by Customer in accordance with the Agreement to access the Cloud Services using Customer's account credentials ("**Credentials**"). Customer is solely responsible for all User use and access to the Cloud Services and the security of any Credentials and will immediately report to Supplier any suspected unauthorized use of the Cloud Services or Credentials.

1.2 **Restrictions**: Customer will comply with all laws and regulations applicable to Customer and to Customer's use of the Cloud Services. Customer will not, or permit or cause any third party to:

(a) use the Cloud Services other than expressly authorized by, and in accordance with the usage terms of, this Agreement;

(b) license, sub-license, sell, rent, lease, transfer, assign, distribute, outsource, permit time sharing or service bureau use, or otherwise commercially exploit or make the Cloud Services available to any third party, other than as expressly permitted by this Agreement and by international export laws and regulations;

(c) disassemble, reverse engineer, reverse compile, translate, modify, adapt, alter, copy or create derivative works from any products or services provided with the Cloud Services except to the extent permitted by applicable law;

(d) interfere with or disrupt the integrity or performance of the Cloud Services or the data contained therein in any way, including but not limited to: (i) conducting penetration testing in multi-tenant environments; (ii) conducting penetration tests in single-tenant environments without the Supplier's prior written consent; (iii) attempting to gain unauthorized access to the Cloud Services or their related systems or networks; or (iv) storing or transmitting a virus or other malicious code through the Cloud Services;

(e) disseminate performance-related information relating to the Cloud Services;

(f) use the Cloud Services to store or transmit infringing, libelous, offensive, unlawful or tortious material; or

(g) store or process any personal data of the following types: information on a person's racial or ethnic origin, political opinions, religious or philosophical convictions, union membership, health (HITECH - Health Information Technology for Economic and Clinical Health Act & HIPAA - Health Insurance Portability and Accountability Act), sex life, concerning bank or credit card accounts (PCI DSS - Payment Card Industry Data Security Standard) comprising but not limited to data according to GDPR Art. 9 No. 1.

1.3 **Service Level**: Supplier will use commercially reasonable efforts to make the Cloud Services accessible to Customer, subject to the availability of third party infrastructure, required and emergency maintenance, availability of third party networks and communications facilities and force majeure events. The Cloud Services are hosted on a shared third-party infrastructure environment as set forth in the applicable Order Form.

1.4 **Reservation of Rights**: Supplier owns all intellectual property rights in and to the Cloud Services, Documentation and all related materials and derivative works thereof. There is no transfer or assignment by Supplier of any ownership right and Supplier reserves all rights not expressly granted under this Agreement.

2 CUSTOMER INFORMATION

2.1 **Operational Data; Feedback**: Supplier will automatically collect information associated with Customer's access and use of the Cloud Services, including, without limitation application telemetry, IP addresses, IP configurations, stored sessions, open ports, Credentials, network metadata, and device operating system, status, version and configuration (collectively "**Operational Data**"). Supplier may use the Operational Data to monitor, analyze, develop, support or improve the performance of the Cloud Services. Customer grants to Supplier a worldwide, perpetual, irrevocable license to use and commercialize any suggestions, enhancement, requests, recommendations, corrections or other feedback provided by Customer relating to the Cloud Services.

2.2 **Customer Data**: With the exception of Operational Data, Customer owns all content, information, materials and intellectual property provided by Customer in connection with Customer's use of the Cloud Services ("**Customer Data**"). Customer is solely responsible for: (i) its provision and use of Customer Data with the Cloud Services; (ii) the accuracy, quality and content of the Customer Data; (iii) assessing the Cloud Services suitability for Customer's intended use; and (iv) obtaining all necessary rights, consents and permissions. Customer will comply with all applicable laws, in its provision and use of Customer Data in connection with the Cloud Services. Customer grants Supplier a worldwide, irrevocable, non-transferable, non-assignable (except as permitted under this Agreement), sub-licensable, non-exclusive license to access, retrieve, store, copy, display, distribute, transmit and otherwise use Customer Data associated with the Cloud Services as follows:

(a) in connection with maintaining, providing and/or making available the Cloud Services; and

(b) as reasonably required in order to cooperate with legitimate governmental requests, subpoenas or court orders provided that Supplier gives Customer reasonable notice of the demand to allow Customer to seek a protective order or other appropriate remedy unless Supplier is legally prohibited from doing so.

2.3 **Privacy Notice**: Supplier will collect and process any Operational Data that qualifies as Personal Data in accordance with its then current Privacy Notice. Supplier may change its Privacy Notice from time to time by posting a new version at https://www.softwareag.com/corporate/cloud_privacy_policy.

2.4 **Security**: Supplier will maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. Supplier will comply with its then current Cloud Information Security Policy as amended from time to time and available on request (subject to a written confidentiality agreement between the Parties).

3 LICENCE GRANT

3.1 **Grant of Licence; Restrictions**: Supplier grants to Customer a non-exclusive, non-sublicensable, non-transferable, limited subscription licence to use the Software, including the associated documentation delivered with the Software ("**Software Documentation**"), for the term set out in the Order Form.

Customer may use the Software for its internal use subject to this Agreement and any additional terms in the applicable Order Form. Except as otherwise stated in an Order Form, Customer will not: (i) permit any third party (including an affiliate or contractor) to use the Software or maintain or operate the Software on Customer's behalf; (ii) use the Software for the benefit of any third party, including to process the data of any third party; (iii) disassemble, reverse engineer, or reverse compile the Software in whole or in part except to the extent permitted by applicable law; (iv) modify, adapt, alter, or create derivative works from the Software; (v) merge the Software with other software, except to the extent permitted by applicable law; (vi) remove any proprietary notices from the Software or Software Documentation; or (vii) use the Software other than as described in the Documentation.

3.2 **Delivery and Acceptance**: The Software and Documentation will be distributed electronically, or if applicable, by physical media. Software will be deemed accepted upon delivery of the software activation key and download instructions, or if by physical shipment, upon shipment of the media, and any acceptance will not be revoked. Customer is responsible for installation of the Software.

3.3 **Ownership**: Supplier or its licensors owns all intellectual property rights in and to the Software, Documentation, and all related materials and all derivative works thereof. There is no transfer or assignment by Supplier of any ownership right and Supplier reserves all rights not expressly granted under this Agreement.

4 USAGE LIMITS

4.1 **Usage Limits**: Customer will ensure that its usage of the Products does not exceed the usage terms set forth in this Agreement and will be liable for any excess usage at Supplier's then current rates during the period in which usages exceeds the licensed amount.

5 MAINTENANCE AND SUPPORT SERVICES

5.1 **Maintenance and Support**: Supplier will provide the maintenance and support services specified in an Order Form in accordance with the applicable maintenance and support service description, as updated by Supplier from time to time and made available to customers at https://www.softwareag.com/corporate/tc/support_policies/default a copy of the latest version of which is attached to this Agreement.

6 PAYMENT

6.1 **Payment**: All payments are due and payable within 30 days of date of invoice and are non-refundable, non-cancelable, and irrevocable except as expressly stated in this Agreement. All payments shall be made without recoupment or set-off. Customer will pay all taxes and duties including, but not limited to, sales, use, rental, receipt, personal property, and other taxes (but excluding taxes based upon Supplier's income), which may be levied or assessed in connection with this Agreement. Any payment that is not paid in accordance with the terms of this Agreement will accrue interest at the rate of 1.5% per month, accruing daily from the date due (both before and after judgment) and Customer will pay all costs of collection, including reasonable legal fees and expenses.

7 CONFIDENTIALITY

7.1 **Confidential Information**: Each Party will have access to confidential or nonpublic information ("**Confidential Information**") of the other Party or third parties. Confidential Information disclosed is proprietary and will remain the sole property of the disclosing Party or such third parties. The Products and Documentation are Confidential Information of Supplier. Confidential Information will not include information that: (i) is or becomes publicly available or enters the public domain through no fault of the recipient; (ii) is rightfully communicated to the recipient by persons not bound by confidentiality obligations; (iii) is already in the recipient's possession free of any confidentiality obligations at the time of disclosure; (iv) is independently developed by the recipient; or (v) is approved, in writing, for release or disclosure without restriction.

7.2 **Confidentiality Obligation**: Each Party agrees to: (i) use Confidential Information only for the purposes of this Agreement; (ii) hold Confidential Information in confidence and protect it from dissemination to, and use by, any third party; (iii) not to create any derivative work from Confidential Information; (iv) restrict access to Confidential Information to its personnel, affiliates, agents, and contractors who need access to such Confidential Information and who have agreed in writing to treat such Confidential Information in accordance with this Agreement; and (v) return or destroy all Confidential Information of the other Party upon termination or expiration of this Agreement. If the recipient is required by law or valid legal order to disclose Confidential Information, the recipient will, unless prohibited by law, give reasonable notice of such demand to allow the disclosing Party to seek a protective order or other remedy.

8 WARRANTIES

8.1 **Mutual Warranties**: Each Party represents and warrants that it has the full right and power to enter into and perform its obligations under this Agreement.

8.2 **Cloud Services Warranties**: Supplier warrants that: (i) the Cloud Services, when properly used, will perform substantially in accordance with the Documentation; and (ii) the Cloud Services are subject to standard virus scanning methods designed to detect and remove malware.

8.3 **Software Warranties**: Supplier warrants to Customer: (i) that it has the right to grant to Customer the right to use the Software and to enter into this Agreement; and (ii) that for 1 (one) year from the acceptance of the Software by Customer under this Agreement, the Software will conform in all material respects to the description of the Software contained in the user manual for the Software as amended from time to time. Supplier's entire liability and Customer's exclusive remedy under this warranty shall be that Supplier will use reasonable commercial efforts to correct, provide a workaround for, or replace any reproducible error in the Software, at Supplier's cost and expense, provided written notice itemizing such error is given to Supplier during the warranty period.

9 IPR INDEMNITY

9.1 **Indemnity**: Supplier will indemnify Customer from any third party action against Customer to the extent proximately based upon an allegation that the authorized use of the Products infringes an intellectual property right registered in a nation that is a signatory to and enforces the Paris Convention, and pay those damages or costs (including reasonable attorneys' fees) incurred by Customer related to the settlement of such action or awarded against Customer, provided that Customer: (i) promptly notifies Supplier of any such action; (ii) gives Supplier full authority, information, and assistance to defend such claim; and (iii) gives Supplier sole control of the defense of such claim and all negotiations for the compromise or settlement of such claim.

9.2 **Exceptions**: Supplier will have no indemnity obligation nor other liability under this Agreement to the extent the claim is based upon: (i) Products that were modified by anyone other than Supplier; (ii) use of other than the then-current release of the Products, fat clients, or plug-ins provided to Customer to access the Products if the infringement could have been avoided by use of the then-current release and such release was made available to Customer; (iii) use of the Products in conjunction with other software, hardware or Customer data, where such use gave rise to the infringement claim; (iv) use of the Products in a manner inconsistent with its Documentation; or (v) use of the Products other than as expressly authorized in this Agreement.

9.3 **Remedy**: If Supplier determines that the Products are likely to be the subject of a claim of infringement, Supplier may, in its sole discretion: (i) replace or modify the Products; (ii) procure the right for Customer to continue using the Products; or (iii) terminate the license or access to the Products and refund to Customer a pro-rated portion of the applicable unused fees. THIS SECTION 'INFRINGEMENT INDEMNITY' STATES SUPPLIER'S EXCLUSIVE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY REGARDING ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT BY THE PRODUCTS OR ANY MATERIALS OR SERVICES PROVIDED UNDER THIS AGREEMENT.

9.4 **Customer Indemnity**: Customer will indemnify Supplier from any third party action against Supplier to the extent proximately based upon an allegation arising from: (i) any access to or use of Customer Data with the Products; or (ii) modification or use of the Products with any Customer applications, provided that Supplier (a) promptly notifies Customer of any such action; (b) gives Customer full authority, information, and assistance to defend such claim; and (c) gives Customer sole control of the defense of such claim and all negotiations for the compromise or settlement of such claim.

10   LIMITATION OF LIABILITY

10.1 **Limitation of Liability**: EXCEPT AS EXPRESSLY SPECIFIED IN THIS AGREEMENT, SUPPLIER IS NOT LIABLE FOR ANY LOSSES OR DAMAGES THAT MAY ARISE IN CONNECTION WITH CUSTOMER'S USE OF THE PRODUCTS. SUPPLIER IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) FOR ANY CLAIM THAT ARISES FROM OR RELATES TO THIS AGREEMENT (INCLUDING THE PRODUCTS), REGARDLESS OF THE FORM ALLEGED, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR SUPPLIER'S OBLIGATIONS UNDER SECTION 'INFRINGEMENT INDEMNITY' AND IN THE EVENT OF DEATH OR PERSONAL INJURY OF A PERSON NEGLIGENTLY CAUSED BY SUPPLIER SUPPLIER'S LIABILITY FOR MONETARY DAMAGES, REGARDLESS OF THE FORM OF ACTION, WILL NOT EXCEED THE FEES PAID UNDER THIS AGREEMENT FOR THE PRODUCTS IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO THE LIABILITY.

11   SUSPENSION AND TERMINATION

11.1 **Suspension:** Supplier may suspend Customer's access to the Cloud Services in order to: (i) comply with any law, regulation, government or court order; or (ii) prevent any degradation of the Cloud Services caused by Customer. Supplier will promptly resume the Cloud Services if and when the cause of the suspension has been removed.

11.2 **Termination**: In the event of a material breach of this Agreement, the non-breaching party may terminate this Agreement if the material breach has not been cured within thirty (30) days after written notice specifying such breach. Failure to make any payment due under this Agreement is a material breach. In the event of termination by Customer for Supplier's material breach, Supplier will refund a pro-rated portion of the applicable unused fees. In the event of termination by Supplier for Customer's material breach, all remaining fees under any Order Form will be immediately due and payable, all licence rights immediately cease to exist, and Customer will discontinue all use of the Software and/or Cloud Services. Customer will delete the Software and all copies and related materials no later than 10 days after the date of termination (and, upon request, certify such destruction to Supplier). Any terms that by their nature extend beyond termination or expiration will survive notwithstanding the termination or expiration of this Agreement.

