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08 DECEMBER 2021

REQUEST FOR QUOTATION (RFQ)

RFQ	RFQ/FIN/2021/167
RFQ ISSUE DATE	08 DECEMBER 2021
RFQ DESCRIPTION	PROVISION OF SOFTWARE MAINTENANCE FOR EXISTING SAP LICENCES FOR A PERIOD OF 6 MONTHS
CLOSING DATE & TIME	19 JANUARY 2022 AT 12H00

Submissions must be emailed to: SABC RFQSubmissions@sabc.co.za on or before the closing date of this RFQ.

PLEASE NOTE THAT AS FROM 01 JULY 2016 COMPANIES THAT ARE NOT REGISTERED WITH CSD SHALL NOT BE CONSIDERED

For queries, please contact **Masango Lerato** on email tenderqueries@sabc.co.za

The SABC requests your quotation on the services listed above. Please furnish us with all the information as requested and return your quotation on the date and time stipulated above. Late and incomplete submissions will invalidate the quote submitted.

SUPPLIER NAME: _____

POSTAL ADDRESS: _____

TELEPHONE NO: _____

FAX NO. : _____

E MAIL ADDRESS: _____

CONTACT PERSON: _____

CELL NO: _____

SIGNATURE OF BIDDER: _____

NOTES ON QUOTATIONS AND PROPOSALS SUBMISSION

1. All electronic submissions must be submitted in a **PDF** format that is protected from any modifications, deletions or additions.
2. Financial/pricing information must be presented in a **separate** attachment from the Technical / Functional Response information.
3. The onus is on the Bidder to further ensure that all mandatory and required documents are included in the electronic submission.
4. All electronic submissions should be prominently marked with the full details of the tender in the email subject line.
5. Bidders are advised to email electronic submissions at least thirty minutes before the bid closing time to cater for any possible delay in transmission or receipt of the bid. The onus is on bidder to ensure that the bid is submitted on time via email
6. Tender submission emails received after submission date and time will be considered late bid submissions and will not be accepted for consideration by SABC.
7. SABC will not be responsible for any failure or delay in the email transmission or receipt of the email including but not limited to:
 - receipt of incomplete bid
 - file size
 - delay in transmission receipt of the bid
 - failure of the Bidder to properly identify the bid
 - illegibility of the bid; or
 - Security of the bid data.

MANDATORY DOCUMENTS

		Bidders to indicate Compliance	
		Yes/No	Supporting evidence (refer to page number or Annexure in your response where applicable)
1.	Must be SAP Vendor* or SAP Partner Centre of Expertise (PCoE)** certified Partner <i>*SAP Vendor: SAP Direct, i.e. SAP South Africa **SAP PCoE: SAP Partner/VAR certified to provide Maintenance & Support services on behalf of SAP (PCoE certification)</i>		
2.	CSD Registration details <i>Attach confirmation of CSD registration and/or CSD registration number.</i>		
3.	Agree to provide all services described in the SAP Enterprise Support Schedule (Annexure E) <i>Please clearly state whether you agree or not.</i>		
4.	Must have a business office in South Africa <i>Please provide physical address</i>		
5.	The bidder must include maintenance fees payable to SAP, on behalf of the SABC for existing SABC SAP licences, in their proposal price		

NON-SUBMISSION OF THE MANDATORY DOCUMENTS WILL RESULT IN AUTOMATIC DISQUALIFICATION

REQUIRED DOCUMENTS

- 1.1 Proof of Valid TV License Statement for the Company; all active Directors and Shareholder must have valid TV Licenses.
(Verification will also be done by the SABC internally).
- 1.2 Valid SARS Tax Compliance Status Pin Issued to validate supplier's tax matters.
- 1.3 Original or Certified copy of Valid BBEE Certificate (from SANAS accredited Verification Agency)
- 1.4 All EME's and 51% black Owned QSE's are only required to obtain a **sworn affidavit** on an annual basis, confirming the following;
 - 1.4.1 Annual Total Revenue of R10 Million or less (EME) or Revenue between R10 Million and R50 Million for QSE
 - 1.4.2 Level of Black Ownership

Note 1:

Verification Agencies and Auditors who are accredited by the IRBA (Independent Regulatory Board for Auditors) are no longer the 'approved regulatory bodies' for B-BBEE verification and therefore IRBA auditors are not allowed to issue B-BBEE certificates after 30 September 2016.

Note 2:

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the B-BBEE act as amended.

- 1.5 Certified copy of Company Registration Document that reflect Company Name, Registration number, date of registration and active Directors or Members.
- 1.6 Certified copy of Shareholders' certificates.
- 1.7 Submit Proof of Public Indemnity Cover for a minimum of R10 000 000
- 1.8 Certified copy of ID documents of the Directors or Members.
- 1.9 Provide proof of CSD (Central Supplier Database)

NB: NO CONTRACT WILL BE AWARDED TO ANY BIDDERS WHO'S TAX MATTERS ARE NOT IN ORDER.

NO CONTRACT WILL BE AWARDED TO ANY BIDDERS WHO'S TV LICENCE STATEMENT ACCOUNT IS NOT VALID.

DETAILED TECHNICAL SPECIFICATION

Provision of SAP Software Maintenance for existing SABC SAP Licences

1. BACKGROUND

The SABC as South Africa's Public Broadcaster is mandated by Parliament and this entails offering:

- A range of informative, educational and entertaining programmes that showcase South African attitudes, opinions, ideas, values talent and artistic creativity;
- Programming with a plurality of views and a variety of news, information and analyses from a South African perspective; and
- Programming that advances the national and public interest.

The SABC strive to maintain a leading role in the broadcasting industry and as such keep abreast with constantly changing technologies. The corporation implemented the core SAP ERP solution during 2007 and subsequently activated additional functions and SAP modules.

The SABC would like to contract a service provider for SAP Software Maintenance for its existing SAP licences.

IMPORTANT

1. Please note the period for which SAP maintenance is required and contact SAP SA to get the correct pricing for the fees payable to them for the required contract term.
2. This RFP is for SAP software maintenance for the SABC's existing SAP licences. It is **NOT** for functional support on any SAP module.

