

Terms of Use Agreement For SAP Code Exchange

This Terms of Use Agreement for SAP Code Exchange agreement (“**Agreement**”) is made as of [INSERT DATE] (“**Effective Date**”), by and between SAP AG, a German corporation with offices at Dietmar-Hopp-Allee 16, 69190 Walldorf, Germany (“**SAP**”) and [INSERT NAME] located at [INSERT ADDRESS] (“**You**” or “**Your**” and either party hereinafter referred to as “**Party**” and together “**Parties**”), regarding Your use of SAP’s Code Exchange website (“**Code Exchange**”) and the Add-on’s made available on Code Exchange.

1. Scope. SAP created Code Exchange to provide a forum where (a) You and other individual SAP software developers who have agreed to the NDLA (each, a “**Contributor**”) may publish Add-ons you have created which connect to standard SAP API’s and which may not be commercialized in any manner or otherwise distributed outside of Code Exchange, or (b) SAP Customers and individuals who wish to download Add-ons (each, a “**Consumer**”) made available on Code Exchange by Contributor(s), may download and use for their own purposes (but not distribute outside of Code Exchange or Commercialize in any way) such Add-ons with their SAP Software subject to this Agreement. SAP reserves the right to modify, change or discontinue any part or all of Code Exchange at any time.

2. Definitions

“**Add-On**” means any software development utilizing the SAP development environment, SAP published APIs, SAP Enterprise Service Definitions, and/or libraries to create new software objects, that adds new and independent functionality and consumes or is otherwise coupled to published SAP APIs and/or SAP Enterprise Services (e. g. new SAP composite applications, new functional components for business processes not covered by the SAP Software) and any documentation or other information provided in connection with any such Add-on. Standalone interface code from SAP Software to non-SAP software is excluded from this definition of Add-on.

“**Enterprise Service**” means a web service that provides business processes or business process steps according to an Enterprise Service Definition, which processes or steps can be used to compose business scenarios.

“**Enterprise Service Definition**” means a description of an Enterprise Service, whether in XML or otherwise, that can be used by a software application to invoke and/or receive the described Enterprise Service using commands in that description, a listing of which Definitions can be found in the Services Registry on the Enterprise Services Workplace at <http://esworkplace.sap.com/index.html>, or which may be found at a future location(s) to be specified by SAP.

“**Limited Use Netweaver Developer License Agreement**” or “**NDLA**” means the license agreement which governs Your use of the NDLA Software.

“**NDLA Software**” means the components of SAP Software made available to You by SAP upon Your acceptance of the terms of the NDLA, which SAP Software You are required to use in the development of any Add-ons You contribute to Code Exchange.

“**SAP Customer**” means any entity using a lawfully acquired copy of SAP Software available on SAP’s Service Marketplace.

“**SAP Entity/Entities**” shall mean SAP’s affiliates and its subsidiaries, defined as corporations or other entities of which SAP owns, either directly or indirectly, more than fifty percent (50%) of the stock or other equity interests.

“**SAP Software**” shall mean the software products of SAP and/or SAP Entities marketed and licensed by SAP and/or SAP Entities.

3. Acceptance of Terms: Contributors may only be individuals accessing and using Code Exchange on behalf of themselves to create Add-ons which connect to SAP Software through standard SAP APIs. Consumers may be an individuals or companies accessing and using Code Exchange to download Add-ons made available on Code Exchange by Contributors.

Contributor: If You are using Code Exchange as a Contributor, Your use of Code Exchange and Your creation of any Add-on will also be subject to the terms and conditions of the NDLA which you will have to accept prior to being granted access to the NDLA Software. Additionally, as a Contributor, you represent and warrant that you are accessing and using Code Exchange and the NDLA Software strictly on your own behalf, as an individual and not on behalf of any company or other third party, and you agree that any Add-on submitted by you to Code Exchange may be utilized by Consumers in accordance with the license grant set forth under Section 4.B.2. below.