12   GENERAL

12.1 **Data Protection Agreement**: The obligations of the parties in connection with the processing of any data that qualifies as personal data according to art. 4 no. 1 of the General Data Protection Regulation ("**Personal Data**") including the applicable technical and organizational measures that supplier is required to implement and maintain to protect Personal Data, will be as set out in the data processing agreement entered into between the parties ("**Data Processing Agreement**").

12.2 **Third Party Components**: If the Customer a) downloads any portion of the Cloud Services, including but not limited to plug-ins or connectors or fat clients ("**Cloud Service Downloadable**") and/or b) receives or uses the Software, the Customer acknowledges that such Cloud Service Downloadable and/or the Software may contain or be distributed with certain open source, free, or commercial third party components ("**Third Party Components**"), which may be subject to special license terms and conditions ("**Third Party Terms**") located at http://softwareag.com/licenses. Third Party Terms include important licensing and warranty information and disclaimers of third party licensors. For the avoidance of doubt, if Customer uses the Cloud Service Downloadable and/or the Software in accordance with the Documentation, the Third Party Terms do not restrict the rights granted under this Agreement. In the event that a third party manufacturer no longer provides active support for any Third Party Component, Supplier will use commercially reasonable efforts to respond to any issues with the Cloud Service Downloadable and/or the Software related to the Third Party Components.

12.3 **Audit**: Supplier may audit Customer's use of the Products no more than once per calendar year. No later than 10 business days from Supplier's request, Customer will confirm to Supplier in writing that Customer's use of the Products complies with the Agreement and provide sufficient detail, as reasonably requested by Supplier, to enable Supplier to assess such compliance. Subsequently, on giving reasonable notice to the Customer and without unreasonably interfering with Customer's regular course of business, Supplier or a designated consultant may, in accordance with any Customer security access requirements, data protection law and confidentiality obligations, perform an on-site audit of the systems on which the Products are installed for the purpose of assessing compliance with the Agreement. In the event of any non-compliance, and in addition to any other rights and remedies available to Supplier, Customer will pay the fees for any excess use of the Products from the point in time when the scope of use was first exceeded.

12.4 **Assignment**: Customer may not assign, transfer, delegate, or sublicence any of Customer's rights or obligations under this Agreement without Supplier's prior written consent. Any assignment, transfer, delegation, or grant of sublicense without Supplier's consent is null and void. The Supplier shall be entitled to transfer this Agreement within the group of companies of which the Supplier is a member as well as to any third party in connection with the assignment to any such third party of the right of the Supplier to receive any sums payable by the Customer to it hereunder.

12.5 **Export Control**: To the extent that any national and international export control, sanctions and trade control laws and regulations apply to this Agreement, the Parties agree to comply with the same and obtain any required approval, reporting and/or information obligations. Customer shall defend and indemnify the Supplier against any liability arising from any breach of this clause by the Customer. Supplier is not required to perform any obligation under the Agreement if prohibited by such export control laws, regulations or restrictions.

12.6 **Usage restriction**: Customer will not use, access or provide access to the Software and/or the Cloud Services in any manner that violates an applicable economic, financial or trade prohibition, sanction or embargo, which may include but is not limited to such prohibitions, sanctions or embargoes enacted or imposed by law or other restrictive measure and administered or enforced by (i) the United Nations Security Council, (ii) the United States government, (iii) the European Union or any of its member states' governments, (iv) the United Kingdom, (v) the Singaporean government, (vi) the Swiss Confederation, or (vii) any other authority that has jurisdiction over the Customer, Supplier or the relevant project or activity for which the Software and/or the Cloud Services are being used, accessed or provided.

12.7 **Anti-Corruption**: The Parties will comply with all laws, regulations and requirements (whether international, federal, state, local, or provincial) prohibiting bribery, money laundering, and anti-corruption, including the U.S. Foreign Corrupt Practices Act.

12.8 **Dispute Resolution**: In the event of a dispute, each Party will appoint a senior management representative to negotiate in good faith to resolve the dispute before commencing formal proceedings. Formal proceedings may not commence until 30 days have passed since the initial request to negotiate the dispute; provided, however, that a Party may file for formal proceedings at any time to avoid the expiration of any limitations period, preserve a superior position with respect to other creditors, or apply for interim, injunctive, or equitable relief.

12.9 **Independent Contractors**: The Parties are independent contractors and have no power to bind or incur obligations on the other Party's behalf.

12.10 **Force Majeure**: Neither Party is liable for failing to perform an obligation under this Agreement if such failure is due to any act or condition beyond that Party's reasonable control.

12.11 **Governing Law**: This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties shall submit to

the non-exclusive jurisdiction and procedure of the Courts of England.

12.12 **Marketing**: Customer agrees that, while this Agreement is in effect, Supplier is authorised to identify Customer as a customer in public relations and marketing materials, including identification on Supplier's website, and use Customer's corporate name and logo.

12.13 **Notices**: All notices, demands, or other communications by any party to the other shall be deemed to have been duly given when: (i) made in writing and delivered in person with signed receipt, or (ii) sent via a nationally recognized, traceable, overnight delivery carrier, to the address detailed above, or to such address as the parties may provide to each other in writing from time to time. Notice will be effective upon delivery.

12.14 **Entire Agreement; Waiver; Priority; Severability**: This Agreement constitutes the entire agreement between the Parties, and supersedes all prior written and oral agreements and communications related to the subject matter of this Agreement. Any modifications to this Agreement must be in writing and signed by the duly authorized representatives of the Parties. Any waiver under this Agreement must be in writing and signed by the Party granting the waiver. A waiver granted under this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other provision of this Agreement. No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right. In the event of any conflict between any provision of this Agreement and any Order Forms incorporated and made part of this Agreement, such conflict will be resolved by giving precedence to the Order Form(s). Any contrary or additional terms and conditions included in any purchase order or similar document (printed or online) related to this Agreement will be invalid and non-binding, even if received, accepted, approved, or signed by a Party. If any provision of this Agreement is held invalid or unenforceable, the provision will be limited to the minimum effect necessary and the remaining provisions of this Agreement will remain binding and enforceable. This Agreement may be executed in one or more counterparts, with the same effect as if the Parties had signed the same document. The Parties agree to the use of digital signatures.

The duly authorized representative(s) of each Party accepts the terms of this Agreement by signing below.

Agreement			
Duly authorised for and on behalf of Supplier		Duly authorised for and on behalf of Customer	
Signed		Signed	
Name		Name	
Title		Title	
Date		Date	

STANDARD CLOUD SUPPORT SERVICE

Customer is a user of certain Cloud Services under a Cloud Services Agreement that the Customer has executed with a Software AG subsidiary (hereinafter "**Supplier**"). The maintenance and support services that the Supplier has agreed to deliver as provided in the Cloud Services Agreement are defined herein, and this document forms an attachment to the Cloud Services Agreement.

1   DEFINITIONS

1.1   **Definitions**: Unless the context requires otherwise the following words and expressions shall bear the meanings set out below where used in this Agreement:

"**Business Day**"	means the days from Monday to Friday excluding public holidays in country as specified in the Customer address field on the first page of the underlying Cloud Services Agreement that correspond with Software AG's Global Support operating days.
"**Business Hour**"	means the hours from 8.00 am to 5.00 pm on a Business Day of the main support hub within Customer's region: (a) EMEA – 8 to 5 Central European Time (CET) (b) APJ – 8 to 5 Malaysia Time (MYT) (c) US – 8 to 5 Mountain Time (MT) Global Support operating hours may change from time to time.
"**Cloud Services**"	means the Supplier cloud services to be provided to the Customer under the Cloud Services Agreement.
"**Cloud Services Agreement**"	means the Cloud Services Agreement under which the Cloud Services are to be provided to the Customer.
"**Documentation**"	means the user manuals that the Supplier makes available to users of the Cloud Services.
"**Error**"	means any verifiable and reproducible failure of the Cloud Services to substantially conform to the specifications for such Cloud Services. Notwithstanding the foregoing, "**Error**" shall not include any such failure that is caused by: (i) the use or operation of the Cloud Services with any other software or code or in an environment other than that intended or recommended in the Documentation, (ii) modifications to the Cloud Services not made or approved by the Supplier in writing, or (iii) any bug, defect, or error in third-party software used with the Cloud Services.
"**Error Correction**"	means either a modification or addition to or deletion from the Cloud Services having the effect that such Cloud Services substantially conforms to the then current specifications, or a procedure or routine that, when exercised in the regular operation of the Cloud Services, eliminates any material adverse effect on the Customer caused by an Error. An Error Correction may be a correction, workaround or service update.
"**Software AG Global Support**"	means the Supplier's Global Support Organization providing the support and maintenance services for the respective Customer.
"**Software AG's Support Portal**"	means the Supplier's web-based Customer support system, designed with proactive services, information and Error Corrections.

2   SERVICE DESCRIPTION

2.1   **Standard Maintenance and Support Service**: Software AG's Standard Maintenance and Support Service consists of the following services:

(a)   Twenty-four (24) hour access to Software AG's Support Portal including access for authorized technical contacts ("**ATC**") to Supplier's request reporting system for browsing and submitting incidents, online access to new product information, documentation and knowledge center.

(b)   24x7 support service for crisis incidents. Telephone support according to this agreement is available 24x7 (24 hours a day; 7 days a week) for crisis requests and is provided during after-Business Hours and on non-Business Days in English only.

(c)   9x5 (9 hours a day; 5 days a week) telephone support for critical and standard incidents according to this agreement during Business Hours. Customer will receive initial response within the defined reaction times during Business Hours only. The respective telephone number is available in Software AG's Support Portal. If not provided in local language, telephone support is provided in English.

(d)   Seven (7) authorized technical contacts (ATC) of the Customer entitled to access Software AG's Support Portal. This restriction applies per Customer and not per contract. All ATCs shall have appropriate professional and technical qualifications and shall be assigned internally by Customer to process queries from users about the Cloud Services. To protect against improper use of services, services may only be requisitioned by these ATCs previously-reported to Software AG. Customer may contract for additional authorized contacts. ATC Group accounts that are used by multiple Customer representatives are not allowed. One Customer representative equals one ATC only.

(e)   Information on new features, events, and Customer application articles.

3   PROCESSING CUSTOMER REQUESTS

3.1   **Introduction**: Customer requests will be received by Software AG Global Support and will be documented in Software AG's Support Portal for further processing. The Customer will be given a reference processing number for future reference.

(a)   All crisis incidents must be submitted to Software AG Global Support by telephone. When submitting Security Incidents to Software AG Global Support, Customer must indicate this aspect to the support representative or set the security flag in the support ticket if reported via customer support portal.

(b)   The region of a customer is the region where that customer is located or has opted to define that region as their region. For example the region for an EMEA customer is EMEA, however an EMEA customer may opt for another region, say AME, to be their default region.

(c)   During after-Business-Hours and non-Business Days, all communication will be in English only.

(d)   When reaching Software AG Global Support by telephone, Customer is to provide the incident/ticket number so that work on the incident can commence.

(e)   Software AG Global Support has no obligation to solve the Customer's issue within the reaction or any other time frame.

3.2 **Service Expectations**: The following support severities are used for classifying the Customer's incidents. These classifications ensure consistent treatment of incidents handled by Software AG Global Support. Software AG Global Support will determine the appropriate severity level according to the following table:

Severity Level	Crisis	Critical	Standard
Definitions	Customer's problem has a severe business impact, e.g. production down. Customer is unable to use the Cloud Services, resulting in a major impact on Customer's operations. Work cannot reasonably continue.	Customer's problem has a significant business impact; however, operations can continue in a restricted fashion. The Cloud Services are usable but severely limited. There is no acceptable workaround available. Customer is experiencing a significant loss of service.	Customer's problem has some business impact. The Cloud Services are usable and cause only minor inconvenience. It may be a minor Error, documentation Error, or incorrect operation of the Cloud Services, which does not significantly impede the operation of the Cloud Services.
ReactionTime	**1 Hour**: call-back or electronic reply.	**4 Business Hours**: call-back or electronic reply.	**1 Business Day**: call-back or electronic reply.
Reporting (timeframe)	Daily reporting (unless otherwise agreed with Software AG Global Support on a case-by-case basis).	As agreed between Software AG Global Support and Customer on a case-by-case basis.	As agreed between Software AG Global Support and Customer on a case-by-case basis.
Reaction Measure	Customer is provided with a timeline for Error Correction.	Customer is provided with a timeline for Error Correction.	• Information about publication date of the Cloud Services release that will solve the issue • Indication that changes/enhancements are being handled in accordance with Software AG's strategy.

4 CUSTOMER RESPONSIBILITIES

4.1 **Customer Responsibilities**: Customer shall co-operate with Software AG Global Support and provide relevant information to enable Supplier to reproduce, troubleshoot and resolve the experienced error.

4.2 **Customer Consent**: In case that an incident is submitted to Software AG's Support Portal Customer authorizes Supplier, for the purposes of troubleshooting and resolving such incident, to access Customer's cloud environment for the duration of the submitted incident on the basis set out in the Cloud Services Agreement.

STANDARD MAINTENANCE AND SUPPORT SERVICE

Customer is a licensee of certain Software AG products under a Licence and Maintenance Agreement that the Customer has executed with a Software AG subsidiary (hereinafter "**Supplier**"). The maintenance and support services that the Supplier has agreed to deliver as provided in the Licence and Maintenance Agreement are defined herein, and this document forms an attachment to the Licence and Maintenance Agreement.