SCOPE OF SERVICE

The SABC requires SAP Software Maintenance for the following licensed SAP software for a period of 6 months:

Material	Material Description	ELA Quantity
7001125	SAP Business Suite Professional	725
7001126	SAP Business Suite Employee	2650
7001127	SAP Business Suite Ltd Professional	250
7001132	SAP Payroll Processing	9000
7002075	SAP Learning Solution (learners)	4000
7002204	Manager Self Service User	365
7002389	SAP Business Suite Developer User	10
7002721	SAP NetWeaver PI Base Engine	50
7009650	SAP BusObj Access Control	3
7010696	SAP BS Bus. Exp. Upg.Usr (from Prof Usr)	5
7017576	SAP Process Control	75

2 **RFQ Response Information**

Effective Date of Bid

Vendors should state in writing in its quotation to the SABC that all furnished information, including price, will remain valid and applicable for 90 days from the date the vendor quotation is received by the SABC.

3 **COSTING**

The quotation must reflect a detailed cost breakdown, and any indirect costs associated with the delivery of the required service.

4 **DURATION OF THE CONTRACT**

Six (6) months

5 **EVALUATION CRITERIA**

5.1 BBEE and Price

The RFQ responses will be evaluated on the **80/20** point system

6 **ADJUDICATION USING A POINT SYSTEM**

- 6.1 The bidder obtaining the highest number of total points will be awarded the contract unless objective criteria justify the award to another bidder
- 6.2 Preference points shall be calculated after process has been brought to a comparative basis taking into account all factors of non-firm prices.
- 6.3 In the event that two or more bids have scored equal points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 6.4 However, when functionality is part of the evaluation process and two or more bids have scored equal points for B-BBEE, the successful bid must be the one scoring the highest score for functionality
- 6.5 Should two or more bids be equal in all respect, the award shall be decided by the drawing of lots.

7 **POINTS AWARDED FOR PRICE**

The **80/20** preference point system

A maximum of **80** points is allocated for price on the following basis:

$$P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

Where:

Ps	=	Points scored for comparative price of bid under Consideration
Pt	=	Comparative price of bid under consideration
Pmin	=	Comparative price of lowest acceptable bid

B-BBEE PREFERENTIAL POINTS WILL BE AWARDED AS FOLLOWS:

B-BBEE Status Level of Contributor Number of Points

B-BBEE Status level of Contributor	Number of points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 7.1 Bidders who qualify as EME's in terms of the B-BBEE Act must submit a certificate issued by a verification Agency accredited by SANAS for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates or DTI Affidavit.
- 7.2 Bidders other than EMEs must submit their original and valid B-BBEE status levels verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a verification agency accredited by SANAS.
- 7.3 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate
- 7.4 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 7.5 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 7.6 A tenderer will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intend sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended Sub-contractor is an EME that has the capacity and the ability to execute the sub-contract.
- 7.7 A tenderer awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have equal or higher B-BBEE status level

than the person concerned, unless the contract is sub-contracted to an EME that has the capacity and the ability to execute the sub-contract.

8 COMMUNICATION

Respondents are warned that a response will be disqualified should any attempt be made by a tenderer either directly or indirectly to canvass any officer(s) or employees of SABC in respect of a tender, between the closing date and the date of the award of the business.

All enquiries relating to this RFQ should be emailed three days before the closing date.

9 CONDITIONS TO BE OBSERVED WHEN TENDERING

9.1 The Corporation does not bind itself to accept the lowest or any tender, nor shall it be responsible for or pay any expenses or losses which may be incurred by the Tenderer in the preparation and delivery of his tender. The Corporation reserves the right to accept a separate tender or separate tenders for any one or more of the sections of a specification. The corporation also reserves the right to withdraw the tender at any stage.

9.2 No tender shall be deemed to have been accepted unless and until a formal contract / letter of intent is prepared and executed.

9.3 The Corporation reserves the right to:

Not evaluate and award submissions that do not comply strictly with his RFQ document.

Make a selection solely on the information received in the submissions and

9.3.1 Enter into negotiations with any one or more of preferred bidder(s) based on the criteria specified in the evaluation of this tender.

9.3.2 Contact any bidder during the evaluation process, in order to clarify any information, without informing any other bidders. During the evaluation process, no change in the content of the RFQ shall be sought, offered or permitted.

9.3.3 Award a contract to one or more bidder(s).

9.3.4 Accept any tender in part or full at its own discretion.

9.3.5 Cancel this RFQ or any part thereof at any time.

9.3.6 Should a bidder(s) be selected for further negotiations, they will be chosen on the basis of the greatest benefit to the Corporation and not necessarily on the basis of the lowest costs, aligned to the BBBEE & Preference Point system.

10 Cost of Bidding

The Tenderer shall bear all costs and expenses associated with preparation and submission of its tender or RFQ, and the Corporation shall under no circumstances be responsible or liable for any such costs, regardless of, without limitation, the conduct or outcome of the bidding, evaluation, and selection process.

END OF RFQ DOCUMENT

Annexed to this document for completion and return with the document:

- | | | |
|------------|---|---|
| Annexure A | - | Declaration of Interest |
| Annexure B | - | Consortiums, Joint Ventures and Sub-Contracting Regulations |
| Annexure C | - | Annexure to be completed and submitted with tender response |
| Annexure D | - | SBD 8 & 9 Forms |
| Annexure E | - | SAP Enterprise Support Schedule |

ANNEXURE A

DECLARATION OF INTEREST

1. Any legal or natural person, excluding any permanent employee of SABC, may make an offer or offers in terms of this tender invitation. In view of possible allegations of favouritism, should the resulting tender, or part thereof be awarded to-
 - (a) any person employed by the SABC in the capacity of Tenderer, consultant or service provider; or
 - (b) any person who acts on behalf of SABC; or
 - (c) any person having kinship, including a blood relationship, with a person employed by, or who acts on behalf of SABC; or
 - (d) any legal person which is in any way connected to any person contemplated in paragraph (a), (b) or (c),

it is required that:

The Tenderer or his/her authorised representative shall declare his/her position *vis-à-vis* SABC and/or take an oath declaring his/her interest, where it is known that any such relationship exists between the Tenderer and a person employed by SABC in any capacity.

