



## NS2 Cloud - SAP SuccessFactors Suite Acceptable Use Policy

Customer expressly acknowledges and agrees that (1) neither SAP NS2 or any of its subcontractors have any responsibility for any files, pages, data, works, information and/or materials on, within, stored, displayed, linked, distributed or transmitted to, from or by Customer or its Affiliates ("Customer Content") and (2) neither SAP NS2 or its subcontractors exercise any direct supervision or control of the Customer Content stored, displayed or transmitted on or over the Network. Network means web servers, database servers and application servers, and LAN and WAN. Customer acknowledges and agrees that, if Customer violates or is alleged to be violating the Acceptable Use Policy (AUP), SAP NS2 may, upon notice to Customer, suspend or terminate the Services if and to the extent SAP NS2 learns of a AUP violation by Customer. SAP NS2 may investigate violations of the AUP or misuse of the Services or remove, disable access to, or modify any Customer Content that violates this AUP. SAP NS2 may report any activity that we suspect violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties and may pursue any other legal, equitable and contractual remedies available to it and will cooperate fully with any civil or criminal investigations or legal actions relating to Customer Content or access to or use of the Services. SAP NS2 shall not be liable for any damages of any nature suffered by Customer or any third party resulting in whole or in part from SAP NS2's exercise of its rights under this AUP. If Customer becomes aware of any violation of this AUP, Customer will immediately notify SAP NS2 and provide us with assistance, as requested, to stop or remedy the violation.

Customer shall not use or instruct others to use the Services for any illegal, harmful or offensive use, or to transmit, store, display, distribute or otherwise make available Customer Data that is illegal, harmful or offensive. Customer shall not:

1. Resell, sub-host or otherwise provide the Services to third parties (other than Named Users) except as otherwise agreed in writing by the Parties hereto; or
2. Use the Services or permit the Services to be used in any manner (including, without limitation, transmission, distribution or storage) that: (i) is inconsistent with the intended purpose of this Agreement and any applicable Order Form; (ii) is or is likely to be illegal or in violation of any governmental law or regulation including export or encryption laws or regulations, or any rule, court order, treaty or tariff; (iii) that may adversely affect the SAP NS2 infrastructure and Services or other SAP NS2 customers; (iv) is inconsistent with the SAP NS2 System Security Plan; or (v) may expose SAP NS2 or its subcontractors to criminal or civil liability.
3. Violate any SAP NS2 or any third party rights or be otherwise damaging to SAP NS2 or any third party,
4. Be obscene, harassing, distressing, defamatory, libelous, threatening, abusive, hateful or excessively violent ,
5. Be disruptive of, harmful to or that otherwise abuses or misuses network resources or the Internet or any connected resources, or
6. Be of unauthorized use, access or monitoring of any host, any network or other network or any component or device, authentication system, data, web site facility, passcode, account or any other breach of any security measure.

**Examples:**

Without limiting the foregoing, undertaking or attempting to undertake any of the conduct in the following non-exclusive list is deemed to violate the Acceptable Use Policy:

1. Pornography;
2. Advertising, transmitting, or otherwise making available gambling sites or services;
3. Stalking;
4. Alteration of source of data (causing origination of malformed data or network traffic);
5. Pyramid or ponzi schemes or engaging in other deceptive practices;
6. Impersonation, relaying or spoofing misrepresenting identity, using a third party e-mail server to relay without express authorization, or the altering or forging of electronic mail headers, including any portion of the IP packet header and/or electronic mail address, sender identity, posting or any other method used to forge, disguise or conceal the user's identity or to cause disruption);
7. Hacking or scamming (unauthorized use of non-Customer accounts or resources, scamming, stealing or tricking the release of passwords, etc.);
8. Distribution of harmful code such as computer viruses, Trojan horses, worms and trap doors;
9. Overloading any shared infrastructure; or
10. Denial of service, SYN flood or other attacks by sending mass volumes of data or other abusive behavior to disrupt or disable the recipient system.