1 DEFINITIONS

1.1 **Definitions**: Unless the context requires otherwise the following words and expressions shall bear the meanings set out below where used in this Agreement:

"**Business Day**"	means the days from Monday to Friday excluding public holidays in country as specified in the Customer address field on the first page of the underlying Licence and Maintenance Agreement that correspond with Software AG's Global Support operating days.
"**Business Hour**"	means the hours from 8.00 am to 5.00 pm on a Business Day of the main support hub within Customer's region: (a) EMEA – 8 to 5 Central European Time (CET) (b) APJ – 8 to 5 Malaysia Time (MYT) (c) US – 8 to 5 Mountain Time (MT) Global Support operating hours may change from time to time.
"**Documentation**"	means the user manuals that the Supplier makes available to licensees of the Software.
"**Error**"	means any verifiable and reproducible failure of the Software to substantially conform to the specifications for such Software. Notwithstanding the foregoing, "**Error**" shall not include any such failure that is caused by: (i) the use or operation of the Software with any other software or code or in an environment other than that intended or recommended in the Documentation, (ii) modifications to the Software not made or approved by the Supplier in writing, or (iii) any bug, defect, or error in third-party Software used with the Software.
"**Error Correction**"	means either a modification or addition to or deletion from the Software having the effect that such Software substantially conforms to the then current specifications, or a procedure or routine that, when exercised in the regular operation of the Software, eliminates any material adverse effect on the Customer caused by an Error. An Error Correction may be a correction, workaround, fix, Service Pack or Service Release.
"**Fix**"	Supplier creates defect fixes at the component level to resolve specific issues. These issues may be identified in Supplier's QA labs, or at Customer installations. Fixes are: (a) Tested to ensure the issue is resolved within the target configuration; (b) Cumulative within functional sub-components, e.g., Integration Server Scheduler; (c) Periodically rolled up into planned, cumulative Service Packs or Service Releases; (d) Made available to other Customers via Software AG's Support Portal.
"**Licence Agreement**"	means the Licence and Maintenance Agreement under which the Software is licensed to the Customer.
"**Major Version**"	a "major version" means one in which significant new features and functionality are delivered. Some but not all of the major versions may also contain architecture changes, thus requiring a complete reinstall to upgrade, rather than the simple "install over" that is typical of Minor Versions, Service Packs and Service Releases. A version that ends in "X.0" is considered a major version.
"**Minor Version**"	means one in which some new features and functionality are delivered along with fixes. Versions with numbering of "X.Y" are usually considered minor versions, e.g. webMethods 9.7 or Natural 6.3. Minor versions usually offer easy upgrade and an "install over" approach to upgrade.
"**Service Release**"/"**Service Pack**"	means a planned release in which an accumulation of Fixes is delivered. It may additionally include new features. These Service Packs/Service Releases are denoted using SP or SR in the numbering, e.g. Product A X.Y SP1 or Product B X.Y SR 1. In places where a full version identifier is specified, Service Packs/Service Releases are denoted by the third part of the version number ("X.Y.Z") Service Packs/Service Releases offer easy upgrade and an "install over" approach to upgrade. For optimal support, Customer is required to upgrade to the latest Service Pack/Service Release.
"**Software**"	means the Supplier software programs licensed to the Customer under the Licence Agreement.
"**Software AG Global Support**"	means the Supplier's Global Support Organization providing the support and maintenance services for the respective Customer.
"**Software AG's Support Portal**"	means the Supplier's web-based Customer support system, designed with proactive services, information and Error Corrections.

2 SERVICE DESCRIPTION

2.1 **Introduction**: Customer is entitled to receive the following services for the Software against payment of the agreed-upon support and maintenance fees and according to agreed-upon terms & conditions. Where the Customer holds more than one licence to use any Software then Customer is required to take product maintenance and support services for all (and not some only) of the licensed Software – partial termination is not permitted.

2.2 **Standard Maintenance and Support Service**: Software AG's Standard Maintenance and Support Service consists of the following services:

(a) Twenty-four (24) hour access to Software AG's Support Portal including access for authorized technical contacts ("**ATC**") to Supplier's request reporting system for browsing and submitting incidents, online access to new product information, documentation, knowledge center, and information on available Software fixes.

(b) 24x7 support service for crisis incidents. Telephone support according to this agreement is available 24x7 (24 hours a day; 7 days a week) for crisis requests and is provided during after-Business Hours and on non-Business Days in English only. With respect to Supplier's Adabas & Natural product

line, 24x7 support service for crisis incidents is available only for Customers located in the US region. With respect to Software AG's Trendminer product line support service for Crisis incidents is provided during Business Hours only.

(c) 9x5 (9 hours a day; 5 days a week) telephone support for critical and standard incidents according to this agreement during Business Hours. Customer will receive initial response within the defined reaction times during Business Hours only. The respective telephone number is available in Software AG's Support Portal. If not provided in local language, telephone support is provided in English.

(d) Seven (7) authorized technical contacts (ATC) of the Customer entitled to access Software AG's Support Portal. This restriction applies per Customer and not per contract. All ATCs shall have appropriate professional and technical qualifications and shall be assigned internally by Customer to process queries from users about the Software. To protect against improper use of services, services may only be requisitioned by these ATCs previously-reported to Software AG. Customer may contract for additional authorized contacts. ATC Group accounts that are used by multiple Customer representatives are not allowed. One Customer representative equals one ATC only.

(e) Information on new features, events, and Customer application articles.

3   SOFTWARE AND DOCUMENTATION UPDATES

3.1   **Software and Documentation Updates**: On a when and if available basis, Software AG Global Support provides:
   (a) New versions of licensed Software AG products;
   (b) Updates of Software containing Error Corrections;
   (c) Documentation updates for the Software.
Information regarding availability of Software and Documentation updates is published by the Supplier and available in Software AG's Support Portal.

4   PROCESSING CUSTOMER REQUESTS

4.1   **Introduction**: Customer requests will be received by Software AG Global Support and will be documented in Software AG's Support Portal for further processing. The Customer will be given a reference processing number for future reference.
   (a) All crisis incidents must be submitted to Software AG Global Support by telephone. When submitting Security Incidents to Software AG Global Support, Customer must indicate this aspect to the support representative or set the security flag in the support ticket if reported via customer support portal.
   (b) The region of a customer is the region where that customer is located or has opted to define that region as their region. For example the region for an EMEA customer is EMEA, however an EMEA customer may opt for another region, say AME, to be their default region.
   (c) During after-Business-Hours and non-Business Days, all communication will be in English only.
   (d) When reaching Software AG Global Support by telephone, Customer is to provide the incident/ticket number so that work on the incident can commence.
   (e) Software AG Global Support has no obligation to solve the Customer's issue within the reaction or any other time frame.

4.2   **Service Expectations**: The following support severities are used for classifying the Customer's incidents. These classifications ensure consistent treatment of incidents handled by Software AG Global Support. Software AG Global Support will determine the appropriate severity level according to the following table:

Severity Level	Crisis	Critical	Standard
Definitions	Customer's problem has a severe business impact, e.g. production down. Customer is unable to use the Software, resulting in a major impact on Customer's operations. Work cannot reasonably continue.	Customer's problem has a significant business impact; however, operations can continue in a restricted fashion. The Software is usable but severely limited. There is no acceptable workaround available. Customer is experiencing a significant loss of service.	Customer's problem has some business impact. The Software is usable and causes only minor inconvenience. It may be a minor Error, documentation Error, or incorrect operation of the application, which does not significantly impede the operation of a system.
Reaction Time	**1 Hour**: call-back or electronic reply.	**4 Business Hours**: call-back or electronic reply.	**1 Business Day**: call-back or electronic reply.
Reporting (time frame)	Daily reporting (unless otherwise agreed with Software AG Global Support on a case-by-case basis).	As agreed between Software AG Global Support and Customer on a case-by-case basis.	As agreed between Software AG Global Support and Customer on a case-by-case basis.
Reaction Measure	Customer is provided with a timeline for Error Correction.	Customer is provided with a timeline for Error Correction.	• Information about publication date of the Software release that will solve the issue • Indication that changes/ enhancements are being handled in accordance with Software AG's strategy.
Required Effort	Economically justifiable effort within standard scope of resources.	Reasonable effort within standard scope of resources.	Reasonable effort within standard scope of resources.

4.3   **Tools and Processes**: Software AG Global Support uses the following processes and tools to solve or find a workaround to the Customer's issues:
Fault diagnosis/analysis for Supplier's products:
   (a) Evaluation of Customer data supplied (including diagnostic information)
   (b) Classification of the reported situation as a product issue, user issue or third-party issue
   (c) Research in Supplier's Support Knowledge Center
   (d) Reproduction of the error situation (if possible)
   (e) Coordination with Supplier's product development
Results and/or solutions or workarounds will be provided via one of the following media:
   (a) Telephone

(b) Software AG's Support Portal

(c) E-mail

(d) Data carriers

4.4 **Remote Diagnosis**: Software AG Global Support may perform remote diagnosis to facilitate issue analysis. In such case, Software AG Global Support will access Customer's environment via a Remote Online Diagnostic Tool for purposes of diagnosis and analysis only. Remote access to Customer's environments will occur during Business Hours at the times agreed between the Customer and Software AG Global Support.

5 SERVICES OUTSIDE THE SCOPE OF SOFTWARE AG'S MAINTENANCE AND SUPPORT SERVICE

5.1 **Additional Services**: In addition to the scope of Support and Maintenance Services as defined in these Maintenance and Support Services Conditions and the underlying Licence and Maintenance Services Terms and Conditions, the Customer may request additional Support and Maintenance Services. Based on availability, such services can be offered as part of a separate service agreement and payment of applicable fees. Further information can be found on Software AG's Support Portal.

5.2 **Third Party Materials**: In the event that individual program versions from third party manufacturers that are provided to the Customer in connection with the Software and which are required in order to operate the Software (such as Java virtual machines, applications, frameworks, and databases) ("**Accompanying Programs**") are no longer actively supported by their respective manufacturers, the Supplier shall have no obligation to correct errors occurring in connection with the Accompanying Programs and to respond to incidents reported by the Customer.

6 END OF MAINTENANCE

6.1 **Road Map**: The roadmap for the provision of maintenance and support services in respect of Major Versions and Minor Versions is published on Software AG's Support Portal. No separate notice will be provided to the Customer who will be responsible for monitoring updates published on Software AG's Support Portal. The dates on which maintenance and support services in respect of Major Versions and Minor Versions will be terminated ("**End of Maintenance**") will be published on Software AG's Support Portal and may change from time to time.

6.2 **Sustained Support**: Following End of Maintenance, Supplier shall be under no obligation to provide new Fixes but will (for a minimum of 12 months from End of Maintenance) provide web-based and telephone assistance ("**Sustained Support**") to the Customer in respect of the relevant Major Version and/or Minor Version. All fixes available prior to End of Maintenance ("**Available Fixes**") shall continue to be available to the Customer.

6.3 **Beyond Sustained Support**: At the conclusion of Sustained Support, Supplier will (for so long as the Customer continues to take and pay for the relevant maintenance and support service) continue to permit the Customer to access hints and available Fixes only.

6.4 **New Fixes**: Full Support and the supply of new fixes beyond End of Maintenance and Sustained Support may be available at Supplier's discretion for an additional fee – further details about obtaining an End of Maintenance Extension (EME) agreement are available upon request.

7 CUSTOMER RESPONSIBILITIES

7.1 **Customer Responsibilities**: The services to be performed are subject to the following conditions:

(a) The Customer entered into a valid software support and maintenance agreement with the Supplier and has fully paid the respective support and maintenance fees.

(b) The Customer entered into a valid Licence Agreement with Supplier regarding the Software to be supported and has fully paid the respective licence fees that are due to payment.

(c) The Software is installed at the Customer's site or any third party's site that is authorized – pursuant to the underlying Licence and Maintenance Agreement – to operate the Software on Customer's behalf (Outsourcing provider).

(d) The Customer allows remote access for Software AG Global Support to the Customer environment where Customer is requesting support.

(e) The Customer provides appropriate tools to enable remote access for Software AG Global Support (e.g. Interactive Problem Control System (IPCS), Time Sharing Option (TSO), Terminal-Emulation, Netviewer etc.).

(f) The Customer establishes appropriate security measures to ensure that Software AG Global Support's access is restricted to permissible areas.

(g) The Customer has installed the release levels of the Software which are supported at the time the relevant Customer request occurs.

(h) The Customer uses hardware, operating system software and database software that comply with the specifications of the release levels of the Software which are supported at the time the relevant Customer request occurs; the release levels of the Software which are supported at the time the relevant Customer request occurs can be identified on Software AG's Support Portal.

(i) The Customer provides Software AG Global Support with:

- sufficient information and assistance as requested by Software AG Global Support regarding the Customer's environment (including appropriate computing time) and all necessary information on the error
- specific third party expertise relevant to the Customer's environment, if applicable
- information on any used software tools upon Software AG Global Support's request
- diagnostic information such as traces, dumps, parameters, etc. upon Software AG Global Support's request.

DATA PROCESSING AGREEMENT

This Data Processing Agreement ("**DPA**") is an integral part of the Hybrid Cloud Services Agreement and any Hybrid Cloud Services Attachments dated the same date as the date of this DPA (hereinafter together referred to as "**Agreement**") and is entered into by and between:

Parties		
between	Software AG (UK) Limited ("**Supplier**" and "**Processor**") acting in its own name and acting in the name of the Processors located in Third Countries	GCloud13 ("**Customer**" and "**Controller**")
Reg. No.	1310740	
Registered office	Pride Park, 24 Orient Way, DERBY, Derbyshire DE24 8BY, UNITED KINGDOM	tba

each a "**Party**", together the "**Parties**".

1   DEFINITIONS

1.1   The following terms apply to this DPA in addition to those defined in the EU General Data Protection Regulation ("**GDPR**"):

"**Applicable Data Protection Law**"	means any data protection law that applies to Customer's processing of personal data such as the GDPR and the California Consumer Protection Act of 2018 ("**CCPA**").
"**Member State**"	means a country belonging to the European Union ("**EU**") or the European Economic Area ("**EEA**").
"**Processors located in Third Countries**"	means the processors located in Third Countries that Processor engages to process Customer's personal data.
"**Services**"	means activities carried out by Supplier on behalf of Customer as set out in the Agreement and the Appendix to this DPA.
"**Standard Contractual Clauses" ("SCCs")** "	means the Standard Contractual Clauses for the Transfer of Personal Data to Processors established in Third Countries pursuant to Commission Decision 2010/87/EU.
"**Subprocessor**"	means a sub-contractor that Processor engages to process personal data on behalf of Controller when carrying out the subcontracted Services. The list of Subprocessors is available here: www.softwareag.com/dpa-processors
"**Third Countries**"	mean countries outside of the EU/EEA for which the European Commission has not issued an adequacy decision.

2   DETAILS OF PROCESSING

2.1   The Appendix to this DPA details the processing operations that Processor provides to Controller.

3   OBLIGATIONS OF CONTROLLER

3.1   Controller shall comply with Applicable Data Protection Law and demonstrate such compliance as required under the Applicable Data Protection Law.

3.2   If required by Applicable Data Protection Law Controller shall provide to Processor a copy of the privacy notice that Controller provided to the data subjects.