Does such a relationship exist? [YES/NO]

If YES, state particulars of all such relationships (if necessary, please add additional pages containing the required information):

	[1]	[2]
NAME	:	
POSITION	:	
OFFICE WHERE EMPLOYED	:	
TELEPHONE NUMBER	:	
RELATIONSHIP	:	

2. Failure on the part of a Tenderer to fill in and/or sign this certificate may be interpreted to mean that an association as stipulated in paragraph 1, *supra*, exists.
3. In the event of a contract being awarded to a Tenderer with an association as stipulated in paragraph 1, *supra*, and it subsequently becomes known that false information was provided in response to the above question, SABC may, in addition to any other remedy it may have:
 - recover from the Tenderer all costs, losses or damages incurred or sustained by SABC as a result of the award of the contract; and/or
 - cancel the contract and claim any damages, which SABC may suffer by having to make less favourable arrangements after such cancellation.

SIGNATURE OF DECLARANT

TENDER NUMBER

DATE

POSITION OF DECLARANT

NAME OF COMPANY OR TENDERER

ANNEXURE B**CONSORTIUMS, JOINT VENTURES AND SUB-CONTRACTING REGULATIONS****1. CONSORTIUMS AND JOINT VENTURES**

- 1.1 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 1.2 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.

2 SUB-CONTRACTING

- 2.1 A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
- 2.2 A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 2.3 A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

3 DECLARATION OF SUB-CONTRACTING

- 3.1 Will any portion of the contract be sub-contracted? YES / NO
- 3.2 If yes, indicate:
 - 3.2.1 The percentage of the contract will be sub-contracted%
 - 3.2.2 The name of the sub-contractor
 - 3.2.3 The B-BBEE status level of the sub-contractor.....
 - 3.2.4 whether the sub-contractor is an EME YES / NO

SIGNATURE OF DECLARANT_____
TENDER NUMBER_____
DATE_____
POSITION OF DECLARANT_____
NAME OF COMPANY OR TENDERER

ANNEXURE C

Please complete and attach this Annexure to your tender response. Please ensure that you have responded to, and provided supporting documents for, all questions.

1. Confirmation of SAP Accreditation

	YES	NO
SAP Vendor* or SAP Partner Center of Expertise** certified		
SAP Vendor confirmation or SAP PCoE accreditation attached to response		

**SAP Vendor: SAP Direct, i.e. SAP South Africa*

***SAP PCoE: SAP Partner/VAR certified to provide maintenance and support on behalf of SAP (PCoE certification)*

2. Confirmation of Local Office

	YES	NO
Local support office in South Africa		

Address of Support Office in South Africa:

3. Confirmation of CSD Registration

	YES	NO
Registered on National Treasury's Central Supplier Database (CSD)		
Proof of CSD registration attached		

CSD Registration Number: _____

4. Included maintenance fees payable to SAP on behalf of SABC for existing SAP licences in price

YES	NO

5. Agree to provide all services described in the Enterprise Support Schedule (Annexure E)

YES	NO

ANNEXURE "D"

SBD 8

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐

4.4.1	If so, furnish particulars:
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SBD 8

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM
IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION
MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE
FALSE.**

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js365bW

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:

(Name of Bidder)

2. I have read and I understand the contents of this Certificate;
3. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
4. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
5. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
6. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

7. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
8. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
9. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
10. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

SBD 9

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

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ANNEXURE E

This is the standard SAP Enterprise Support Schedule. The bidder should provide the same service on behalf of SAP and the maintenance fees payable to SAP should be included in their proposal.

SAP ENTERPRISE SUPPORT SCHEDULE

In each instance in which provisions of this Schedule contradict or are inconsistent with the provisions of the Agreement including any appendices, exhibits, order forms or other documents attached to or incorporated by reference to the Agreement, the provisions of this Schedule shall prevail and govern.

This Schedule governs the provision of support services by SAP as further defined herein ("SAP Enterprise Support") for all software licensed by Licensee under the Agreement (hereinafter collectively referred to as the "Enterprise Support Solutions"), excluding software to which special support agreements apply exclusively.

1. Definitions:

- 1.1 "Go-Live" marks the point in time from when, after implementation of the Enterprise Support Solutions or an upgrade of the Enterprise Support Solutions, the Enterprise Support Solutions can be used by Licensee for processing real data in live operation mode and for running Licensee's internal business operations in accordance with the Agreement.*
- 1.2 "Licensee Solution(s)" shall mean Enterprise Support Solutions and any other software licensed by Licensee from third parties provided such third party software is operated in conjunction with Enterprise Support Solutions.*
- 1.3 "Production System" shall mean a live SAP system used for running Licensee's internal business operations and where Licensee's data is recorded.*
- 1.4 "SAP Software Solution(s)" shall mean a group of one or multiple Production Systems running Licensee Solutions and focusing on a specific functional aspect of Licensee's business. Details and examples can be found on the SAP Service Marketplace (as specified in SAP Note 1324027 or any future SAP Note which replaces SAP Note 1324027).*
- 1.5 "Service Session" shall mean a sequence of support activities and tasks carried out remotely to collect further information by interview or by analysis of a Production System*

resulting in a list of recommendations. A Service Session could run manually, as a self-service or fully automated.

1.6 “Top-Issue” shall mean issues and/or failures identified and prioritized jointly by SAP and Licensee in accordance with SAP standards which (i) endanger Go-Live of a pre-production system or (ii) have a significant business impact on a Production System.

1.7 “Local Office Time” shall mean regular working hours (8.00 a.m. to 6.00 p.m.) during regular working days, in accordance with the applicable public holidays observed by SAP’s registered office. With regard to SAP Enterprise Support only, both parties can mutually agree upon a different registered office of one of SAP’s affiliates to apply and serve as reference for the Local Office Time.