Consumer: If You are using Code Exchange as a Consumer, Your use of any Add-On downloaded from Code Exchange shall be strictly limited to the use rights set forth under Section 4.B.2. below. If your employer is a Consumer and You are accessing and/or using Code Exchange on behalf of Your employer, or as a consultant or agent of a third party who is a Consumer (either “**Your Company**”), You represent and warrant that (a) You have the authority to act on behalf of and bind Your Company to the terms of

this Agreement, (b) You are authorized by Your Company to participate in the activities supported by Code Exchange, and (c) everywhere in this Agreement that refers to You or Your, shall also include Your Company.

4. Intellectual Property Rights; License Grant

A. If You are a Contributor, you agree to only submit Add-ons created by You subject to the terms of the NDLA. Subject to any licenses You grant to SAP or Consumers under this Agreement, You shall retain ownership of all Intellectual Property Rights in and to the Add-Ons made available by You on Code Exchange to the extent You are the owner or holder of those Intellectual Property Rights.

B. As a Contributor, by transmitting or uploading Add-ons to Code Exchange:

1. You grant SAP a perpetual, unlimited, irrevocable, royalty-free, worldwide license, under all Your Intellectual Property Rights, to: use, reproduce, display, perform, modify, transmit, distribute, and create derivative works of the Add-on; and to make, have made, offer to sell, sell, lease, or otherwise distribute any product; and to practice any method, embodying such Intellectual Property Rights in Your Add-on (including the right to sublicense any of the foregoing rights); and

2. You grant each Consumer a perpetual, unlimited, irrevocable, royalty-free, worldwide license to: (i) use, reproduce, adapt, display, perform, modify, translate, and create derivative works of Your Add-ons; and to practice any method, embodying such Add-ons, and (ii) distribute derivative works of such Add-ons solely by publishing such derivative works on Code Exchange.

C. If you are a Consumer you grant to SAP a perpetual, unlimited, irrevocable, royalty-free, worldwide license, under all Your Intellectual Property Rights, to: use, reproduce, display, perform, modify, transmit, distribute, and create derivative works of any derivative works you have created of any Add-on ("**Derivative Add-On**"); and to make, have made, offer to sell, sell, lease, or otherwise distribute any product; and to practice any method, embodying such Intellectual Property Rights in Derivative Add-On (including the right to sublicense any of the foregoing rights); and

You further represent and warrant to SAP that You have the right, title, and/or authority to grant such license to SAP. SAP may elect not to post or publish the Add-on that You send or upload. If SAP elects to post or publish the Add-on, SAP may in its sole discretion elect to withdraw the Add-on for any reason and without notice. All Intellectual Proprietary Rights to any SAP Software shall belong to SAP. Nothing in this Agreement shall be deemed to give You the right to modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell any SAP Software or any other Intellectual Property Rights of SAP for any reason unless otherwise permitted by law. You hereby agree to assign and do assign to SAP any modifications or derivative works of any SAP Software made by You in contravention of this limitation.

You may not use or install any SAP Software which is accompanied by the NDLA until You first agree to the terms of the NDLA. You further covenant, on behalf of yourself and any affiliates, successors and assigns, not to assert against SAP or its affiliates, or their resellers, distributors, Contributors, commercial partners and customers, any Intellectual Property Rights owned or controlled by You embodied by Your Add-ons, or covering or reading upon any content contained in or functionality of the ESR, the Enterprise Service Definitions, Enterprise Services and/or any component of the SAP Platform used to provide Enterprise Services or any other functionality of the SAP Platform accessed by Your Add-on.

5. Permissible Use of Code Exchange. You agree not to access or utilize Code Exchange for purposes that are inconsistent with SAP's legitimate business interests. You are permitted to Use Code Exchange only in strict compliance with the terms of this Agreement, so long as that use does not include gathering information for use in any manner which is or could be detrimental to SAP (unless such use is otherwise protected by law), and/or to provide feedback or other constructive comments to SAP (both positive and negative) and the SAP Community Network ("**SCN**"). Upon at least thirty (30) days prior written notice, SAP may audit You to ensure that You are in compliance with the terms of this Agreement. If You are a Consumer, SAP may audit You to confirm that any Add-ons You have downloaded from Code Exchange are being used in accordance with this Agreement. If You are a Contributor, SAP may audit You to confirm that any software products or components You have uploaded to Code Exchange constitute Add-ons as defined herein, and that such Add-ons were developed under a valid NDLA. Any such audit will be conducted during regular business hours, and will not unreasonably interfere with Your business activities. You will provide SAP with sufficient cooperation for SAP to carry out the audit, and You will provide SAP with adequate access to the relevant records, information, and materials.