4   INSTRUCTIONS

4.1   Controller engages Processor to process the personal data on behalf of Controller in accordance with GDPR Article 28. Controller instructs Processor to process Personal Data on its behalf of Controller for the purposes of performing the Services. Controller shall ensure that any instruction given to Processor complies with Applicable Data Protection Law.

4.2   Processor shall process the personal data only in accordance with the instructions given by the Controller unless otherwise required by European Union law, Member State law or other applicable data protection law (in the latter case clause 5.4 (b) applies).

4.3   Any further instructions that go beyond the instructions contained in this DPA or the Agreement must be within the subject matter of this DPA and the Agreement. If the implementation of such further instructions results in costs for Processor, Processor shall inform Controller about such costs with an explanation of the costs before implementing the instructions. Only after Controller's confirmation to bear such costs for the implementation of the instructions, Processor is required to implement such further instructions. Controller shall give further instructions generally in writing, unless the urgency or other specific circumstances require another (e.g., oral, electronic) form. Instructions in another form than in writing shall be confirmed by Controller in writing without delay.

4.4   Processor shall immediately inform Controller if, in its opinion, an instruction infringes the GDPR or other Applicable Data Protection Law and request Controller to withdraw, amend or confirm the relevant instruction. Processor shall be entitled to suspend implementation of the relevant instruction pending Controller's decision to withdraw, amend or confirm such instruction.

5   OBLIGATIONS OF PROCESSOR

5.1   Processor shall ensure that all persons authorized by Processor to process personal data on behalf of Controller, particularly personnel of Processor or any Subprocessor, have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

5.2   Before processing personal data to provide the Services, Processor shall implement the following technical and organizational measures: www.softwareag.com/dpa-toms. Processor may amend the technical and organizational measures from time to time provided that the amended technical and organizational measures are not less protective than those in place as of date that the Parties concluded this DPA.

5.3   Processor shall make available to Controller all information necessary to demonstrate compliance with the obligations in GDPR Article 28. The Parties agree that this information obligation is met by providing Controller with an audit report upon request. To the extent additional audit activities are required by Applicable Data Protection Law, Controller may request inspections conducted by Controller or another auditor mandated by Controller. Such on-site audit must:

(a)   be limited to processing facilities and personnel of Processor involved in the processing activities covered by this DPA;

(b)   occur no more than once annually or as required by Applicable Data Protection Law or by a competent supervisory authority or immediately after a material personal data breach affecting personal data processed by Processor under this DPA; and

(c) may occur only during regular business hours, after reasonable prior notice, in accordance with Processor's security policies and without substantially disrupting Processor's business operations.

Each Party shall bear its own costs arising out of or in connection with the on-site audit at Controller and Processor. Controller shall create an audit report summarizing the findings and observations of the on-site audit. All audit reports are confidential information of Processor and shall not be disclosed to third parties unless required by Applicable Data Protection Law or with Processor's consent.

5.4 Processor shall notify Controller without undue delay:

(a) about any legally binding request for disclosure of the personal data by a law enforcement authority, unless otherwise prohibited, such as by a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

(b) if EU law, Member State law or other Applicable Data Protection Law to which Processor or Subprocessor is subject requires Processor or Subprocessor to process the personal data beyond Controller's instructions, before performing such processing, unless that European Union law, Member State law or other Applicable Data Protection Law prohibits such information on important grounds of public interest. In this case Processor's notification to Controller must specify the applicable legal requirement; and

(c) after Processor has documented reason to believe that a personal data breach has occurred at Processor or at Subprocessors that may affect the personal data of Controller covered by this DPA. In this case, Processor shall assist Controller with Controller's obligation under Applicable Data Protection Law to inform the data subjects and the supervisory authorities, as applicable, by providing information in accordance to GDPR Article 33 (3) or other Applicable Data Protection Law as available to Processor. Processor shall implement remediation measure to prevent future breaches.

5.5 Processor shall take commercially reasonable measures to provide necessary information and assist Controller with its obligation to carry out a data protection impact assessment or prior consultation in relation to the Services as may be required by GDPR Article 35 or 36. Processor must provide such assistance only if Controller cannot meet its obligation through other means.

5.6 At the choice of Controller, Processor shall delete or return to Controller all personal data (including any data storage media) processed on Controller's behalf under this DPA after the end of the provision of Services and delete any existing copies unless European Union or Member State law requires Processor to retain such personal data.

6 DATA SUBJECT RIGHTS

6.1 Controller is primarily responsible for handling and responding to requests made by data subjects. If a data subject contacts Processor directly, Processor shall communicate the data subject's request to Controller. Processor shall not respond to any data subject independently.

6.2 Processor shall assist Controller using appropriate and possible technical and organizational measures to respond to data subjects' requests to exercise the rights set out in Chapter III of the GDPR or other Applicable Data Protection Laws.

7 SUBPROCESSING

7.1 Controller authorises the use of Subprocessors engaged by Processor for the provision of the Services under this DPA. The same applies to the use of further Subprocessors engaged by Subprocessors, in which case the below applies accordingly. Processor shall choose such Subprocessor diligently. Processor remains responsible for any acts or omissions of its Subprocessors in the same manner as for its own acts and omissions hereunder. Controller approves the Subprocessors listed here: www.softwareag.com/dpa-processors.

7.2 Processor shall pass on in writing (electronic form is sufficient) to Subprocessors the obligations of Processor under this DPA to the extent applicable to the subcontracted Services.

7.3 Processor may remove, replace or appoint suitable and reliable Subprocessors at its discretion in accordance with this clause:

(a) Processor shall after Controller's registration on the SAG Support Portal (https://www.softwareag.com/en_corporate/tc/dpa-toms/subscription.html) notify Controller in advance of any changes to the list of Subprocessor(s) as set out under clause 7.1 by sending changes to the list of Subprocessor(s) to the given e-mail address of the Controller.

(b) If Controller does not object in accordance with this clause within 30 days of receiving Processor's notice the Subprocessor(s) will be deemed accepted. If Controller has a legitimate reason to object to a Subprocessor, Controller shall notify Processor thereof in writing within 30 days after receipt of Processor's notice. If Controller objects to the use of the Subprocessor, Processor shall have the right to cure the objection within 30 days after Processor's receipt of Controller's objection. If the objection has not been cured within 30 days after Processor's receipt of Controller's objection, either party may terminate the affected Service with reasonable written notice.

8 INTERNATIONAL TRANSFER OF PERSONAL DATA

8.1 In providing Services personal data will be transferred to Processor, Processors located in Third Countries and Subprocessors in Third Countries. In such cases an adequate protection for the personal data pursuant to the GDPR must be ensured. Thereto Processor shall conclude the SCCs and Processors located in Third Countries shall conclude the SCCs directly with the Customer and Processor, and Processors located in Third Countries shall comply with the SCCs for any onward transfer to Subprocessors in Third Countries. The SCCs are incorporated into this DPA by reference and are available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010D0087

9 TERM

9.1 The term of this DPA is the term of the Agreement.

10 CALIFORNIA CONSUMER PRIVACY ACT

10.1 To the extent that the CCPA applies, the Parties acknowledge that Customer is a Business and that Customer engages Supplier as a Service Provider. In accordance with the CCPA, Supplier shall: (a) neither sell Customer's Personally Identifiable Information ("**PII**") nor collect, retain, disclose or use Customer's PII for any purpose other than providing the Services; (b) implement and maintain appropriate measures to comply with a Consumer request to opt-out, access or erase Customer's PII; and (c) ensure that any other Service Provider that it engages to provide the Services complies with the Agreement, this DPA and all Applicable Law.

11 GENERAL

11.1 In the event of inconsistencies between the provisions of this DPA and any other agreements between the Parties, the provisions of this DPA will prevail regarding the Parties' data protection obligations. In case of doubt as to whether clauses in such other agreements relate to the Parties' data protection obligations, this DPA will prevail. If any provision of this DPA is held to be invalid, illegal or unenforceable, the remaining provisions shall not be affected or impaired.

Agreement	
Duly authorised for and on behalf of Supplier acting in its own name and acting in the name of the Processors located in Third Countries	Duly authorised for and on behalf of Customer

Signed		Signed	
Name		Name	
Title		Title	
Date		Date	

APPENDIX: DETAILS OF PROCESSING

Controller/Data Exporter	**Cloud Services**: The Controller/Data Exporter is providing business data necessary in course of use of and to assist in the analysis and resolution of Support Incidents reported in the Cloud Services of Processor/Data Importer.
	Support: The Controller/Data Exporter is providing business data to assist in the analysis and resolution of Support Incidents reported in software products of Processor/Data Importer.
	Professional Services: The Controller/Data Exporter is providing business data to or granting access to Processor/Data Importer to help develop or implement solutions for Controller/Data Exporter.
	Training, Onboarding, Customer Success Services: The Controller/Data Exporter is providing business data to assist with training, onboarding and customer success services.
Processor/Data Importer	The Supplier is the Processor/Data Importer.
Data subjects	- employees of Controller/Data Exporter - end-customers of Controller/Data Exporter - potential end-customers of the Controller/Data Exporter - any person with whom Controller/Data Exporter maintains a business relationship
Categories of data	- Name - Corporate Personnel ID - Business e-mail address - Telephone number - IP Address - Data of the Controller/Data Exporter used within the systems which are in the scope as defined in the relevant Statement of Work - Data of the Controller/Data Exporter used within the products offered by Processor/Data Importer
Special categories of data (if appropriate)	**Cloud Services**: The Controller/Data Exporter decides which data is transmitted for the purpose of providing Cloud Services.
	Support: The Controller/Data Exporter decides which data is transmitted for the purpose of providing customer support.
	Professional Services: The Controller/Data Exporter decides which data is made available to the Processor/Data Importer in the scope of the systems as defined in the relevant Statement of Work.
	Training, Onboarding, Customer Success Services: The Controller/Data Exporter decides which data is transmitted for the purpose of providing customer support and customer success services.
Processing operations	**Cloud Services:** Processor/Data Importer processes Controller/Data Exporter Data with a Software as a Service /Platform as a Service in a public cloud infrastructure as defined in the Cloud Services agreement.
	Support: Support incident solution research using Controller/Data Exporter business data to analyse or reproduce incidents reported by the Controller/Data Exporter.
	Professional Services: The Processor/Data Importer will use the personal data of the Controller/Data Exporter only as defined in the Service Agreement..
	Training, Onboarding, Customer Success Services: Maintaining a record of application users and training sessions.
Subject matter of the processing	**Cloud Services:** The subject matter of the data processing under this addendum are the Controller/Data Exporter data processed in the cloud services as defined in the Cloud Services Attachment including the operation of a Cloud Service platform. To access the operated platform users need to be authenticated and authorized. User details will be used to create unique user id's that are used for authentication and authorization. Email addresses might be used to send notifications to the users as result of using services of the Cloud Service platform and corresponding support systems (e.g. Ticket system).
	Support: As described in the applicable Maintenance and Support Service description.
	Professional Services: The subject matter of the processing is described in the relevant Statement of Work.
	Training, Onboarding, Customer Success Services: As described in the applicable Service description.
Nature and purpose of the processing	**Cloud Services**: The purpose of the data processing under this addendum the provisioning of the Cloud Services initiated by the Controller/Data Exporter. The Cloud Services processing systems and respective processing properties are defined in the Cloud Services Attachment.
	Support: Processor/Data Importer processes the personal data of the data subjects on behalf of Controller/Data Exporter in order to solve problems in software products of Processor/Data Importer.
	Professional Services: Processor/Data Importer processes the personal data of the data subjects on behalf of Controller/Data Exporter in order to provide the Consulting Services described in detail in the relevant Statement of Work.
	Training, Onboarding, Customer Success Services: Onboarding of new users; Support on questions and ideas (e.g. written request, chat, comments, feature requests); Customer success; Share reports with the Controller/Date Exporter.

Signatures: See DPA signature page

STARTER MAINTENANCE AND SUPPORT SERVICE

Customer is a licensee of certain Software AG products under a Licence and Maintenance Agreement that the Customer has executed with a Software AG subsidiary (hereinafter "**Supplier**"). The maintenance and support services that the Supplier has agreed to deliver as provided in the Licence and Maintenance Agreement are defined herein, and this document forms an attachment to the Licence and Maintenance Agreement.

1   DEFINITIONS

1.1   **Definitions**: Unless the context requires otherwise the following words and expressions shall bear the meanings set out below where used in this Agreement:

"**Business Day**"	means the days from Monday to Friday excluding public holidays in country as specified in the Customer address field on the first page of the underlying Licence and Maintenance Agreement that correspond with Software AG's Global Support operating days.
"**Business Hour**"	means the hours from 8.00 am to 5.00 pm on a Business Day of the main support hub within Customer's region: (a) EMEA – 8 to 5 Central European Time (CET) (b) APJ – 8 to 5 Malaysia Time (MYT) (c) US – 8 to 5 Mountain Time (MT) Global Support operating hours may change from time to time.
"**Documentation**"	means the user manuals that the Supplier makes available to licensees of the Software.
"**Error**"	means any verifiable and reproducible failure of the Software to substantially conform to the specifications for such Software. Notwithstanding the foregoing, "**Error**" shall not include any such failure that is caused by: (i) the use or operation of the Software with any other software or code or in an environment other than that intended or recommended in the Documentation, (ii) modifications to the Software not made or approved by the Supplier in writing, or (iii) any bug, defect, or error in third-party Software used with the Software.
"**Error Correction**"	means either a modification or addition to or deletion from the Software having the effect that such Software substantially conforms to the then current specifications, or a procedure or routine that, when exercised in the regular operation of the Software, eliminates any material adverse effect on the Customer caused by an Error. An Error Correction may be a correction, workaround, fix, Service Pack or Service Release.
"**Fix**"	Supplier creates defect fixes at the component level to resolve specific issues. These issues may be identified in Supplier's QA labs, or at Customer installations. Fixes are: (a) Tested to ensure the issue is resolved within the target configuration; (b) Cumulative within functional sub-components, e.g., Integration Server Scheduler; (c) Periodically rolled up into planned, cumulative Service Packs or Service Releases; (d) Made available to other Customers via Software AG's Support Portal.
"**Licence Agreement**"	means the Licence and Maintenance Agreement under which the Software is licensed to the Customer.
"**Major Version**"	a "major version" means one in which significant new features and functionality are delivered. Some but not all of the major versions may also contain architecture changes, thus requiring a complete reinstall to upgrade, rather than the simple "install over" that is typical of Minor Versions, Service Packs and Service Releases. A version that ends in "X.0" is considered a major version.
"**Minor Version**"	means one in which some new features and functionality are delivered along with fixes. Versions with numbering of "X.Y" are usually considered minor versions, e.g. webMethods 9.7 or Natural 6.3. Minor versions usually offer easy upgrade and an "install over" approach to upgrade.
"**Service Release**"/"**Service Pack**"	means a planned release in which an accumulation of Fixes is delivered. It may additionally include new features. These Service Packs/Service Releases are denoted using SP or SR in the numbering, e.g. Product A X.Y SP1 or Product B X.Y SR 1. In places where a full version identifier is specified, Service Packs/Service Releases are denoted by the third part of the version number ("X.Y.Z") Service Packs/Service Releases offer easy upgrade and an "install over" approach to upgrade. For optimal support, Customer is required to upgrade to the latest Service Pack/Service Release.
"**Software**"	means the Supplier software programs licensed to the Customer under the Licence Agreement.
"**Software AG Global Support**"	means the Supplier's Global Support Organization providing the support and maintenance services for the respective Customer.
"**Software AG's Support Portal**"	means the Supplier's web-based Customer support system, designed with proactive services, information and Error Corrections.