2. Scope of SAP Enterprise Support.

Licensee may request and SAP shall provide, to such degree as SAP makes such services generally available in the Territory, SAP Enterprise Support services. SAP Enterprise Support currently includes:

2.1 Continuous Improvement and Innovation

- New software releases of the licensed Enterprise Support Solutions, as well as tools and procedures for upgrades.
- Support packages - correction packages to reduce the effort of implementing single corrections. Support packages may also contain corrections to adapt existing functionality to changed legal and regulatory requirements.
- For releases of the SAP Business Suite 7 core applications (starting with SAP ERP 6.0 and with releases of SAP CRM 7.0, SAP SCM 7.0, SAP SRM 7.0 and SAP PLM 7.0 shipped in 2008), SAP may provide enhanced functionality and/or innovation through enhancement packages or by other means as available. During mainstream maintenance for an SAP core application release, SAP’s current practice is to provide one enhancement package or other update per calendar year.
- Technology updates to support third-party operating systems and databases. Available ABAP source code for SAP software applications and additionally released and supported function modules.
- Software change management, such as changed configuration settings or Enterprise Support Solutions upgrades, is supported for example with content and

information material, tools for client copy and entity copy, and tools for comparing customization.

- *SAP provides Licensee with up to five days remote support services per calendar year from SAP solution architects*
 - *to assist Licensee in evaluating the innovation capabilities of the latest SAP enhancement package and how it may be deployed for Licensee's business process requirements.*
 - *to give Licensee guidance in form of knowledge transfer sessions, weighted one day, for defined SAP software/applications or Global Support Backbone components. Currently, content and session schedules are stated at <http://service.sap.com/enterprisesupport>. Scheduling, availability and delivery methodology is at SAP's discretion.*
- *SAP gives Licensee access to guided self-services as part of SAP Solution Manager Enterprise Edition, helping the Licensee to optimize technical solution management of selected Enterprise Support Solutions.*
- *Configuration guidelines and content for Enterprise Support Solutions are usually shipped via SAP Solution Manager Enterprise Edition. Best practices for SAP System Administration and SAP Solution Operations for SAP Software.*
- *SAP configuration and operation content is supported as integral parts of Enterprise Support Solutions.*
- *Content, tools and process descriptions for SAP Application Lifecycle Management are part of the SAP Solution Manager Enterprise Edition, the Enterprise Support Solutions and/or the applicable Documentation for the Enterprise Support Solutions.*

2.2 Advanced Support for Enhancement Packages and other SAP Software Updates

SAP offers special remote checks delivered by SAP solution experts to analyze planned or existing modifications and identify possible conflicts between Licensee custom code and enhancement packages and other Enterprise Support Solutions updates. Each check is conducted for one specific modification in one of Licensee's core business process steps. Licensee is entitled to receive two services from one of the following categories per calendar year per SAP Software Solution.

- *Modification Justification: Based on Licensee's provision of SAP required documentation of the scope and design of a planned or existing custom modification in SAP Solution Manager Enterprise Edition, SAP identifies standard functionality of Enterprise Support Solutions which may fulfill the Licensee's requirements (for details see <http://service.sap.com/>).*
- *Custom Code Maintainability: Based on Licensee's provision of SAP required documentation of the scope and design of a planned or existing custom modification in SAP Solution Manager Enterprise Edition, SAP identifies which user exits and services may be available to separate custom code from SAP code (for details see <http://service.sap.com/>).*

2.3 Global Support Backbone

- *SAP Service Marketplace - SAP's knowledge database and SAP's extranet for knowledge transfer on which SAP makes available content and services to licensees and partners of SAP only.*
- *SAP Notes on the SAP Service Marketplace document software malfunctions and contain information on how to remedy, avoid and bypass errors. SAP Notes may contain coding corrections that licensees can implement into their SAP system. SAP Notes also document related issues, licensee questions, and recommended solutions (e.g. customizing settings).*
- *SAP Note Assistant - a tool to install specific corrections and improvements to SAP components.*
- **SAP Solution Manager Enterprise Edition** – as described in Section 2.4

2.4 Mission Critical Support

- *Global message handling by SAP for problems related to Enterprise Support Solutions, including Service Level Agreements for Initial Reaction Time and Corrective Action (for more information refer to Section 2.1.1).*
- *SAP Support Advisory Center – as described in Section 2.2.*
- *Continuous Quality Checks – as described in Section 2.3.*
- *Global 24x7 root cause analysis and escalation procedures in accordance with section 2.1below.*

- *Root Cause Analysis for Custom Code: For Licensee custom code built with the SAP development workbench, SAP provides mission-critical support root-cause analysis, according to the Global Message Handling process and Service Level Agreements stated in Sections 2.1.1, 2.1.2 and 2.1.3, applicable for priority “very high” and priority “high” messages. If the Licensee custom code is documented according to SAP’s then-current standards (for details see <http://service.sap.com/>), SAP may provide guidance to assist Licensee in issue resolution*

2.5 Other Components, Methodologies, Content and Community Participation

- *Monitoring components and agents for systems to monitor available resources and collect system status information of the Enterprise Support Solutions (e.g. SAP EarlyWatch Alert).*
- *Pre-configured test templates and test cases are usually delivered via the SAP Solution Manager Enterprise Edition. In addition the SAP Solution Manager Enterprise Edition assists Licensee’s testing activities with functionalities that currently include:*
 - *Test administration for Enterprise Support Solutions by using the functionality provided as part of the SAP Solution Manager Enterprise Edition*
 - *Quality Management for management of “Quality-Gates”*
 - *SAP-provided tools for automatic testing*
 - *SAP-provided tools to assist with optimizing regression test scope. Such tools support identifying the business processes that are affected by a planned SAP Software Solutions change and make recommendations for the test scope as well as generating test plans (for details see <http://service.sap.com/>).*
- *Content and supplementary tools designed to help increase efficiency, which may include implementation methodologies and standard procedures, an Implementation Guide (IMG) and Business Configuration (BC) Sets.*
- *Access to guidelines via the SAP Service Marketplace, which may include implementation and operations processes and content designed to help reduce costs and risks. Such content currently includes:*

- *End-to-End Solution Operations: Assists Licensee with the optimization of the end-to-end operations of Licensee's SAP Software Solution.*
- *Run SAP Methodology: Assists Licensee with application management, business process operations, and administration of the SAP NetWeaver® technology platform, and currently includes:*
 - *The SAP standards for solution operations*
 - *The road map of Run SAP to implement end-to-end solution operations*
 - *Tools, including the SAP Solution Manager Enterprise Edition application management solution. For more information on the Run SAP methodology, refer to <http://service.sap.com/runsap>*
- *Participation in SAP's customer and partner community (via SAP Service Marketplace), which provides information about best business practices, service offerings, etc.*

2.6 Global Message Handling and Service Level Agreement (SLA).

When Licensee reports malfunctions, SAP supports Licensee by providing information on how to remedy, avoid or bypass errors. The main channel for such support will be the support infrastructure provided by SAP. Licensee may send an error message at any time. All persons involved in the message solving process can access the status of the message at any time. For further details on definition of message priorities see SAP Note 67739.