6. Prohibited Use of Code Exchange.

A. You agree not to use Code Exchange to publish, upload, post, email, transmit or otherwise make available any Add-on that (a) You do not have the right to make available (b) is unlawful, harmful, vulgar, obscene, hateful, or racially, ethnically or otherwise objectionable; (c) infringes any Intellectual Property Rights of any party, (d) includes any unsolicited or unauthorized advertising, promotional materials, surveys, junk mail, spamming, chain letters, or any other form of solicitation, commercial or otherwise, or (e) contains a software virus, Trojan horse, worm, time bomb, cancelbot, corrupted file, or any other computer file or software designed to interrupt, destroy, damage or limit the functionality of any computer hardware, software or other property.

B. Any Add-on created by You and transmitted or uploaded to Code Exchange may not contain Viral Code. Your Add-on contains Viral Code if both of the following two conditions are met.

1. All or part of Your Add-on is subject to an open source license. Here is a non-exclusive list of open source licenses: (i) GNU's General Public License (GPL), Lesser/Library GPL (LGPL), or Free Documentation License, (ii) The Artistic License (e.g., PERL), (iii) the Mozilla Public License, (iv) the Netscape Public License, (v) the Sun Community Source License (SCSL), (vi) the Sun Industry Standards License (SISL), (vii) the BSD License (viii) the Apache License, (ix) the MIT License, and (x) the Eclipse Public License (EPL).

2. Using, linking, distributing, basing, deriving or accessing Your Add-on with Code Exchange or any SAP Software, Enterprise Service, Enterprise Service Definition, any other Add-on and/or API (including all Intellectual Property Rights embodied therein) causes the SAP Software, Enterprise Service, Enterprise Service Definition, other Add-on and/or API to:

(A) be made available or distributed in source code form; or

(B) be licensed under the GPL, LGPL or any similar viral license for the purpose of making derivative works; or

(C) be licensed under terms that allow reverse engineering, reverse assembly or disassembly of any kind; or

(D) be redistributable at no charge.

7. Confidential Information. Code Exchange is a public forum and You agree not to provide SAP or other Users with any confidential or proprietary information that You or the owner of the information do not intend to become public information. Any Add-on that You send or upload to Code Exchange will be deemed NOT to be confidential or proprietary, and You expressly agree that You waive any trade secret or other confidentiality rights with respect to such uploaded Add-on.

8. Copyright Policy. Unauthorized copying, distribution, modification, public display, or public performance of copyrighted works is an infringement of the copyright holders' rights. You agree that You will not use Code Exchange to infringe the Intellectual Property Rights of SAP or others in any way. You must not remove, overprint or deface any notice of copyright, trademark, logo, legend, or other notice of ownership from any originals or copies of SAP Software or third party software on Code Exchange. As used herein, "Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, copyrights, trademarks, service marks, trade secret or confidentiality rights, and any other intangible property rights including applications 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.

9. Responsibility for Links. SAP is only responsible or liable for the content posted on Code Exchange to the extent required by the German Telemedia Act (Telemediengesetz, TMG). SAP does not represent, warrant, or endorse any links posted on Code Exchange. SAP is not directly or indirectly responsible or liable for any damage or loss caused or alleged to be caused by or in connection with Your use of any content, goods or services available on or through any such linked Web site.

10. Termination and Accountability. In the event You are in breach of this Agreement, SAP may, at its sole discretion, suspend or terminate Your right to access and use Code Exchange. SAP may remove any Code Exchange Materials from Code Exchange at SAP's sole discretion. SAP shall not be liable to You or any third party for any termination or change to Code Exchange. If You send or upload an Add-on or other information that is confidential or proprietary of a third party without that third party's permission, or, if You transmit or upload an Add-on or information that is intended to infect, corrupt or otherwise disrupt the operation of Code Exchange or any other User's computer system, SAP may report You to the relevant authorities to ensure You are held accountable to the fullest extent of applicable laws.