2   SERVICE DESCRIPTION

2.1   **Introduction**: Customer is entitled to receive the following services for the Software against payment of the agreed-upon support and maintenance fees and according to agreed-upon terms & conditions.

2.2   **Starter Maintenance and Support Service**: Software AG's Starter Maintenance and Support Service consists of the following services:

(a) Twenty-four (24) hour access to Software AG's Support Portal including access for authorized technical contacts ("**ATC**") to Supplier's request reporting system for browsing and submitting incidents, online access to new product information, documentation, knowledge center, and information on available Software fixes.

(b) 9x5 (9 hours a day; 5 days a week) telephone support for incidents according to this agreement during Business Hours. Customer will receive initial response within 1 Business Day during Business Hours only. The respective telephone number is available in Software AG's Support Portal. If not provided in local language, telephone support is provided in English.

(c) Seven (7) authorized technical contacts (ATC) of the Customer entitled to access Software AG's Support Portal. This restriction applies per Customer and not per contract. All ATCs shall have appropriate professional and technical qualifications and shall be assigned internally by Customer to process queries from users about the Software. To protect against improper use of services, services may only be requisitioned by these ATCs previously-reported to Software AG. Customer may contract for additional authorized contacts. ATC Group accounts that are used by multiple Customer representatives are not allowed. One Customer representative equals one ATC only.

(d) Information on new features, events, and Customer application articles.

3   SOFTWARE AND DOCUMENTATION UPDATES

3.1   **Software and Documentation Updates**: On a when and if available basis, Software AG Global Support provides:

(a) New versions of licensed Software AG products;

(b) Updates of Software containing Error Corrections;

(c) Documentation updates for the Software.

Information regarding availability of Software and Documentation updates is published by the Supplier and available in Software AG's Support Portal.

4   PROCESSING CUSTOMER REQUESTS

4.1   **Introduction**: Customer requests will be received by Software AG Global Support and will be documented in Software AG's Support Portal for further processing. The Customer will be given a reference processing number for future reference and the request will be processed as follows:

(a) Software AG Global Support will respond within 1 Business Day.

(b) The region of a customer is the region where that customer is located. For example the region for a German customer is EMEA.

(c) When reaching Software AG Global Support by telephone, Customer is to provide the incident/ticket number so that work on the incident can commence.

(d) Software AG Global Support has no obligation to solve the Customer's issue within the reaction or any other time frame.

4.2   **Tools and Processes**: Software AG Global Support uses the following processes and tools to solve or find a workaround to the Customer's issues:

Fault diagnosis/analysis for Supplier's products:

(a) Evaluation of Customer data supplied (including diagnostic information)

(b) Classification of the reported situation as a product issue, user issue or third-party issue

(c) Research in Supplier's Support Knowledge Center

(d) Reproduction of the error situation (if possible)

(e) Coordination with Supplier's product development

Results and/or solutions or workarounds will be provided via one of the following media:

(a) Telephone

(b) Software AG's Support Portal

(c) E-mail

(d) Data carriers

4.3   **Remote Diagnosis**: Software AG Global Support may perform remote diagnosis to facilitate issue analysis. In such case, Software AG Global Support will access Customer's environment via a Remote Online Diagnostic Tool for purposes of diagnosis and analysis only. Remote access to Customer's environments will occur during Business Hours at the times agreed between the Customer and Software AG Global Support.

5   SERVICES OUTSIDE THE SCOPE OF SOFTWARE AG'S MAINTENANCE AND SUPPORT SERVICE

5.1   **Third Party Materials**: In the event that individual program versions from third party manufacturers that are provided to the Customer in connection with the Software and which are required in order to operate the Software (such as Java virtual machines, applications, frameworks, and databases) ("**Accompanying Programs**") are no longer actively supported by their respective manufacturers, the Supplier shall have no obligation to correct errors occurring in connection with the Accompanying Programs and to respond to incidents reported by the Customer.

6   END OF MAINTENANCE

6.1   **Road Map**: The roadmap for the provision of maintenance and support services in respect of Major Versions and Minor Versions is published on Software AG's Support Portal. No separate notice will be provided to the Customer who will be responsible for monitoring updates published on Software AG's Support Portal. The dates on which maintenance and support services in respect of Major Versions and Minor Versions will be terminated ("**End of Maintenance**") will be published on Software AG's Support Portal and may change from time to time.

6.2   **Sustained Support**: Following End of Maintenance, Supplier shall be under no obligation to provide new Fixes but will (for a minimum of 12 months from End of Maintenance) provide web-based and telephone assistance ("**Sustained Support**") to the Customer in respect of the relevant Major Version and/or Minor Version. All fixes available prior to End of Maintenance ("**Available Fixes**") shall continue to be available to the Customer.

6.3   **Beyond Sustained Support**: At the conclusion of Sustained Support, Supplier will (for so long as the Customer continues to take and pay for the relevant maintenance and support service) continue to permit the Customer to access hints and available Fixes only.

6.4   **New Fixes**: Full Support and the supply of new fixes beyond End of Maintenance and Sustained Support may be available at Supplier's discretion for an additional fee – further details about obtaining an End of Maintenance Extension (EME) agreement are available upon request.

7   CUSTOMER RESPONSIBILITIES

7.1   **Customer Responsibilities**: The services to be performed are subject to the following conditions:

(a) The Customer entered into a valid software support and maintenance agreement with the Supplier and has fully paid the respective support and maintenance fees.

(b) The Customer entered into a valid Licence Agreement with Supplier regarding the Software to be supported and has fully paid the respective licence fees that are due to payment.

(c) The Software is installed at the Customer's site or any third party's site that is authorized – pursuant to the underlying Licence and Maintenance

Agreement – to operate the Software on Customer's behalf (Outsourcing provider).

(d) The Customer allows remote access for Software AG Global Support to the Customer environment where Customer is requesting support.

(e) The Customer provides appropriate tools to enable remote access for Software AG Global Support (e.g. Interactive Problem Control System (IPCS), Time Sharing Option (TSO), Terminal-Emulation, Netviewer etc.).

(f) The Customer establishes appropriate security measures to ensure that Software AG Global Support's access is restricted to permissible areas.

(g) The Customer has installed the release levels of the Software which are supported at the time the relevant Customer request occurs.

(h) The Customer uses hardware, operating system software and database software that comply with the specifications of the release levels of the Software which are supported at the time the relevant Customer request occurs; the release levels of the Software which are supported at the time the relevant Customer request occurs can be identified on Software AG's Support Portal.

(i) The Customer provides Software AG Global Support with:
- sufficient information and assistance as requested by Software AG Global Support regarding the Customer's environment (including appropriate computing time) and all necessary information on the error
- specific third party expertise relevant to the Customer's environment, if applicable
- information on any used software tools upon Software AG Global Support's request
- diagnostic information such as traces, dumps, parameters, etc. upon Software AG Global Support's request.

ENTERPRISE ACTIVE MAINTENANCE AND SUPPORT SERVICE

Customer is a licensee of certain Software AG products under a Licence and Maintenance Agreement that the Customer has executed with a Software AG subsidiary (hereinafter "**Supplier**"). The maintenance and support services that the Supplier has agreed to deliver as provided in the Licence and Maintenance Agreement are defined herein, and this document forms an attachment to the Licence and Maintenance Agreement.

1 DEFINITIONS

1.1 **Definitions**: Unless the context requires otherwise the following words and expressions shall bear the meanings set out below where used in this Agreement:

"**Business Day**"	means the days from Monday to Friday excluding public holidays in country as specified in the Customer address field on the first page of the underlying Licence and Maintenance Agreement that correspond with Software AG's Global Support operating days.
"**Business Hour**"	means the hours from 8.00 am to 5.00 pm on a Business Day of the main support hub within Customer's region: (a) EMEA – 8 to 5 Central European Time (CET) (b) APJ – 8 to 5 Malaysia Time (MYT) (c) US – 8 to 5 Mountain Time (MT) Global Support operating hours may change from time to time.
"**Documentation**"	means the user manuals that the Supplier makes available to licensees of the Software.
"**Error**"	means any verifiable and reproducible failure of the Software to substantially conform to the specifications for such Software. Notwithstanding the foregoing, "**Error**" shall not include any such failure that is caused by: (i) the use or operation of the Software with any other software or code or in an environment other than that intended or recommended in the Documentation, (ii) modifications to the Software not made or approved by the Supplier in writing, or (iii) any bug, defect, or error in third-party Software used with the Software.
"**Error Correction**"	means either a modification or addition to or deletion from the Software having the effect that such Software substantially conforms to the then current specifications, or a procedure or routine that, when exercised in the regular operation of the Software, eliminates any material adverse effect on the Customer caused by an Error. An Error Correction may be a correction, workaround, fix, Service Pack or Service Release.
"**Fix**"	Supplier creates defect fixes at the component level to resolve specific issues. These issues may be identified in Supplier's QA labs, or at Customer installations. Fixes are: (a) Tested to ensure the issue is resolved within the target configuration; (b) Cumulative within functional sub-components, e.g., Integration Server Scheduler; (c) Periodically rolled up into planned, cumulative Service Packs or Service Releases; (d) Made available to other Customers via Software AG's Support Portal.
"**Licence Agreement**"	means the Licence and Maintenance Agreement under which the Software is licensed to the Customer.
"**Major Version**"	a "major version" means one in which significant new features and functionality are delivered. Some but not all of the major versions may also contain architecture changes, thus requiring a complete reinstall to upgrade, rather than the simple "install over" that is typical of Minor Versions, Service Packs and Service Releases. A version that ends in "X.0" is considered a major version.
"**Minor Version**"	means one in which some new features and functionality are delivered along with fixes. Versions with numbering of "X.Y" are usually considered minor versions, e.g. webMethods 9.7 or Natural 6.3. Minor versions usually offer easy upgrade and an "install over" approach to upgrade.
"**Service Release**"/"**Service Pack**"	means a planned release in which an accumulation of Fixes is delivered. It may additionally include new features. These Service Packs/Service Releases are denoted using SP or SR in the numbering, e.g. Product A X.Y SP1 or Product B X.Y SR 1. In places where a full version identifier is specified, Service Packs/Service Releases are denoted by the third part of the version number ("X.Y.Z") Service Packs/Service Releases offer easy upgrade and an "install over" approach to upgrade. For optimal support, Customer is required to upgrade to the latest Service Pack/Service Release.
"**Software**"	means the Supplier software programs licensed to the Customer under the Licence Agreement.
"**Software AG Global Support**"	means the Supplier's Global Support Organization providing the support and maintenance services for the respective Customer.
"**Software AG's Support Portal**"	means the Supplier's web-based Customer support system, designed with proactive services, information and Error Corrections.

2 SERVICE DESCRIPTION

2.1 **Introduction**: Customer is entitled to receive the following services for the Software against payment of the agreed-upon support and maintenance fees and according to agreed-upon terms & conditions. Where the Customer holds more than one licence to use any Software then Customer is required to take product maintenance and support services for all (and not some only) of the licensed Software – partial termination is not permitted.

2.2 **Enterprise Active Maintenance and Support Service**: Software AG's Enterprise Active Maintenance and Support Service consists of the following services:

(a) Twenty-four (24) hour access to Software AG's Support Portal including access for authorized technical contacts ("**ATC**") to Supplier's request reporting system for browsing and submitting incidents, online access to new product information, documentation, knowledge center, and information on available Software fixes.

(b) 24x7 support service for all incidents with initial response from Software AG Global Support within the defined reaction time. Telephone support

according to this agreement is available 24x7 (24 hours a day; 7 days a week). The respective telephone number is available in Software AG's Support Portal. If not provided in local language, telephone support is provided in English. Telephone support is provided during after-Business Hours and on non-Business Days in English only. With respect to Software AG's Trendminer product line support service for Crisis incidents is provided during Business Hours only.

(c) Information on new features, events, and Customer application articles.

(d) Resolution plan within first four hours after receipt of Crisis incident.

(e) Prioritized queuing of support incidents (identical severity levels only).

(f) Multi-region support – see "Processing Customer Requests" clause below.

(g) Unlimited number of authorized technical contacts of the Customer entitled to access Software AG's Support Portal. All ATCs shall have appropriate professional and technical qualifications and shall be assigned internally by Customer to process queries from users about the Software. To protect against improper use of services, services may only be requisitioned by these ATCs previously-reported to Supplier. Customer must review and update the list of ATCs once per year in order to ensure accuracy. ATC Group accounts that are used by multiple Customer representatives are not allowed. One customer representative equals one ATC only.

(h) One-on-one web-based consulting sessions on a variety of topics limited to up to 4 consultations per year plus others upon request and subject to availability. A list of sessions is available on Software AG's Support Portal and is subject to change from time to time.

3 SOFTWARE AND DOCUMENTATION UPDATES

3.1 **Software and Documentation Updates**: On a when and if available basis, Software AG Global Support provides:

(a) New versions of licensed Software AG products;

(b) Updates of Software containing Error Corrections;

(c) Documentation updates for the Software.