In exceptional cases, Licensee may also contact SAP by telephone. For such contact (and as otherwise provided) SAP requires that License provide remote access as specified in Section 3.2(iii).

The following Service Level Agreements ("SLA" or "SLAs") shall apply to all Licensee support messages that SAP accepts as being Priority 1 or 2 and which fulfill the prerequisites specified herein. Such SLAs shall commence in the first full Calendar Quarter following the Effective Date of this Schedule. As used herein, "Calendar Quarter" is the three month period ending on March 31, June 30, September 30 and December 31 respectively of any given calendar year.

2.6.1 SLA for Initial Response Times:

- a. Priority 1 Support Messages ("Very High").** *SAP shall respond to Priority 1 support messages within one (1) hour of SAP's receipt (twenty-four hours a*

day, seven days a week) of such Priority 1 support messages. A message is assigned Priority 1 if the problem has very serious consequences for normal business transactions and urgent, business critical work cannot be performed. This is generally caused by the following circumstances: complete system outage, malfunctions of central SAP functions in the Production System, or Top-Issues.

b. Priority 2 Support Messages (“High”). SAP shall respond to Priority 2 support messages within four (4) hours of SAP’s receipt during SAP’s Local Office Time of such Priority 2 support messages. A message is assigned Priority 2 if normal business transactions in a Production System are seriously affected and necessary tasks cannot be performed. This is caused by incorrect or inoperable functions in the SAP system that are required to perform such transactions and/or tasks.

2.6.2 SLA for Corrective Action Response Time for Priority 1 Support Messages: SAP shall provide a solution, work around or action plan for resolution (“Corrective Action”) of Licensee’s Priority 1 support message within four (4) hours of SAP’s receipt (twenty-four hours a day, seven days a week) of such Priority 1 support message (“SLA for Corrective Action”). In the event an action plan is submitted to Licensee as a Corrective Action, such action plan shall include: (i) status of the resolution process; (ii) planned next steps, including identifying responsible SAP resources; (iii) required Licensee actions to support the resolution process; (iv) to the extent possible, planned dates for SAP’s actions; and (v) date and time for next status update from SAP. Subsequent status updates shall include a summary of the actions undertaken so far; planned next steps; and date and time for next status update. The SLA for Corrective Action only refers to that part of the processing time when the message is being processed at SAP (“Processing Time”). Processing Time does not include the time when the message is on status “Customer Action” or “SAP Proposed Solution”, whereas (a) the status Customer Action means the support message was handed over to Licensee; and (b) the status SAP Proposed Solution means SAP has provided a Corrective Action as outlined herein. The SLA for Corrective Action shall be deemed met if within four (4) hours of processing time: SAP proposes a solution, a workaround or an action plan; or if Licensee agrees to reduce the priority level of the message.

2.6.3 Prerequisites and Exclusions.

2.6.3.1 Prerequisites. *The SLAs shall only apply when the following prerequisites are met for support messages: (i) in all cases except for Root Cause Analysis for Custom Code under Section 2, support messages are related to releases of Enterprise Support Solutions which are classified by SAP with the shipment status “unrestricted shipment”; (ii) support messages are submitted by Licensee in English via the SAP Solution Manager Enterprise Edition in accordance with SAP’s then current support message processing log-in procedure which contain the relevant details necessary (as specified in SAP Note 16018 or any future SAP Note which replaces SAP Note 16018) for SAP to take action on the reported error; (iii) support messages are related to a product release of Enterprise Support Solutions which falls into Mainstream Maintenance or Extended Maintenance.*

2.6.3.2 *For Priority 1 support messages, the following additional prerequisites must be fulfilled by Licensee: (a) the issue and its business impact are described in detail sufficient to allow SAP to assess the issue; (b) Licensee makes available for communications with SAP, twenty four (24) hours a day, seven (7) days a week, an English speaking contact person with training and knowledge sufficient to aid in the resolution of the Priority 1 message consistent with Licensee’s obligations hereunder; and (c) a Licensee contact person is provided for opening a remote connection to the system and to provide necessary log-on data to SAP.*

2.6.3.3 Exclusions. *For SAP Enterprise Support in particular the following types of Priority 1 messages are excluded from the SLAs: (i) support messages regarding a release, version and/or functionalities of Enterprise Support Solutions developed specifically for Licensee (including without limitation those developed by SAP Custom Development and/or by SAP subsidiaries) except for custom code built with the SAP development workbench; (ii) support messages regarding country versions that are not part of the Enterprise Support Solutions and instead are realized as partner add-ons, enhancements, or modifications is expressly excluded even if these country versions were created by SAP or an affiliate of SAP; (iii) the root cause behind the support message is not a malfunction, but a missing functionality (“development request”) or the support message is ascribed to a consulting request*

2.6.4 Service Level Credit.

2.6.4.1 *SAP shall be deemed to have met its obligations pursuant to the SLAs as stated above by reacting within the allowed time frames in ninety-five percent (95%) of the aggregate cases for all SLAs within a Calendar Quarter. In the event Licensee submits less than twenty (20) messages (in the aggregate for all SLAs) pursuant to the SLAs stated above in any Calendar Quarter during the Enterprise Support term, Licensee agrees that SAP shall be deemed to have met its obligations pursuant to the SLAs stated above if SAP has not exceeded the stated SLA time-frame in more than one support message during the applicable Calendar Quarter.*

