



**AUTHORIZED RESELLER END USER LICENSE AGREEMENT  
BETWEEN SAP AND THE STATE OF OREGON ("EULA")  
March 27, 2018**

1. DEFINITIONS.

1.1 "Acceptance Form" means the Acceptance Form for Authorized Reseller End User License Agreement (between SAP and Indirect End User).

1.2 "Add-on" means any development that adds new and independent functionality, (including any new functional components for business processes not provided by the Software), and connects to and/or communicates through published SAP application program interfaces or user exits.

1.3 "Agreement" means the Acceptance Form as the case may be, the EULA and the Software Use Rights Schedule.

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

1.5 "Affiliate" means any an entity of Oregon state government as defined in ORS 174.111, and other public entity members of the Oregon Cooperative Procurement Program (ORCPP).

1.6 "Authorized Reseller" means the authorized reseller who is further identified in the Acceptance Form.

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

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

Any obligation of Agency/Licensee to maintain the confidentiality of SAP's proprietary information provided to Agency/Licensee is conditioned by and subject to Agency/Licensee's obligations under the Oregon Public Records Law, Oregon Revised Statutes (ORS) 192.410 to 192.505 which may require disclosure of proprietary information as a "public record" unless exempt under ORS 192.501 or ORS 192.502.

1.9 "Distributor" means the distributor who is further identified in the Acceptance Form.

1.10 "Documentation" means SAP's documentation which is delivered or made available to Licensee with the Software.

1.11 "End User" means the end user who is further identified in the Acceptance Form.

1.12 "Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret or database rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired. For the purposes of this EULA, "Intellectual Property Rights" do not include End User's or Licensee's information or data or intellectual property.

1.13 "Licensee" means the End User.

1.14 "Modification" means (i) a change to the delivered source code or metadata; or (ii) any development, other than a change to the delivered source code or metadata, that customizes, enhances, or changes existing functionality of the Software including, but not limited to, the creation of any new application program interfaces or alternative user interfaces, the extension of SAP data structures, or other change utilizing or incorporating any SAP Materials (defined below).

1.15 "SAP" means **SAP America, Inc.**

1.16 "SAP Materials" means any software, programs, tools, systems, data or other materials made available by SAP (whether before or after the effective date of this Agreement) including, but not limited to, the Software and Documentation, as well as any information, materials or feedback provided by Licensee to SAP relating to the Software and Documentation.

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

1.18 "Software Order Form" means the order placed by the Distributor with SAP for the Software ordered (i) by Licensee from the Authorized Reseller; and (ii) by Authorized Reseller from Distributor, including information on Software and other information necessary for the delivery of such items to Licensee.

1.19 "Software Use Rights Schedule" means the Software Use Rights Schedule current at the time of execution of the Acceptance Form which can be found at: [www.sap.com/company/legal](http://www.sap.com/company/legal)

1.20 "Territory" means the United States.

1.21 "Third Party Software" means (i) any and all software products and content licensed to Licensee under this Agreement, all as developed by companies other than SAP, SAP AG, Business Objects Software Limited and/or any of their affiliated companies and delivered to Licensee hereunder; (ii) any new releases thereof made available through unrestricted shipment pursuant to an SAP support service; and (iii) any complete or partial copies of any of the foregoing.

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

## 2. LICENSE GRANT.

### 2.1 License.

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

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

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

2.2 Affiliate Use. Affiliates' Use of the Software, Documentation and other SAP Materials to run their internal business operations as permitted under Section 2.1.1 is subject to the following: (i) the Affiliate agrees to be bound by the terms set out herein; and (ii) a breach of this Agreement by Affiliate shall be considered a breach by Licensee hereunder. If Licensee has an affiliate or subsidiary with a separate agreement for SAP software licenses and/or support services with SAP AG, any SAP AG affiliate (including SAP) or any other distributor of SAP software, the Software shall not be Used to run such affiliate's or subsidiary's business operations and such affiliate or subsidiary shall not receive any support services under this Agreement even if such separate agreement has expired or is terminated, unless otherwise agreed to in writing by the parties.

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

## 4. PRICE AND PAYMENT.

4.1 Fees. In cases of electronic delivery, SAP makes the Software available for download from a network at its own cost, and Licensee is responsible for the cost of downloading the Software.