Information regarding availability of Software and Documentation updates is published by the Supplier and available in Software AG's Support Portal.

4 PROCESSING CUSTOMER REQUESTS

4.1 **Introduction**: Customer requests will be received by Software AG Global Support and will be documented in Software AG's Support Portal for further processing. The Customer will be given a reference processing number for future reference.

(a) All crisis incidents must be submitted to Software AG Global Support by telephone. When submitting Security Incidents to Software AG Global Support, Customer must indicate this aspect to the support representative or set the security flag in the support ticket if reported via customer support portal.

(b) Global Support will respond within the defined reaction time. For critical and standard severity incidents, the active support region will initiate work on the solution. When the ATC's default support region comes online, it will take over the ownership of the incident.

(c) After the default region takes ownership of the incident, critical and standard incidents will be progressed only during the business hours of the ATC's default region.

(d) Default region of an ATC is the region where that ATC is located or has opted to define that region as their default region. For example the default region of an EMEA customer is EMEA, however an EMEA ATC may opt another region, say AME as their default region

(e) On non-Business Days Customer must always report critical and standard incidents through Software AG's Support Portal and must follow up with Global Support service provider via telephone in order to receive an initial response from Global Support based on the agreed upon reaction time. The reaction time is measured from the time the Customer gets in contact with a Software AG Support Engineer.

(f) During after-Business-Hours and non-Business Days, all communication will be in English only.

(g) When reaching Software AG Global Support by telephone, Customer is to provide the incident/ticket number so that work on the incident can commence.

(h) Software AG Global Support has no obligation to solve the Customer's issue within the reaction or any other time frame.

(i) Management Assistance Process will be halted once Customer is provided a potential resolution and until Customer has tested the solution. If Customer informs Software AG Global Support that the resolution hasn't resolved the problem, Management Assistance Process will resume.

4.2 **Service Expectations**: The following support severities are used for classifying the Customer's incidents. These classifications ensure consistent treatment of incidents handled by Software AG Global Support. Software AG Global Support will determine the appropriate severity level according to the following table:

Severity Level	Crisis	Critical	Standard
Definition	Customer's problem has a severe business impact, e.g. production down. Customer is unable to use the Software, resulting in a major impact on Customer's operations. Work cannot reasonably continue.	Customer's problem has a significant business impact; however, operations can continue in a restricted fashion. The Software is usable but severely limited. There is no acceptable workaround available. Customer is experiencing a significant loss of service.	Customer's problem has some business impact. The Software is usable and causes only minor inconvenience. It may be a minor Error, documentation Error, or incorrect operation of the application, which does not significantly impede the operation of a system.
Reaction Time	**30 minutes**: call-back or electronic reply	**2 Hours**: call-back or electronic reply	**1 Day**: call-back or electronic reply
Prioritized Queuing	Incidents are prioritized ahead of Standard Support incidents of the same severity level		
Software AG Management Assistance Process	After 1 Day: Regional Director Support After 2 Days: Global Vice President Support After 3 Days: Global Senior Vice President Support After 5 Days: Chief Operating Officer	After 5 Business Days: Regional Director Support After 7 Business Days: Global Vice President Support After 9 Business Days: Global Senior Vice President Support After 11 Business Days: Chief Operating Officer	None
Reporting (time frame)	As agreed between Software AG Global	Daily or as agreed between Software	As agreed with Software AG Global

Severity Level	Crisis	Critical	Standard
	Support and Customer	AG Global Support and Customer	Support and Customer on a case-by-case basis
Reaction Measure	Resolution plan provided within first four (4) hours after receipt of Crisis incident to include - in Supplier's sole discretion - EITHER: (i) a definition of the intended solution to the problem, OR (ii) a definition of a work-around while Supplier develops or defines a solution, OR (iii) a documented action plan that will include: • current status of the resolution • target timeline for next feedback • responsible Supplier resource(s) • Customer obligations (e.g. provisioning of log files, etc.)	Customer is provided with a timeline for Error Correction	• Information about publication date of the Software release that will solve the issue • Indication that changes/ enhancements are being handled in accordance with Software AG's strategy
Required Effort	Economically justifiable effort within standard scope of resources	Reasonable effort within standard scope of resources	Reasonable effort within standard scope of resources

4.3 **Tools and Processes**: Software AG Global Support uses the following processes and tools to solve or find a workaround to the Customer's issues:
Fault diagnosis/analysis for Supplier's products:
(a) Evaluation of Customer data supplied (including diagnostic information)
(b) Classification of the reported situation as a product issue, user issue or third-party issue
(c) Research in Supplier's Support Knowledge Center
(d) Reproduction of the error situation (if possible)
(e) Coordination with Supplier's product development
Results and/or solutions or workarounds will be provided via one of the following media:
(a) Telephone
(b) Software AG's Support Portal
(c) E-mail
(d) Data carriers

4.4 **Remote Diagnosis**: Software AG Global Support may perform remote diagnosis to facilitate issue analysis. In such case, Software AG Global Support will access Customer's environment via a Remote Online Diagnostic Tool for purposes of diagnosis and analysis only. Remote access to Customer's environments will occur during Business Hours at the times agreed between the Customer and Software AG Global Support.

5 SERVICES OUTSIDE THE SCOPE OF SOFTWARE AG'S MAINTENANCE AND SUPPORT SERVICE

5.1 **Additional Services**: In addition to the scope of Support and Maintenance Services as defined in these Maintenance and Support Services Conditions and the underlying Licence and Maintenance Services Terms and Conditions, the Customer may request additional Support and Maintenance Services. Based on availability, such services can be offered as part of a separate service agreement and payment of applicable fees. Further information can be found on Software AG's Support Portal.

5.2 **Third Party Materials**: In the event that individual program versions from third party manufacturers that are provided to the Customer in connection with the Software and which are required in order to operate the Software (such as Java virtual machines, applications, frameworks, and databases) ("**Accompanying Programs**") are no longer actively supported by their respective manufacturers, the Supplier shall have no obligation to correct errors occurring in connection with the Accompanying Programs and to respond to incidents reported by the Customer.

6 END OF MAINTENANCE

6.1 **Road Map**: The roadmap for the provision of maintenance and support services in respect of Major Versions and Minor Versions is published on Software AG's Support Portal. No separate notice will be provided to the Customer who will be responsible for monitoring updates published on Software AG's Support Portal. The dates on which maintenance and support services in respect of Major Versions and Minor Versions will be terminated ("**End of Maintenance**") will be published on Software AG's Support Portal and may change from time to time.

6.2 **Sustained Support**: Following End of Maintenance, Supplier shall be under no obligation to provide new Fixes but will (for a minimum of 12 months from End of Maintenance) provide web-based and telephone assistance ("**Sustained Support**") to the Customer in respect of the relevant Major Version and/or Minor Version. All fixes available prior to End of Maintenance ("**Available Fixes**") shall continue to be available to the Customer.

6.3 **Beyond Sustained Support**: At the conclusion of Sustained Support, Supplier will (for so long as the Customer continues to take and pay for the relevant maintenance and support service) continue to permit the Customer to access hints and available Fixes only.

6.4 **New Fixes**: Full Support and the supply of new fixes beyond End of Maintenance and Sustained Support may be available at Supplier's discretion for an additional fee – further details about obtaining an End of Maintenance Extension (EME) agreement are available upon request.

7 CUSTOMER RESPONSIBILITIES

7.1 **Customer Responsibilities**: The services to be performed are subject to the following conditions:
(a) The Customer entered into a valid software support and maintenance agreement with the Supplier and has fully paid the respective support and maintenance fees.
(b) The Customer entered into a valid Licence Agreement with Supplier regarding the Software to be supported and has fully paid the respective licence fees that are due to payment.
(c) The Software is installed at the Customer's site or any third party's site that is authorized – pursuant to the underlying Licence and Maintenance Agreement – to operate the Software on Customer's behalf (Outsourcing provider).

(d) The Customer allows remote access for Software AG Global Support to the Customer environment where Customer is requesting support.

(e) The Customer provides appropriate tools to enable remote access for Software AG Global Support (e.g. Interactive Problem Control System (IPCS), Time Sharing Option (TSO), Terminal-Emulation, Netviewer etc.).

(f) The Customer establishes appropriate security measures to ensure that Software AG Global Support's access is restricted to permissible areas.

(g) The Customer has installed the release levels of the Software which are supported at the time the relevant Customer request occurs.

(h) The Customer uses hardware, operating system software and database software that comply with the specifications of the release levels of the Software which are supported at the time the relevant Customer request occurs; the release levels of the Software which are supported at the time the relevant Customer request occurs can be identified on Software AG's Support Portal.

(i) The Customer provides Software AG Global Support with:

- sufficient information and assistance as requested by Software AG Global Support regarding the Customer's environment (including appropriate computing time) and all necessary information on the error
- specific third party expertise relevant to the Customer's environment, if applicable
- information on any used software tools upon Software AG Global Support's request
- diagnostic information such as traces, dumps, parameters, etc. upon Software AG Global Support's request.

ENTERPRISE ACTIVE CLOUD SUPPORT SERVICE

Customer is a user of certain Cloud Services under a Cloud Services Agreement that the Customer has executed with a Software AG subsidiary (hereinafter "**Supplier**"). The maintenance and support services that the Supplier has agreed to deliver as provided in the Cloud Services Agreement are defined herein, and this document forms an attachment to the Cloud Services Agreement.

1 DEFINITIONS

1.1 **Definitions**: Unless the context requires otherwise the following words and expressions shall bear the meanings set out below where used in this Agreement:

"**Business Day**"	means the days from Monday to Friday excluding public holidays in country as specified in the Customer address field on the first page of the underlying Cloud Services Agreement that correspond with Software AG's Global Support operating days.
"**Business Hour**"	means the hours from 8.00 am to 5.00 pm on a Business Day of the main support hub within Customer's region: (a) EMEA – 8 to 5 Central European Time (CET) (b) APJ – 8 to 5 Malaysia Time (MYT) (c) US – 8 to 5 Mountain Time (MT) Global Support operating hours may change from time to time.
"**Cloud Services**"	means the Supplier cloud services to be provided to the Customer under the Cloud Services Agreement.
"**Cloud Services Agreement**"	means the Cloud Services Agreement under which the Cloud Services are to be provided to the Customer.
"**Documentation**"	means the user manuals that the Supplier makes available to users of the Cloud Services.
"**Error**"	means any verifiable and reproducible failure of the Cloud Services to substantially conform to the specifications for such Cloud Services. Notwithstanding the foregoing, "**Error**" shall not include any such failure that is caused by: (i) the use or operation of the Cloud Services with any other software or code or in an environment other than that intended or recommended in the Documentation, (ii) modifications to the Cloud Services not made or approved by the Supplier in writing, or (iii) any bug, defect, or error in third-party software used with the Cloud Services.
"**Error Correction**"	means either a modification or addition to or deletion from the Cloud Services having the effect that such Cloud Services substantially conforms to the then current specifications, or a procedure or routine that, when exercised in the regular operation of the Cloud Services, eliminates any material adverse effect on the Customer caused by an Error. An Error Correction may be a correction, workaround or service update.
"**Software AG Global Support**"	means the Supplier's Global Support Organization providing the support and maintenance services for the respective Customer.
"**Software AG's Support Portal**"	means the Supplier's web-based Customer support system, designed with proactive services, information and Error Corrections.

2 SERVICE DESCRIPTION

2.1 **Enterprise Active Maintenance and Support Service**: Software AG's Enterprise Active Maintenance and Support Service consists of the following services:

(a) Twenty-four (24) hour access to Software AG's Support Portal including access for authorized technical contacts ("**ATC**") to Supplier's request reporting system for browsing and submitting incidents, online access to new product information, documentation and knowledge centre.

(b) 24x7 support service for all incidents with initial response from Software AG Global Support within the defined reaction time. The respective telephone number is available in Software AG's Support Portal. If not provided in local language, telephone support is provided in English. Telephone support is provided during after-Business Hours and on non-Business Days in English only.

(c) Information on new features, events, and Customer application articles.

(d) Resolution plan within first four hours after receipt of Crisis incident.

(e) Prioritized queuing of support incidents (identical severity levels only).

(f) Multi-region support – see "Processing Customer Requests" clause below.

(g) Unlimited authorized technical contacts (ATC) of the Customer entitled to access Software AG's Support Portal. All ATCs shall have appropriate professional and technical qualifications and shall be assigned internally by Customer to process queries from users about the Cloud Services. To protect against improper use of services, services may only be requisitioned by these ATCs previously-reported to Supplier. Customer must review and update the list of ATCs once per year in order to ensure accuracy. ATC Group accounts that are used by multiple Customer representatives are not allowed. One customer representative equals one ATC only.

(h) One-on-one web-based consulting sessions on a variety of topics limited to up to 4 consultations per year plus others upon request and subject to availability. A list of sessions is available on Software AG's Support Portal and is subject to change from time to time.

(i) Documentation on updates to the Cloud Services. Information regarding availability of Cloud Services and Documentation updates are published by Supplier and available in Software AG's Support Portal.

3 PROCESSING CUSTOMER REQUESTS

3.1 **Introduction**: Customer requests will be received by Software AG Global Support and will be documented in Software AG's Support Portal for further processing. The Customer will be given a reference processing number for future reference.

(a) All crisis incidents must be submitted to Software AG Global Support by telephone. When submitting Security Incidents to Software AG Global Support, Customer must indicate this aspect to the support representative or set the security flag in the support ticket if reported via customer support portal.

(b) Global Support will respond within the defined reaction time. For critical and standard severity incidents, the active support region will initiate work on the solution. When the ATC's default support region comes online, it will take over the ownership of the incident.

(c) After the default region takes ownership of the incident, critical and standard incidents will be progressed only during the business hours of the ATC's default region.

(d) Default region of an ATC is the region where that ATC is located or has opted to define that region as their default region. For example the default region of an EMEA customer is EMEA, however an EMEA ATC may opt another region, say AME as their default region

(e) On non-Business Days Customer must always report critical and standard incidents through Software AG's Support Portal and must follow up with Global Support service provider via telephone in order to receive an initial response from Global Support based on the agreed upon reaction time. The reaction time is measured from the time the Customer gets in contact with a Software AG Support Engineer.

(f) During after-Business-Hours and non-Business Days, all communication will be in English only.

(g) When reaching Software AG Global Support by telephone, Customer is to provide the incident/ticket number so that work on the incident can commence.