2.6.4.2 *Subject to Section 2.1.4.1 above, in the event that the timeframes for the SLA's are not met (each a "Failure"), the following rules and procedures shall apply: (i) Licensee shall inform SAP in writing of any alleged Failure; (ii) SAP shall investigate any such claims and provide a written report proving or disproving the accuracy of Licensee's claim; (iii) Licensee shall provide reasonable assistance to SAP in its efforts to correct any problems or processes inhibiting SAP's ability to reach the SLAs; (iv) subject to this Section 2.1.4, if based on the report, an SAP Failure is proved, SAP shall apply a Service Level Credit ("SLC") to Licensee's next SAP Enterprise Support Fee invoice equal to one quarter percent (0.25%) of Licensee's SAP Enterprise Support Fee for the applicable Calendar Quarter for each Failure reported and proved, subject to a maximum SLC cap per Calendar Quarter of five percent (5%) of Licensee's SAP Enterprise Support Fee for such Calendar Quarter. Licensee bears the responsibility of notifying SAP of any SLCs within one month after the end of a Calendar Quarter in which a Failure occurs. No penalties will be paid unless notice of Licensee's well-founded claim for SLC(s) is received by SAP in writing. The SLC stated in this Section 2.1.4 is Licensee's sole and exclusive remedy with respect to any alleged or actual Failure.*

2.7 SAP Support Advisory Center.

For Priority 1 and Top-Issues directly related to the Enterprise Support Solutions, SAP shall make available a global unit within SAP's support organization for mission critical support related requests (the "Support Advisory Center"). The Support Advisory Center will perform the following mission critical support tasks: (i) remote support for Top-Issues – the Support Advisory Center will act as an additional escalation level, enabling 24X7 root cause analysis for problem identification; (ii) Continuous Quality Check service

delivery planning in collaboration with Licensee's IT, including scheduling and delivery coordination; (iii) provides one SAP Enterprise Support report on request per calendar year; (iv) remote primary certification of the SAP Customer Center of Expertise if requested by Licensee; and (v) providing guidance in cases in which Continuous Quality Checks (as defined in Section 2.3 below), an action plan and/or written recommendations of SAP show a critical status (e.g. a red CQC report) of the Enterprise Support Solutions.

As preparation for the Continuous Quality Check delivery through SAP Solution Manager Enterprise Edition, Licensee's Contact Person and SAP shall jointly perform one mandatory setup service ("Initial Assessment") for the Enterprise Support Solutions. The Initial Assessment shall be based upon SAP standards and documentation.

The designated SAP Support Advisory Center will be English speaking and available to Licensee's Contact Person (as defined below) or its authorized representative twenty-four hours a day, seven days a week for mission critical support related requests. The available local or global dial-in numbers are shown in SAP Note 560499.

The Support Advisory Center is only responsible for the above mentioned mission critical support related tasks to the extent these tasks are directly related to issues or escalations regarding the Enterprise Support Solutions.

2.8 SAP Continuous Quality Check.

In case of critical situations related to the SAP Software Solution (such as Go Live, upgrade, migration or Top Issues), SAP will provide at least one Continuous Quality Check (the "Continuous Quality Check" or "CQC") per calendar year for each SAP Software Solution.

The CQC may consist of one or more manual or automatic remote Service Sessions. SAP may deliver further CQC's in cases where vital alerts are reported by SAP EarlyWatch Alert or in those cases where Licensee and the SAP Advisory Center mutually agree that such a service is needed to handle a Top-Issue. Details, such as the exact type and priorities of a CQC and the tasks of SAP and cooperation duties of Licensee, shall be mutually agreed upon between the parties. At the end of a CQC, SAP will provide Licensee with an action plan and/or written recommendations.

Licensee acknowledges that all or part of the CQC sessions may be delivered by SAP and/or a certified SAP partner acting as SAP's subcontractor and based on SAP's CQC standards and methodologies. Licensee agrees to provide appropriate resources,

including but not limited to equipment, data, information, and appropriate and cooperative personnel, to facilitate the delivery of CQC's hereunder.

Licensee acknowledges that SAP limits CQC re-scheduling to a maximum of three times per year. Re-scheduling must take place at least 5 working days before the planned delivery date. If Licensee fails to follow these guidelines, SAP is not obliged to deliver the yearly CQC to the Licensee.

2.9 SAP Solution Manager Enterprise Edition under SAP Enterprise Support.

2.9.1 *SAP Solution Manager Enterprise Edition (and any successor to SAP Solution Manager Enterprise Edition provided hereunder) shall be subject to the Agreement and is solely for the following purposes under SAP Enterprise Support: (i) delivery of SAP Enterprise Support and support services for Licensee Solutions including delivery and installation of software and technology maintenance for Enterprise Support Solutions; and (ii) application lifecycle management for Licensee Solutions and for any other software components and IT assets licensed or otherwise obtained by Licensee from third parties provided such third party software, software components and IT assets are operated in conjunction with Enterprise Support Solutions and are required to complete the Licensee's business processes as documented in the solution documentation in SAP Solution Manager Enterprise Edition ("Additional Supported Assets"). Such application lifecycle management is limited solely to the following purposes:*

- *implementation, configuration, testing, operations, continuous improvement and diagnostics*
- *incident management (service desk), problem management and change request management as enabled using SAP CRM technology integrated in SAP Solution Manager Enterprise Edition*
- *administration, monitoring, reporting and business intelligence as enabled using SAP NetWeaver technology integrated in SAP Solution Manager Enterprise Edition. Business intelligence may also be performed provided the appropriate SAP BI software is licensed by Licensee as part of the Enterprise Support Solutions.*
- *For application lifecycle management as outlined under section 2.4.1(ii) above, Licensee does not require a separate Package license to SAP CRM. Licensee must hold appropriate Named User licenses to Use SAP Solution Manager.*