11. Indemnity. You agree to indemnify and hold SAP, its affiliates, subsidiaries, officers, agents, partners, employees, and licensors harmless from any claim or demand, including reasonable attorney's fees, made by any third party due to or arising out of any Add-On you post on Code Exchange, Your usage of Code Exchange, Your breach of this Agreement or SAP's Copyright or Privacy Statements, or Your alleged violation of any other rights of a third party.

12. Exclusion of Warranties. Code Exchange and any software, Add-ons, or other materials made available on Code Exchange (collectively, the "Code Exchange Materials", are provided to You AS IS. To the fullest extent allowable by law, SAP does not guarantee or warrant any features or qualities of Code Exchange or the Code Exchange Materials, or give any undertaking with regard to any other quality. No warranty or undertaking shall be implied by You from any published description of or advertisement except to the extent SAP has expressly confirmed such warranty or undertaking in writing. Warranties are validly given only with the express written confirmation of SAP's management.

SAP does not represent, warrant, or endorse the accuracy or reliability of any Code Exchange Materials. SAP only reviews whether the Code Exchange Materials, at the time they are posted on Code Exchange evidently contain illegal contents or infringements against intellectual property rights. SAP will not permanently control and/or review the Code Exchange Materials provided by third parties but – upon sufficiently proven indication – will remove any Code Exchange Materials that SAP believes to be infringing. SAP shall not be liable for damages caused by the use of any Code Exchange Material, unless such damages have been caused by SAP's willful misconduct, gross negligence or to the extent required by the German Telemedia Act (Telemediengesetz, TMG). Any Code

Exchange Materials, whether publicly posted or privately transmitted, are the sole responsibility of the person or entity providing the Code Exchange Materials.

13. Limitation of Liability. TO THE EXTENT ALLOWABLE BY APPLICABLE LAW, SAP AND SAP ENTITIES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS, AND SUPPLIERS ARE NOT LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, REVENUE, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF SAP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), HOWEVER CAUSED, WHETHER IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF OR RESULTING FROM: (i) THE USE OR THE INABILITY TO USE CODE EXCHANGE; (ii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iii) UNAUTHORIZED ACCESS OR USE OF ADD-ONS (iv) STATEMENTS, MESSAGES, OR CONDUCT OF ANY THIRD PARTY ON CODE EXCHANGE; OR (v) ANY OTHER MATTER RELATING TO CODE EXCHANGE. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THESE LIMITATIONS SHALL NOT APPLY IN CASE OF INTENT OR GROSS NEGLIGENCE BY SAP AND IN CASE OF SAP'S STATUTORY LIABILITY FOR PERSONAL INJURY AND DEFECTIVE PRODUCTS.

14. Applicable Law. Code Exchange is created and controlled by SAP in Germany. Therefore, the laws of Germany will govern this Agreement without giving effect to any principles of conflicts of laws. You also agree to comply with all laws from the country in which You reside that are applicable to the transmission of data on the Internet, including, but, not limited to laws governing the use of encryption and laws governing the transmission of data across international boundaries, into prohibited countries, and containing personally identifiable information.

15. Survival. Sections 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 will survive termination of this Agreement or your SCN account.

16. Waiver and Severability. The failure of SAP to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. To the extent that any provision in this Agreement shall be found to be unenforceable, such provision shall be modified in such a manner so as to make this Agreement as modified, legal and enforceable under applicable laws and the balance of the provisions of this Agreement shall not be affected thereby.

By signing below You agree to be bound by the terms of this Agreement. To gain access to the Code Exchange, You must fax a copy of the signed Agreement to +1 (650) 687 – 9220, +49 (6227) 78 – 42086 or scan and email a copy to: codeexchange@sap.com.

Accepted and Agreed:

Name (Block Letters):

Company or Affiliation:

Signature:

Title:

Date:

SAP Community Network User ID: (MANDATORY)

See <https://secure.sdn.sap.com/irj/scn/updateprofile>).