(h) Software AG Global Support has no obligation to solve the Customer's issue within the reaction or any other time frame.

(i) Management Assistance Process will be halted once Customer is provided a potential resolution and until Customer has tested the solution. If Customer informs Software AG Global Support that the resolution hasn't resolved the problem, Management Assistance Process will resume.

3.2 **Service Expectations**: The following support severities are used for classifying the Customer's incidents. These classifications ensure consistent treatment of incidents handled by Software AG Global Support. Software AG Global Support will determine the appropriate severity level according to the following table:

Severity Level	Crisis	Critical	Standard
Definition	Customer's problem has a severe business impact, e.g. production down. Customer is unable to use the Cloud Services, resulting in a major impact on Customer's operations. Work cannot reasonably continue.	Customer's problem has a significant business impact; however, operations can continue in a restricted fashion. The Cloud Services are usable but severely limited. There is no acceptable workaround available. Customer is experiencing a significant loss of service.	Customer's problem has some business impact. The Cloud Services are usable and cause only minor inconvenience. It may be a minor Error, documentation Error, or incorrect operation of the Cloud Services, which does not significantly impede the operation of the Cloud Services.
ReactionTime	**30 minutes**: call-back or electronic reply	**2 Hours**: call-back or electronic reply	**1 Day**: call-back or electronic reply
Prioritized Queuing	Incidents are prioritized ahead of Standard Support incidents of the same severity level		
Software AG Management Assistance Process	After 1 Day: Regional Director Support After 2 Days: Global Vice President Support After 3 Days: Global Senior Vice President Support After 5 Days: Chief Operating Officer	After 5 Business Days: Regional Director Support After 7 Business Days: Global Vice President Support After 9 Business Days: Global Senior Vice President Support After 11 Business Days: Chief Operating Officer	None
Reporting (timeframe)	As agreed between Software AG Global Support and Customer	Daily or as agreed between Software AG Global Support and Customer	As agreed with Software AG Global Support and Customer on a case-by-case basis
Reaction Measure	Resolution plan provided within first four (4) hours after receipt of Crisis incident to include - in Supplier's sole discretion - EITHER : (i) a definition of the intended solution to the problem, OR (ii) a definition of a work-around while Supplier develops or defines a solution, OR (iii) a documented action plan that will include: - current status of the resolution - target timeline for next feedback - responsible Supplier resource(s) - Customer obligations (e.g., provisioning of log files, etc.)	Customer is provided with a timeline for Error Correction	• Information about publication date of the Cloud Services release that will solve the issue • Indication that changes/ enhancements are being handled in accordance with Software AG's strategy
Required Effort	Economically justifiable effort within standard scope of resources	Reasonable effort within standard scope of resources	Reasonable effort within standard scope of resources

4 CUSTOMER RESPONSIBILITIES

4.1 **Customer Responsibilities**: Customer shall co-operate with Software AG Global Support and provide relevant information to enable Supplier to reproduce, troubleshoot and resolve the experienced error.

4.2 **Customer Consent**: In case that an incident is submitted to Software AG's Support Portal Customer authorizes Supplier, for the purposes of

troubleshooting and resolving such incident, to access Customer's cloud environment for the duration of the submitted incident on the basis set out in the Cloud Services Agreement.

SOFTWARE LICENCE AND MAINTENANCE AGREEMENT

The Supplier is the holder of distribution and/or exploitation rights relating to the software set forth in this Licence and Maintenance Agreement and any Software Attachments (hereinafter referred to as "**Agreement**"). This Agreement governs the use and maintenance of the software products which are the subject matter of the Agreement. The Licence and Maintenance Terms and Conditions attached hereto are incorporated by reference into this Agreement.

Parties		
between	Software AG (UK) Limited ("**the Supplier**")	GCloud Perpetual Licence offerings ("**the Customer**")
Reg. No.	1310740	
Registered office	Pride Park, 24 Orient Way, DERBY, Derbyshire DE24 8BY, UNITED KINGDOM	tba

Effective Date
The last date of signing by duly authorised representatives of all of the parties.

The parties have shown their acceptance of the terms of this Agreement by signing it below. This Agreement shall come into force and effect upon the Effective Date referred to above. This document may be executed in one or more counterparts, with the same effect as if the parties had signed the same document. Each counterpart so executed shall be deemed to be an original and all such counterparts shall be construed together and shall constitute one agreement. The parties agree to the use of digital signatures.

Agreement			
Duly authorised for and on behalf of Supplier		Duly authorised for and on behalf of Customer	
Signed		Signed	
Name		Name	
Title		Title	
Date		Date	

SOFTWARE LICENCE AND MAINTENANCE TERMS AND CONDITIONS

1 LICENCE GRANT

1.1 **Grant of Licence**: Subject to the terms and conditions set forth in this Agreement and in exchange for payment of the licence fees, the Supplier grants to the Customer a non-exclusive, non-transferable, non-sublicensable right to use the software products identified in any Software Attachment (hereinafter "**Software**") based on the licence parameters, terms and conditions set out herein and as further set forth in the Software Attachment or any amendment to this Agreement. In addition, the Customer may copy and use the end user manuals or associated documentation related to the Software and delivered to the Customer pursuant to the clause "Delivery" below ("**Documentation**"). Licences are granted on the basis of a single non-divisible licence for each of the Software separately listed on any Order Form and include the right to use new Software versions, which are provided to the Customer in connection with the maintenance of the Software (Clause 'Maintenance and Support Services').

1.2 **Restrictions**: Unless otherwise agreed in the Software Attachment, Customer shall not: (1) permit any outsourcer or other third party including any parent, subsidiary or affiliated entity to use the Software; (2) use the Software to process or cause or permit third parties to process the data of any other party; (3) extend the capacity to use the Software by means of virtualization (Sub-capacity/Partitioning) or otherwise; or (4) have the right to share a pool of configurable computing resources (e.g. networks, servers, storage, applications and services) through an on-demand network access (Cloud Enablement). For the purposes of this Agreement "**Outsourcing**" refers to the act of allowing a third party whose business is the maintenance and operation of other companies' computers or business services (the "**Outsourcer**") to operate or maintain the Customer's computer systems on the Customer's behalf. This may take place on the Customer's premises and computers, also known as facilities management, or at the Outsourcer's premises on the Outsourcer's computers.

1.3 **Delivery**: The Software and Documentation shall be distributed electronically over the Internet through a password-protected web page or, if applicable, by CD/DVD or tape cartridge. In case of electronic delivery, Supplier will deliver a software activation password key and software download instructions to Customer via an e-mail message sent to Customer's designated contact person.

1.4 **Acceptance**: Acceptance shall be deemed to have occurred upon shipment of the data carrier (F.O.B. Supplier's distribution facility) to Customer, or upon delivery of the software activation key and download instructions, as applicable. In case of installation, consulting or education services provided by the Supplier or any third party in relation to the Software, the acceptance of the Software shall not be conditioned upon the conclusion of such services, nor shall the payment date(s) set forth herein be conditioned upon or modified for any reason based upon the actual date of conclusion of such services.

2 OWNERSHIP

2.1 **Ownership**: Customer acknowledges that the Software and its structure, underlying concepts, organization, architecture, and source code are the exclusive property of and constitute valuable trade secrets of Supplier and its suppliers. Customer agrees not to (1) disassemble, reverse engineer, or reverse compile the Software in whole or in part; (2) copy, modify, adapt, alter, translate, or create derivative works from the Software or (3) merge the Software with other software save to the extent expressly permitted by law. The Supplier expressly reserves all rights not granted under this Agreement. Customer acknowledges that Customer's failure to comply with the provisions of this Clause shall result in irreparable harm to Supplier for which a remedy at law would be inadequate, and therefore, in the event of the breach or threatened breach by Customer of its obligations under this Clause, Supplier shall be entitled to seek equitable relief in the form of specific performance and/or an injunction for any such actual or threatened breach, in addition to the exercise of any other remedies at law and in equity.

3 MAINTENANCE AND SUPPORT SERVICES

3.1 **Maintenance Terms and Conditions**: In exchange for payment of the fees set forth in this Agreement, Supplier shall provide the maintenance and support services described in the applicable Maintenance and Support Service Description as published by the Supplier from time to time.

3.2 **Maintenance Renewal**: Maintenance and support services under this Agreement for Software licensed under any Software Attachments are provided for a fixed term of twelve (12) months and automatically renew on an annual basis unless terminated by either party on not less than three (3) months' notice in writing given at any time prior to the relevant renewal date. If the agreement for the provision of maintenance and support services terminates or otherwise expires and the Customer subsequently wishes to renew maintenance and support services, Customer shall pay the support fees that would have been due for the period during which maintenance and support services were not provided plus a reinstatement fee in accordance with Supplier's then current reinstatement policy.

3.3 **Price Increase**: At the expiry of the Maintenance Service Term (and, thereafter, at the expiry of each Maintenance Service Term) the new Maintenance Fee shall (provided that the Software is then contracted on a like for like basis) be the Maintenance Stated Renewal Fee increased by the higher of either (a) 5%; or (b) the total percentage increase over the duration of the expired Maintenance Service Term of the most recently published Index KAC6 from the table "EARN01 Average Weekly Earnings – total pay, Great Britain (seasonally adjusted) as published by the Office for National Statistics of Her Majesty's Government (or any successor index thereto). If Supplier has not increased the Maintenance Service Fee in one or more years, then it will be entitled in the next year to increase the Maintenance Service Fee up to the total percentage of the increases that were possible in the preceding years. Any adjustments to the Maintenance Service Fee are documented in the relevant invoices and/or Order Form. No new contract is required.

4 PAYMENT

4.1 **Payment**: All payments shall be due and payable within thirty (30) days of the date of invoice.

4.2 **Taxes**: All payments under this Agreement shall be made without recoupment or set-off and are exclusive of taxes and duties. Customer agrees to bear and be responsible for the payment of all taxes and duties including, but not limited to, all sales, use, rental, receipt, personal property and other taxes (but excluding taxes based upon Supplier's income), which may be levied or assessed in connection with this Agreement.

4.3 **Interest**: If any payment due under this Agreement is not paid in accordance with the terms of this Agreement, then interest shall be payable and recoverable as a debt on all outstanding amounts at the rate of 1½% per month (or part thereof), accruing daily from the date upon which the payment becomes due (both before and after judgment) together with all costs of collection including reasonable legal costs.

5 CONFIDENTIALITY

5.1 **Confidential Information**: The parties acknowledge that each party will have access to intellectual property or other confidential information of the other party or third parties in respect of which the disclosing party has a duty of confidentiality ("**Confidential Information**"). Both parties agree that Confidential Information disclosed is proprietary and shall remain the sole property of the disclosing party or such third party.

5.2 **Confidentiality**: Each Party agrees:

(a) to use Confidential Information only for the purposes described herein; and

(b) not to reproduce Confidential Information and to hold it in confidence and protect it from dissemination to, and use by, any third party; and

(c) not to create any derivative work from Confidential Information; and

(d) to restrict access to the Confidential Information to its personnel, agents, sub-contractors and/or consultants, who need to have access to such Confidential Information and who have been advised of and have agreed in writing to treat such Confidential Information in accordance with this Agreement; and

(e) to return or, at the disclosing party's discretion, destroy all Confidential Information of the other Party in its possession upon termination or expiration of this Agreement.

5.3 **Exclusions**: The restrictions shall not apply to Confidential Information that:

(a) is publicly available or in the public domain at the time disclosed;

(b) is or becomes publicly available or enters the public domain through no fault of the recipient;

(c) is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto;

(d) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure;

(e) is independently developed by the recipient; or

(f) is approved for release or disclosure by the disclosing Party without restriction.

5.4 **Compliance with law permitted**: Each Party may disclose Confidential Information to the limited extent required to comply with the order of a court or other governmental body or applicable law, including to make such court filings as it may be required to do, provided that it gives reasonable notice of the demand to allow the other Party to seek a protective order or other appropriate remedy (unless is legally prohibited from doing so).

5.5 **Relief**: Customer acknowledges that Customer's failure to comply with the provisions of this Clause shall result in irreparable harm to Supplier for which a remedy at law would be inadequate, and therefore, in the event of the breach or threatened breach by Customer of its obligations under this Clause, Supplier shall be entitled to seek equitable relief in the form of specific performance and/or an injunction for any such actual or threatened breach, in addition to the exercise of any other remedies at law and in equity.

6 IPR INDEMNITY

6.1 **Indemnity**: Supplier shall indemnify, defend, and hold Customer harmless from any action brought by a third-party against Customer to the extent that it is caused by an allegation that the Software licensed under this Agreement has infringed an intellectual property right or trade secret registered in the country of Supplier´s residence, and pay those damages or costs related to the settlement of such action or finally awarded against Customer in such action, including but not limited to reasonable attorneys' fees, provided that Customer:

(a) promptly notifies Supplier of any such action; and

(b) gives Supplier full authority, information, and assistance to defend such claim; and

(c) gives Supplier sole control of the defense of such claim and all negotiations for the compromise or settlement of such claim.

6.2 **Exclusions**: Supplier shall have no liability under this Agreement with respect to any claim based upon:

(a) Software that has been modified by anyone other than Supplier;

(b) use of other than the then-current release of the Software, if the infringement could have been avoided by use of the then-current release and such current release has been made available to Customer;

(c) use of the Software in conjunction with Customer data where use with such data gave rise to the infringement claim;

(d) use of the Software with other software or hardware, where use with such other software or hardware gave rise to the infringement claim;

(e) use of any Software in a manner inconsistent with its Documentation;

(f) open source software or technology included within the Software; and/or

(g) use of any Software which use breaches this Agreement.

6.3 **Remedy by Supplier**: If Supplier determines that the Software is or is likely to be the subject of a claim of infringement, Supplier shall have the right:

(a) to replace Customer's copy of the Software with non-infringing software that has substantially equivalent functionality;

(b) to modify the Software so as to cause the Software to be free of infringement;

(c) to procure, at no additional cost to Customer, the right to continue to use the Software; or

(d) to terminate the licence to use the Software and Documentation, and refund to Customer the applicable fees (i.e. the applicable licence fee depreciated on a straight-line basis over a five (5) year period for a perpetual licence term including any prepaid but unused maintenance fees for the applicable Software or refund the pro-rated portion of the applicable prepaid but unused licence fee for a subscription licence term).