- 2.9.2** *SAP Solution Manager Enterprise Edition may not be used for purposes other than those stated above. Without limiting the foregoing restriction, Licensee shall not use SAP Solution Manager Enterprise Edition for (i) CRM scenarios such as service plans, contracts, service confirmation management, except as CRM scenarios are expressly stated in Section 2.4.1; (ii) SAP NetWeaver usage types other than those stated above or (iii) application life-cycle management and in particular incident management (service desk) except for Licensee Solutions and Additional Supported Assets and (iv) non-IT shared services capabilities, including without limitation HR, Finance or Procurement.*
- 2.9.3** *SAP – in its sole discretion – may update from time to time on the SAP Service Marketplace under <http://service.sap.com/solutionmanager> the use cases for SAP Solution Manager Enterprise Edition under this Section 2.4.*
- 2.9.4** *SAP Solution Manager Enterprise Edition shall only be used during the term of this Schedule and by Named Users licensed by Licensee subject to the licensed rights for the Software and exclusively for Licensee's SAP-related support purposes in support of Licensee's internal business operations. The right to use any SAP Solution Manager Enterprise Edition capabilities under SAP Enterprise Support other than those listed above is subject to a separate written agreement with SAP, even if such capabilities are accessible through or related to SAP Solution Manager Enterprise Edition. Notwithstanding the foregoing limitation on Named Users, Licensee shall be entitled to allow any of its employees to use web self service in the SAP Solution Manager Enterprise Edition during the term of this Schedule for the sole purpose of creating support tickets, requesting support ticket status and ticket confirmation directly related to the Licensee Solutions and Additional Supported Assets.*
- 2.9.5** *In the event Licensee terminates SAP Enterprise Support and receives SAP Standard Support in accordance with Section 6, Licensee's use of SAP Solution Manager Enterprise Edition under SAP Enterprise Support shall cease. Thereafter, Licensee's use of SAP Solution Manager Enterprise Edition shall be governed by the terms and conditions of the SAP Standard Support Schedule.*
- 2.9.6** *Use of SAP Solution Manager Enterprise Edition may not be offered by Licensee as a service to third parties even if such third parties have licensed SAP Software and have licensed Named Users; provided, third parties authorized to access the SAP Software under the Agreement may have access to SAP Solution Manager*

Enterprise Edition solely for SAP-related support purposes in support of Licensee's internal business operations under and in accordance with the terms of this Schedule.

3. Licensee's Responsibilities.

3.1 SAP Enterprise Support Program Management. *In order to receive SAP Enterprise Support hereunder, Licensee shall designate a qualified English speaking contact within its SAP Customer Center of Expertise for the Support Advisory Center (the "Contact Person") and shall provide contact details (in particular e-mail address and telephone number) by means of which the Contact Person or the authorized representative of such Contact Person can be contacted at any time. Licensee's Contact Person shall be Licensee's authorized representative empowered to make necessary decisions for Licensee or bring about such decision without undue delay.*

3.2 Other Requirements. *In order to receive SAP Enterprise Support hereunder, Licensee must further satisfy the following requirements:*

(i) Continue to pay all Enterprise Support Service Fees in accordance with the Agreement and this Schedule.

(ii) Otherwise fulfill its obligations under the Agreement and this Schedule.

(iii) Provide and maintain remote access via a technical standard procedure as defined by SAP and grant SAP all necessary authorizations, in particular for remote analysis of issue as part of message handling. Such remote access shall be granted without restriction regarding the nationality of the SAP employee(s) who process support messages or the country in which they are located. Licensee acknowledges that failure to grant access may lead to delays in message handling and the provision of corrections, or may render SAP unable to provide help in an efficient manner. The necessary software components must also be installed for support services. For more details, see SAP Note 91488.

(iv) Establish and maintain an SAP certified Customer COE meeting the requirements specified in Section 4 below.

(v) Have installed, configured and be using productively, an SAP Solution Manager Enterprise Edition Software system, with the latest patch levels for Basis, and the latest SAP Solution Manager Enterprise Edition support packages.

(vi) Activate SAP Early Watch Alert for the Production Systems and transmit data to Licensee's productive SAP Solution Manager Enterprise Edition system. See SAP Note 1257308 for information on setting up this service.

(vii) Perform the Initial Assessment as described in Section 2.2 and implement all the recommendations of SAP classified as mandatory.

(viii) Establish a connection between Licensee's SAP Solution Manager Enterprise Edition installation and SAP and a connection between the Enterprise Support Solutions and Licensee's SAP Solution Manager Enterprise Edition installation. Licensee shall maintain the solution landscape and core business processes in Licensee's SAP Solution Manager Enterprise Edition system for all Production Systems and systems connected to the Production Systems. Licensee shall document any implementation or upgrade projects in Licensee's SAP Solution Manager Enterprise Edition system.

(ix) To fully enable and activate the SAP Solution Manager Enterprise Edition, Licensee shall adhere to the applicable documentation.

(x) Licensee agrees to maintain adequate and current records of all modifications and, if needed, promptly provide such records to SAP.

(xi) Submit all error messages via the then current SAP support infrastructure as made available by SAP from time to time via updates, upgrades or add-ons.

(xii) Inform SAP without undue delay of any changes to Licensee's installations and Named Users and all other information relevant to the Enterprise Support Solutions.

4. Customer Center of Expertise.

4.1 Role of the Customer Center of Expertise. In order to leverage the full potential value delivered as part of SAP Enterprise Support, Licensee is required to establish a Customer Center of Expertise ("Customer Center of Expertise", or "Customer COE"). The Customer COE is designated by Licensee as a central point of contact for interaction with the SAP support organization. As a permanent center of expertise, the Customer COE supports Licensee's efficient implementation, innovation, operation and quality of business processes and systems related to the SAP Software Solution based on the Run SAP methodology provided by SAP (for more information on the Run SAP methodology, refer to <http://service.sap.com/runsap>). The Customer COE should cover all core business process operations. SAP recommends starting the implementation of the Customer COE as a project that runs in parallel with the functional and technical implementation projects.