## 5. TERM.

5.1. Term. This Agreement and the license granted hereunder shall become effective unless otherwise provided in the Acceptance Form on the delivery date and shall continue in effect thereafter unless terminated upon the earliest to occur of the following: (i) thirty days after Licensee gives SAP written notice of Licensee's direction to terminate this Agreement, for any reason, but only after payment to the Authorized Reseller of all License fees then due and owing; (ii) thirty days after SAP gives Licensee notice of Licensee's material

breach of any provision of the Agreement (other than Licensee's breach of its obligations under Sections 6, 10 or 11, which breach shall result in immediate termination), including more than thirty days delinquency in Licensee's payment of any monies owed to Authorized Reseller, unless Licensee has cured such breach in the meantime; (iii) immediately if Licensee files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or a petition for the opening of insolvency proceedings or similar proceedings if filed against the Licensee. For the avoidance of any doubt, termination of the Agreement shall strictly apply to all licenses under the Agreement, its appendices, schedules, addenda and order documents and any partial termination of the Agreement by Licensee shall not be permitted in respect of any part of the Agreement, its appendices, schedules, addenda, order documents.

5.2 End of Term Duties. Upon any termination hereunder, Licensee and its Affiliates shall immediately cease Use of all SAP Materials and Confidential Information. Within thirty (30) days after any termination, Licensee shall irretrievably destroy or upon SAP's request deliver to SAP all copies of the SAP Materials and Confidential Information in every form, except to the extent it is legally required to keep it for a longer period in which case such return or destruction shall occur at the end of such period. Licensee must certify to SAP in writing that it has satisfied its obligations under this Section 5.2. Licensee agrees to certify in writing to SAP that it and each of its Affiliates has performed the foregoing. Sections 3, 4, 5.2, 6, 7.2, 8, 9, 10, 12.4, 12.5, 12.6 and 12.8 shall survive such termination. In the event of any termination hereunder, Licensee shall not be entitled to any refund of any payments made by Licensee to SAP. Termination shall not relieve Licensee from its obligation to pay fees that remain unpaid.

5.3 To the extent SAP has any Licensee Confidential Information in its possession upon termination, SAP shall return such information to Licensee.

## 6. INTELLECTUAL PROPERTY RIGHTS.

6.1 Reservation of Rights. The SAP Materials, and all Intellectual Property Rights embodied in the foregoing, shall be the sole and exclusive property of SAP, SAP AG (the parent company of SAP) or its or their licensors, subject to any rights expressly granted to Licensee in Section 2 and 6.3 herein. Except for the rights set forth in Section 6.3 herein, Licensee is not permitted to modify or otherwise make derivative works of the Software. Any such unauthorized works developed by Licensee, and any Intellectual Property Rights embodied therein, shall be the sole and exclusive property of SAP or SAP AG.

6.2 Protection of Rights. Licensee shall not copy, translate, disassemble, or decompile, nor create or attempt to create the source code from the object code of the Software in any manner. Reverse engineering of the Software and other SAP Materials is prohibited. Licensee is permitted to back up data in accordance with good information technology practice and for this purpose to create the necessary backup copies of the Software. Backup copies on transportable discs or other data media must be marked as backup copies and bear the same copyright and authorship notice as the original discs or other data media. Licensee must not change or remove SAP's copyright and authorship notices.

### 6.3 Modifications/Add-ons.

6.3.1 Conditioned on Licensee's compliance with the terms and conditions of this Agreement, Licensee may make Modifications and/or Add-ons to the Software in furtherance of its permitted Use under this Agreement, and shall be permitted to use Modifications and Add-ons with the Software in accordance with the License grant to the Software set forth in Section 2.1.1(a) herein. Licensee shall comply with SAP's registration procedure prior to making Modifications or Add-ons. All Modifications and all rights associated therewith shall be the exclusive property of SAP and SAP AG. All Add-ons developed by SAP (either independently or jointly with Licensee) and all rights associated therewith shall be the exclusive property of SAP and SAP AG. Licensee agrees to execute those documents reasonably necessary to secure SAP's rights in the foregoing. All Add-ons developed by or on behalf of Licensee without SAP's participation ("Licensee Add-on"), and all rights associated therewith, shall be the exclusive property of Licensee subject to SAP's rights in and to the Software; provided, Licensee shall not commercialize, market, distribute, license, sublicense, transfer, assign or otherwise alienate any such Licensee Add-ons. SAP retains the right to independently develop its own Modifications or Add-ons to the Software, and Licensee agrees not to take any action that would limit SAP's sale, assignment, licensing or use of its own Software or Modifications or Add-ons thereto.