6.4 **Exclusive remedy**: THE PROVISIONS OF THIS CLAUSE STATE THE EXCLUSIVE LIABILITY OF THE SUPPLIER AND THE EXCLUSIVE REMEDY OF THE CUSTOMER WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY OR TRADE SECRET MISAPPROPRIATION OR INFRINGEMENT BY THE SOFTWARE, ANY PART THEREOF, AND ANY MATERIAL OR SERVICES PROVIDED HEREUNDER, AND ARE IN LIEU OF ALL OTHER REMEDIES, LIABILITIES, AND OBLIGATIONS.

7 WARRANTIES

7.1 **Warranties**: Supplier warrants to Customer: (i) that it has the right to grant to Customer the right to use the Software and to enter into this Agreement; and (ii) that for 1 (one) year from the acceptance of the Software by Customer under this Agreement, the Software will conform in all material respects to the description of the Software contained in the user manual for the Software as amended from time to time. Supplier's entire liability and Customer's exclusive remedy under this warranty shall be that Supplier will use reasonable commercial efforts to correct, provide a workaround for, or replace any reproducible error in the Software, at Supplier's cost and expense, provided written notice itemizing such error is given to Supplier during the warranty period.

7.2 **Warranty Exclusions**: The warranty set forth in this clause above shall not apply to the degree that the reproducible error occurs because

(a) the affected Software has been altered, modified, merged or converted by Customer except as authorized by Supplier;

(b) of the malfunctioning of Customer's hardware or other software; or

(c) the affected Software, or a portion thereof, has become inoperative due to any other causes beyond the control of Supplier.

The Customer hereby expressly agrees and acknowledges that the foregoing warranties are the only warranties given by Supplier and that all other conditions, terms, undertakings and warranties express or implied, statutory or otherwise in respect of the Software or the Customer's use of the Software or which arise out of this Agreement including, but not limited to, those as to quality, performance, merchantability or fitness for any purpose are hereby excluded to the maximum extent permitted by law.

8 LIMITATION OF LIABILITY

8.1 **Limitation of Liability**: IN NO EVENT SHALL SUPPLIER BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, ECONOMIC OR CONSEQUENTIAL LOSS OR DAMAGES IN CONNECTION WITH ANY CLAIM THAT ARISES FROM OR RELATES IN ANY WAY TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION ALLEGED, EVEN IF SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED OR EXCLUSIVE REMEDY OF ANY KIND. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS CLAUSE ARE INDEPENDENT OF EACH EXCLUSIVE OR LIMITED REMEDY SET FORTH IN THIS AGREEMENT. EXCEPT WITH RESPECT TO THE DEFENSE OF INFRINGEMENT CLAIMS UNDER CLAUSE 'INDEMNITY' AND IN THE EVENT OF DEATH OR PERSONAL INJURY OF A PERSON NEGLIGENTLY CAUSED BY SUPPLIER, IN NO EVENT SHALL THE LIABILITY OF SUPPLIER UNDER THIS AGREEMENT EXCEED THE AMOUNT OF THE LICENCE FEES PAID TO SUPPLIER BY CUSTOMER HEREUNDER FOR THE SOFTWARE TO WHICH CUSTOMER'S CLAIM RELATES.   CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS SET OUT IN THIS AGREEMENT REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT SUPPLIER WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS AGREEMENT.

9 BREACH

9.1 **Breach**: If the Customer shall fail to comply with any of the provisions of the Clauses Confidentiality or Licence Grant or shall become insolvent or enter into liquidation whether voluntary or compulsory (save for the purposes of reconstruction or amalgamation) or commit any act of bankruptcy or make any arrangement or composition with its creditors or have a trustee, receiver or administrator or similar officer appointed over all or any part of its assets or if the Software or any part thereof shall be taken under any distress for rent or in execution under any process or law, then Supplier may at its option terminate this Agreement and all licences granted hereunder forthwith by notice in writing. If Customer shall fail to comply with any of the provisions of this Agreement then Supplier may at its option serve notice in writing on Customer specifying the breach and requiring the same to be remedied. If Customer fails to remedy the same within 30 days of receipt of the notice then Supplier may at its option either: (i) terminate this Agreement and all licences granted hereunder forthwith by notice in writing; or (ii) suspend performance of Maintenance and Support Services under all licences granted hereunder for the Software to which the breach relates (or, where the breach does not relate to any particular Software), suspend performance of Maintenance and Support Services under this Agreement for all licences for all Software granted under this Agreement) until such time as the specified breach has been remedied. Rights granted to Supplier under this Clause shall be in addition to any other remedies which may exist in law or equity.

10 EFFECT OF TERMINATION

10.1 **Effect of Termination**: Upon termination or expiry of this Agreement all rights to use the Software granted under this Agreement shall cease forthwith and the Customer shall within 7 days de-install and return the Software, the data carrier and the documentation and all copies thereof to Supplier and erase the Software from any memory or data storage apparatus and provide Supplier with a written undertaking that the Customer no longer holds or has access to any copies of the same. Termination or expiry shall be without prejudice to the rights of the parties accrued prior to the termination or expiry.

10.2 **Survival of Clauses**: The provisions of this Clause and Clauses Ownership, Confidentiality, IPR Indemnity, Limitation of Liability, Effect of Termination and Governing Law shall remain in full force and effect as between the parties notwithstanding any termination or expiry of this Agreement or any licence to use granted under this Agreement.

11 GENERAL

11.1 **Data Protection**: Unless stated otherwise, the obligations of the parties in connection with the processing of any customer data that qualify as personal data according to Art. 4 No. 1 of the General Data Protection Regulation (GDPR) ("**Customer Personal Data**") including the applicable technical and organizational measures that Supplier is required to implement and maintain to protect Customer Personal Data, shall be as set out in the Data Processing Agreement (if any) entered into between the Parties.

11.2 **Customer Use Case Report**: Supplier will create an internal customer use case report after the delivery of the Software to Customer. Any use of this report other than for internal purposes of Supplier requires a separate written approval by Customer. Customer agrees to provide input to this report e.g. by being available for a 30 minute telephone interview.

11.3 **Third Party Components**: The Software may contain or be distributed with certain open source, free or commercial third party licensor's components ("**Third Party Components**"). These Third Party Components, if any, may be identified in, and may be subject to, special licence terms and conditions ("**Third Party Terms**") set forth in "*.txt" or *.pdf" files in the installation directory, a licence notice on installation or in readme or licence files accompanying Third Party Components and may be retrieved online for then current versions of Software at http://softwareag.com/licenses. Third Party Terms include important licensing and warranty information and disclaimers of licensors. For the avoidance of doubt the Third Party Terms do not restrict the rights granted under this Agreement. In the event that individual program versions from third party manufacturers that are provided to the Customer in connection with the contractual Software and which are required in order to operate the Software (such as Java virtual machines, applications, frameworks, and databases) ("**Accompanying Programs**") or versions of embedded Third Party Components are no longer actively supported by their respective manufacturers, the Supplier will spend commercial reasonable efforts to respond and to solve incidents related to the no longer actively supported Accompanying Programs or embedded Third Party Components. As long as the Customer takes and pays for Maintenance Services for the contractual Software, the Supplier will replace no longer actively supported Third Party Components with other versions of the same Third Party Components or components with similar functions and with available support by the respective manufacturers. None of the forgoing shall restrict Supplier's support obligations for the Software or parts of the Software owned by Supplier.

11.4 **Audit for Software**: The Customer will, within 10 working days from the date of receipt of a written request from Supplier (such requests not to be submitted by Supplier more than once per calendar year), confirm to Supplier in writing the Software installed on which machines and at what location(s), including, without limitation, details of the operating capacity available to the Software ('Self-disclosure'). The Self-disclosure shall contain sufficient detail to enable Supplier to assess compliance by the Customer with the terms and conditions set out in this Agreement. Supplier, or at Supplier's discretion an independent consultant appointed by Supplier, shall have the right on giving reasonable notice to the Customer to enter into any premises (in accordance with any Customer security access requirements) where any Software is held and have access to the relevant machines on which any of the Software is installed for the purpose of auditing the Customer use of the Software in accordance with the terms set out in this Agreement.

11.5 **Anti-Corruption**: The parties recognize and agree that they will comply with laws, regulations, rules and requirements against bribery, money laundering, and anti-corruption including but not limited to the Bribery Act 2010 and they have in place and will maintain policies and procedures in order to ensure compliance with such laws, regulations, rules and requirements. Non-compliance with the provisions of this clause shall grant to the affected party the right to terminate the Agreement immediately with notice.

11.6 **Force Majeure**: If the performance of this Agreement or any obligation under this Agreement, except for the making of payments, is prevented, restricted or interfered with by reason of fire, flood, earthquake, explosion or other Act of God or casualty or accident, or strikes or labour disputes affecting third-party vendors, inability to procure or obtain delivery of parts, supplies or power, war or other violence, any law, order, proclamation, regulation, ordinance, demand or requirements of any governmental agency, denial of service attacks, cybercrimes or malware caused by a third party, failure of utilities or any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected will take all reasonable steps to avoid or remove such cause of non-performance and will resume performance hereunder with dispatch whenever such causes are removed.

11.7 **Assignment**: The Customer shall not assign, sub-license, sell, lease, encumber, charge or otherwise in any manner attempt to transfer this Agreement or any of its rights or obligations hereunder. Any purported transfer of this Agreement by the Customer in violation of this Clause shall be null and void. The Supplier shall be entitled to transfer this Agreement within the group of companies of which the Supplier is a member as well as to any third party in connection with the assignment to any such third party of the right of the Supplier to receive any sums payable by the Customer to it hereunder.

11.8 **Export Control**: To the extent that any national and international export control, sanctions and trade control laws and regulations apply to this Agreement, the Parties agree to comply with the same and obtain any required approval, reporting and/or information obligations. Customer shall defend and indemnify the Supplier against any liability arising from any breach of this clause by the Customer. Supplier is not required to perform any obligation under the Agreement if prohibited by such export control laws, regulations or restrictions.

11.9 **Usage restriction**: Customer will not use, access or provide access to the Software in any manner that violates an applicable economic, financial or trade prohibition, sanction or embargo, which may include but is not limited to such prohibitions, sanctions or embargoes enacted or imposed by law or other restrictive measure and administered or enforced by (i) the United Nations Security Council, (ii) the United States government, (iii) the European Union or any of its member states' governments, (iv) the United Kingdom, (v) the Singaporean government, (vi) the Swiss Confederation, or (vii) any other authority that has jurisdiction over the Customer, Supplier or the relevant project or activity for which the Software is being used, accessed or provided.

11.10 **Dispute Resolution**: The Parties shall attempt to resolve any dispute arising under this Agreement through the informal means described in this Clause. Each Party shall appoint a senior management representative who does not devote substantially all of his or her time to performance under this Agreement. The representatives shall negotiate in good faith to resolve the dispute without the need for any formal proceeding. Formal proceedings for the resolution of the dispute may not be commenced until the earlier of (i) the designated representatives mutually conclude that resolution through negotiation does not appear likely; or (ii) thirty (30) calendar days have passed since the initial request to negotiate the dispute was made; provided, however, that a Party may file for formal proceedings earlier solely to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or to apply for interim or equitable relief.

11.11 **Governing Law**: This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties shall submit to the non-exclusive jurisdiction and procedure of the Courts of England.

11.12 **Prevailing Party**: In the event a dispute arising under this Agreement results in litigation, the non-prevailing party shall pay the court costs and reasonable attorneys' fees of the prevailing party.

11.13 **Non-waiver**: No waiver or retraction of a waiver under this Agreement shall be valid or binding unless set forth in writing and duly executed by the Party against whom such waiver is sought. The failure of either Party to exercise any right granted herein, or to require the performance by the other Party hereto of any provision in this Agreement, or the waiver by either party of any breach of this Agreement, will not prevent a subsequent exercise or enforcement of such provisions or be deemed a waiver of any subsequent breach of the same or any other provision of this Agreement.

11.14 **Notices**: All notices, demands, or other communications by any party to the other shall be deemed to have been duly given when:
   (a) made in writing and delivered in person with signed receipt, or
   (b) sent via a nationally recognized, traceable, overnight delivery carrier, to the address detailed above, or to such address as the parties may provide to each other in writing from time to time.

   Notice will be effective upon delivery. Maintenance and Support Services related notices will be posted on Supplier's then current web-based support portal.

11.15 **Amendments in writing**: No variation of this Agreement shall be binding unless it is agreed in writing and signed on behalf of both parties by a duly authorized representative. No variation or omission from or addition to any of the terms and conditions of this Agreement whether written or oral shall be binding upon Supplier unless expressly accepted in writing by Supplier.

11.16 **Severability**: If any Clause (or part of any Clause) of this Agreement is determined by a court of competent jurisdiction to be or becomes illegal, unenforceable or in conflict with any law governing this Agreement, such clause shall be adjusted to the minimum extent necessary (most closely reflecting the legal and economic intent of the parties) to cure such unenforceability, illegality or conflict and the remainder of this Agreement (and the remainder of the relevant Clause) shall remain in effect in accordance with its terms as modified by such adjustment.

11.17 **Entire Agreement**: This Agreement as may be amended from time to time constitutes the entire agreement between the parties and supersedes all previous communications, non-fraudulent representations or prior and contemporaneous agreements (written or oral) between the parties with respect to the subject matter hereof.

11.18 **Withholding counter-performance**: Customer may only enforce its rights to withhold counter-performance if the counterclaims upon which the withholding is based relate to the same contractual relationship and are undisputed, mutually settled or have been finally awarded by a competent court of jurisdiction.

11.19 **Contracts (Rights of Third Parties) Act 1999**: Save to the extent expressly granted hereunder, this Agreement does not create any right enforceable by any person who is not a party to it ("**Third Party**") under the Contracts (Rights of Third Parties) Act 1999, but this clause does not affect any right or remedy of a Third Party which exists or is available apart from that Act.

11.20 **Software Attachments**: In the event of any conflict or inconsistency in the definition or interpretation of any term or provision set forth in this Agreement and Exhibits, such conflict or inconsistency shall be resolved by giving precedence to the Software Attachment(s). Any contrary or additional terms and conditions attached to or part of any purchase order or similar document related to this Agreement shall be invalid and non-binding.