4.2 Basic Functions of the Customer COE. The Customer COE must fulfill the following basic functions:

- *Support Desk: Set-up and operation of a support desk with a sufficient number of support consultants for infrastructure/application platforms and the related applications during regular local working hours (at least 8 hours a day, 5 days (Monday through Friday) a week). Licensee support process and skills will be jointly reviewed in the framework of the service planning process and the certification audit.*
- *Contract administration: Contract and license processing in conjunction with SAP (license audit, maintenance billing, release order processing, user master and installation data management).*
- *Coordination of innovation requests: Collection and coordination of development requests from the Licensee and/or any of its affiliates provided such affiliates are entitled to use the Enterprise Support Solutions under the Agreement. In this role the Customer COE shall also be empowered to function as an interface to SAP to take all action and decisions needed to avoid unnecessary modification of Enterprise Support Solutions and to ensure that planned modifications are in alignment with the SAP software and release strategy.*
- *Information management: Distribution of information (e.g. internal demonstrations, information events and marketing) about Enterprise Support Solutions and the Customer COE within the Licensee's organization.*
- *CQC and other remote services planning: Licensee regularly engages in a service planning process with SAP. The service planning starts during the initial implementation and will then be continued regularly.*

4.3 Customer COE Certification. Licensee must establish a certified Customer COE upon the later to occur of the following: (i) within twelve (12) months after the Effective Date; or (ii) within six (6) months after Licensee has started using at least one of the Enterprise Support Solutions in live mode for normal business operations. To obtain the then-current primary Customer COE certification or re-certification by SAP, the Customer COE undergoes an audit procedure. Detailed information on the initial certification and re-certification process and conditions, as well as information on the available certification levels, is available on the SAP Service Marketplace (<http://service.sap.com/coe>).

5. Enterprise Support Fees. *SAP Enterprise Support Fees shall be paid annually in advance and shall be specified in Appendices or order documents to the Agreement. After the Initial Term (as defined in the applicable appendices or order documents), any limitations on increases to the SAP Enterprise Support Fees are subject to Licensee's compliance with the Customer COE requirements specified above.*

6. Termination

6.1 *SAP Enterprise Support may be terminated by either party with 3 months written notice (i) prior to the end of the Initial Term and (ii) thereafter, prior to the start of the following renewal period. Any termination provided in accordance with above will be effective at the end of the then-current SAP Enterprise Support period during which the termination notice is received by the respective party. Notwithstanding the forgoing, SAP may terminate SAP Enterprise Support after one month written notice of Licensee's failure to pay Enterprise Support Fees.*

6.2 *Notwithstanding Licensee's rights under Section 6.1, and provided Licensee is not in default of any obligations under the Agreement, Licensee may select SAP Standard Support with 3 months written notice to SAP either (i) with respect to all orders for support that are solely on a calendar year renewal basis, prior to the start of the renewal period that follows the Initial Term that commenced as of Licensee's first order for SAP Enterprise Support; or (ii) with respect to all orders for support that are not solely on a calendar year renewal basis, prior to the start of the first renewal period in any calendar year that follows the Initial Term that commenced as of Licensee's first order for SAP Enterprise Support. Such selection shall be stated by Licensee in the notice letter, and shall terminate SAP Enterprise Support effective with the commencement of SAP Standard Support. Any such selection shall apply to all Enterprise Support Solutions and shall be on SAP's then-current terms and conditions for SAP Standard Support, including without limitation pricing. SAP and Licensee shall execute an amendment or other document to the Agreement memorializing Licensee's selection and SAP's then-current terms and conditions.*

6.3 *For the avoidance of any doubt, termination of SAP Enterprise Support or selection to enroll in another type of SAP Support Services by Licensee pursuant to Support Services selection provisions under the Agreement shall strictly apply to all licenses under the Agreement, its appendices, schedules, addenda and order documents and any partial termination of SAP Enterprise Support or partial selection of SAP Enterprise Support by Licensee shall not be permitted in respect of any part of the Agreement, its appendices, schedules, addenda, order documents or this Schedule.*

7. Verification. *To check the compliance with the terms of this Schedule, SAP shall be entitled to periodically monitor (at least once annually and in accordance with SAP standard procedures) (i) the correctness of the information Licensee provided and (ii) Licensee's usage of the Solution Manager Enterprise Edition in accordance with the rights and restrictions set out in Section 2.4.*

8. Reinstatement. *In the event Licensee elects not to commence SAP Enterprise Support upon the first day of the month following initial delivery of the Enterprise Support Solutions, or SAP Enterprise Support is otherwise terminated pursuant to Section 6 above or declined by Licensee for some period of time, and is subsequently requested or reinstated, SAP will invoice Licensee the accrued SAP Enterprise Support Fees associated with such time period plus a reinstatement fee.*

9. Other Terms and Conditions.

9.1 *The scope of SAP Enterprise Support offered by SAP may be changed annually by SAP at any time upon three months prior written notice.*

9.2 *Licensee hereby confirms that Licensee has obtained all licenses for the Licensee Solutions.*

9.3 *In the event that Licensee is entitled to receive one or more services per calendar year, (i) Licensee shall not be entitled to receive such services in the first calendar year if the Effective Date of this Schedule is after September 30 and (ii) Licensee shall not be entitled to transfer a service to the next year if Licensee has not utilized such service.*

9.4 *FAILURE TO UTILIZE SAP ENTERPRISE SUPPORT PROVIDED BY SAP MAY PREVENT SAP FROM BEING ABLE TO IDENTIFY AND ASSIST IN THE CORRECTION OF POTENTIAL PROBLEMS WHICH, IN TURN, COULD RESULT IN UNSATISFACTORY SOFTWARE PERFORMANCE FOR WHICH SAP CANNOT BE HELD RESPONSIBLE.*

9.5 *In the event SAP licenses third party software to Licensee under the Agreement, SAP shall provide SAP Enterprise Support on such third party software to the degree the applicable third party makes such support available to SAP. Licensee may be required to upgrade to more recent versions of its operating systems and databases to receive SAP Enterprise Support. If the respective vendor offers an extension of support for its product, SAP may offer such extension of support under a separate written agreement for an additional fee.*

SAP Enterprise Support is provided according to the current maintenance phases of SAP software releases as stated in <http://service.sap.com/releasestrategy>