6.3.2 Any Modification developed by or on behalf of Licensee without SAP's participation or Licensee Add-on must not (and subject to other limitations set forth herein): enable the bypassing or circumventing any of the restrictions set forth in this Agreement and/or provide Licensee with access to the Software to which Licensee is not directly licensed; nor permit mass data extraction from Software to any non-SAP software, including use, modification saving or other processing of data in the non-SAP software; nor unreasonably impair, degrade or reduce the performance or security of the Software; nor render or provide any information concerning SAP software license terms, Software, or any other information related to SAP products. 6.3.3 Licensee covenants, on behalf of itself and its successors and assigns, not to assert against SAP or its affiliated companies, or their resellers, distributors, suppliers, commercial partners and customers, any rights in any Modifications developed by or on behalf of Licensee without SAP participation or Licensee Add-ons, or any other functionality of the SAP Software accessed by such Modification developed by or on behalf of Licensee without SAP participation or Licensee Add-on.

6.4 Information owned by Licensee shall remain the sole and exclusive property of Licensee. Licensee grants SAP the right to use the information, as necessary, only for the purposes of this Agreement.

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7.1 Warranty. SAP warrants that the Software will substantially conform to the specifications contained in the Documentation for six months following delivery. The warranty shall not apply: (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect is caused by a Modification or Add-on (other than a Modification or Add-on made by SAP and which is provided through SAP Support or under warranty), Licensee or third-party software. SAP does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of Licensee's business requirements. Provided Licensee notifies SAP in writing with a specific description of the Software's nonconformance within the warranty period and SAP validates the existence of such nonconformance, SAP will, at its option: a) repair or replace the nonconforming Software, or b) refund the license fees paid for the applicable nonconforming Software in exchange for a return of such nonconforming Software. This is Licensee's sole and exclusive remedy under this warranty.

7.2 Express Disclaimer. SAP AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

8. INDEMNIFICATION.

8.1 Infringement and Defense of Licensee. SAP shall defend Licensee against claims brought against Licensee in the Territory by any third party alleging that Licensee's Use of the Software, in accordance with the terms and conditions of this Agreement, constitutes a direct infringement or misappropriation of a patent claim(s), copyright or trade secret rights, and SAP will pay damages finally awarded against Licensee (or the amount of any settlement SAP enters into) with respect to such claims. This obligation of SAP shall not apply if the alleged infringement or misappropriation results from Use of the Software in conjunction with any other software, an apparatus other than a Designated Unit, failure to use an update provided by SAP if such infringement or misappropriation could have been avoided by use of the update, or unlicensed activities. This obligation of SAP also shall not apply if Licensee fails to timely notify SAP in writing of any such claim. In the event Licensee declines SAP's proffered defense, or otherwise fails to give control of the defense (as provided for below) to SAP's designated counsel, then Licensee waives SAP's obligations under this Section 8.1. Licensee shall cooperate fully in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable to SAP. SAP expressly reserves the right to cease such defense of any claim(s) in the event the Software is no longer alleged to infringe or misappropriate, or is held not to infringe or misappropriate, the third party's rights. SAP may settle any claim on a basis requiring SAP to substitute for the Software alternative substantially equivalent non-infringing programs and supporting documentation. Licensee shall not undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation of the Software that is prejudicial to SAP's rights. SAP shall have control of the defense and settlement of any claim that is subject to this section 8.; however, neither SAP nor any attorney engaged by SAP shall defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the approval of the Attorney General, nor shall SAP settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that SAP is prohibited from defending the State of Oregon, is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

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

9. LIMITATIONS OF LIABILITY.

9.1 Not Responsible. SAP and its licensors will not be responsible under this Agreement (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect or liability is caused by Licensee, a Modification or Add-on (other than a Modification or Add-on made by SAP which is provided through an SAP support service or under warranty), or third-party software. SAP and its licensors shall not be liable for any claims or damages arising from inherently dangerous use of the Software and/or Third-Party Software licensed hereunder.

9.2 Exclusion of Damages; Limitation of Liability. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION OR DEATH OR PERSONAL INJURY ARISING FROM EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, UNDER NO CIRCUMSTANCES AND REGARDLESS OF THE NATURE OF ANY CLAIM SHALL SAP, ITS LICENSORS OR LICENSEE BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE PAID LICENSE FEES FOR THE SOFTWARE DIRECTLY CAUSING THE DAMAGES OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ATTORNEYS' FEES, COURT COSTS, INTEREST OR EXEMPLARY OR PUNITIVE DAMAGES. The provisions of this Agreement allocate the risks between SAP and Licensee. The license fees reflect this allocation of risk and the limitations of liability herein.

10. CONFIDENTIALITY.

10.1. Use of Confidential Information. Confidential Information shall not be reproduced in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information of the other shall remain the property of the disclosing party and shall contain any and all confidential or proprietary notices or legends which appear on the original. With respect to the Confidential Information of the other, each party: (a) shall take all Reasonable Steps (defined below) to keep all Confidential Information strictly confidential; and (b) shall not disclose any Confidential Information of the other to any person other than its bona fide individuals whose access is necessary to enable it to exercise its rights hereunder. As used herein "Reasonable Steps" means those steps the receiving party takes to protect its own similar proprietary and confidential information, which shall not be less than a reasonable standard of care. Confidential Information of either party disclosed prior to execution of this Agreement shall be subject to the protections afforded hereunder.

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

10.3 Confidential Terms and Conditions; Publicity. Licensee shall not disclose the terms and conditions of this Agreement to any third party. Neither party shall use the name of the other party in publicity, advertising, or similar activity, without the prior written consent of the other, except that Licensee agrees that SAP may use Licensee's name in customer listings.

A party shall not be deemed in breach of this Section 10 if such party discloses the other party's Confidential Information pursuant to a validly issued order of a court, administrative agency or other governmental body with jurisdiction over such party hereto, or as required by law or regulation; provided, that to the extent that it may legally do so, the disclosing party first provides the other party with prompt written notice of such order and takes reasonable steps to allow the other party to object to such disclosure, seek a

protective order with respect to the confidentiality of the information required to be disclosed or take such other action as it deems appropriate to protect the other party's Confidential Information.

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

12. **GENERAL PROVISIONS.**

12.1 **Severability.** It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be wholly or in part illegal, invalid or unenforceable in any respect, such illegality, invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein. The illegal, invalid or unenforceable provision will be replaced by a valid and enforceable provision which approximates as closely as possible the intent of the invalid or unenforceable provision. This will also apply in the case of gaps.

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

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

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

12.5 **Governing Law; Limitations Period.** This Agreement and any claims (including and non-contractual claims) arising out of or relating to this Agreement and its subject matter shall be governed by and construed under the laws of Oregon, United States of America, without reference to its conflicts of law principles. In the event of any conflicts between foreign law, rules, and regulations, and Oregon law, rules, and regulations, Oregon law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The Uniform Computer Information Transactions Act as enacted shall not apply. Licensee must initiate a cause of action for any claim(s) arising out of or relating to this Agreement and its subject matter within one (1) year from the date when Licensee knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s). Any claim, action, suit, or proceeding (collectively, "Claim") between Customer (or any other agency or department of the State of Oregon) and SAP that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. EACH PARTY HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION 12. AND WAIVES ANY OBJECTION TO VENUE AND THAT ANY SUCH FORUM IS AN INCONVENIENT FORUM.

12.6 **Notices.** All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered to the respective executive offices of SAP and Licensee at the addresses first set forth in the Acceptance Form. Where in this section 12.6 or elsewhere in this Agreement written form is required, that requirement can be met by facsimile transmission, exchange of letters or other written form.

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

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

12.9 Hierarchy. The following order of precedence shall be applied in the event of conflict or inconsistency between provisions of the components of this Agreement: (i) the Acceptance Form; (ii) the Software Use Right Schedule; (iv) the EULA.

Accepted By:  
**State of Oregon**  
(Customer)

*Benny Beckwith*

Name: *Ginny Beckwith*  
Title: *Procurement Services Mgr*  
Date: *3/28/18*

Accepted By:  
**SAP America, Inc.**  
(SAP)

Name:   
-07ACCEE310F9455...  
Title: Corporate Counsel  
Date: March 27, 2018