## Article 1 Definitions

- 1.1 "Affiliate" of a party means any legal entity in which a party, directly or indirectly, holds more than fifty percent (50%) of the entity's shares or voting rights. Any such legal entity shall be considered an Affiliate for only such time as such interest is maintained.
- 1.2 "Agreement" means these General Terms of Service and any Order Form referencing these General Terms of Service and any other documents whether attached or incorporated by reference into an Order Form.
- 1.3 "Cloud Materials" mean any materials provided or developed by SAP (independently or with Customer's cooperation) in the course of performance under the Agreement, including in the delivery of any support or Consulting Services to Customer. Cloud Materials do not include the Customer Data, Customer Confidential Information or the Cloud Service.
- 1.4 "Cloud Service" means any distinct, subscription-based, hosted, supported and operated on-demand service provided by SAP under an Order Form, including upgrades and updates thereto made generally available by SAP to its customers.
- 1.5 "Confidential Information" means, with respect to Customer: (i) the Customer Data, (ii) Customer marketing and business requirements, (iii) Customer implementation plans, and/or (iv) Customer financial information, and with respect to SAP: (i) the Cloud Service, Documentation, Cloud Materials including, without limitation, all (a) computer software (both object and source codes) and related documentation or specifications; (b) techniques, concepts, methods, processes and designs embodied in or relating to the Cloud Service; and (c) all application program interfaces, system security and system architecture design relating to the Cloud Service; and (ii) SAP research and development, product offerings, and availability. In addition to the foregoing, Confidential Information of either SAP or Customer (the party disclosing such information being the "Disclosing Party" and the party acquiring such information being the "Receiving Party") includes information which the Disclosing Party protects against unrestricted disclosure to others that (a) the Disclosing Party or its representatives designates as confidential at the time of disclosure; or (b) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure; including, without limitation, information about or concerning any third party that is disclosed to Receiving Party under this Agreement.
- 1.6 "Consulting Services" means professional services, such as implementation, configuration, training, and other similar services, performed by SAP's employees or its subcontractors related to the Cloud Service as described in an applicable Statement of Work or Order Form entered into by Customer and SAP.
- 1.7 "Customer" means the entity or individual that has consented to this Agreement by execution of an agreement with SAP Reseller that references these General Terms of Service or by any other legally binding method of acceptance of this Agreement.
- 1.8 "Customer Data" means any content, materials, data and information that Customer or its Named Users enter into the Cloud Service or that Customer derives from its use of and stores in the Cloud Service (e.g. Customer-specific reports). Customer Data and its derivatives will not include SAP's Confidential Information.
- 1.9 "Documentation" means SAP's then-current technical and functional documentation for the Cloud Service which is made available to Customer with the Cloud Service, including, but not limited to, configuration workbooks or release notes, as applicable.
- 1.10 "Intellectual Property Rights" means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret, know-how or confidentiality 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.
- 1.11 "Named User" means Customer's and its Affiliates' employees, agents, contractors, consultants, suppliers or other individuals whom Customer grants access credentials or who are authorized by Customer to use the Cloud Service.
- 1.12 "Order Form" means all written order forms or other ordering documentation that references the Cloud General Terms of Service (including, if Customer is ordering the Service online, a registration Webpage or Website) entered into by SAP and SAP Reseller containing the pricing, subscription term and other specific terms and conditions applicable to the Cloud Service.
- 1.13 "Personal Data" means any data entered by the Customer or its Named Users into the Cloud Service as Customer Data relating to an identified or identifiable person where such information is protected as personal data or personally identifiable information under applicable Data Protection Laws and Regulations.
- 1.14 "SAP" means the entity identified by the Order Form as providing the Cloud Service to Customer.
- 1.15 "SAP Reseller" means Carahsoft Technology Corporation.
- 1.16 Reserved.
- 1.17 "Subprocessor(s)" means a third party that SAP engages for the processing of Customer Data.
- 1.18 "Subscription Term" means the term for a subscription-based period of time identified in the applicable Order Form, including all renewals thereto.

## Article 2 Usage Rights and Restrictions

- 2.1 SAP shall make the Cloud Service available to Customer in accordance with and during the Subscription Term stated in the Order Form to permit Named Users to remotely access and use the Cloud Service solely for Customer's own internal business purposes as permitted by and subject to the terms of this Agreement (including usage metrics stated in the Order Form) and the Documentation.
- 2.2 Customer shall not sublicense, license, sell, lease, rent or otherwise make the Cloud Service available to third parties (other than Named Users who are using the Cloud Service in accordance with Customer's authorized use of the Cloud Service). Customer shall be responsible for the acts and omissions of its Named Users as if they were the acts and omissions of Customer. Named User access credentials issued to access or utilize the Cloud Service cannot be shared or used by more than one individual at a time, provided however, a Named User's access rights may be transferred from one individual to another if the original Named User is removed from the Cloud Service, no longer requires, or is no longer permitted access to or use of the Cloud Service.
- 2.3 SAP or its licensors own all right, title and interest in any and all copyrights, trademark rights, patent rights and other intellectual property or other rights in the Cloud Service, any Cloud Materials, Documentation, and any improvements, design contributions or derivative works thereto. Subject to Customer's compliance with all terms of the Agreement, Customer is granted the nonexclusive, non-transferable right to access and use the Cloud Service and Cloud Materials in connection with its use of the Cloud Service during the Subscription Term. Except for the limited rights expressly granted herein, this Agreement does not transfer from SAP any proprietary right or interest in the Cloud Service or the Cloud Materials. All rights not expressly granted to Customer in this Agreement are reserved by SAP and its licensors.
- 2.4 Customer shall not, and shall ensure that its Named Users do not: (a) copy, translate, disassemble, decompile, reverse-engineer or otherwise modify or make any derivative works of the Cloud Service or Documentation; (b) transmit any content, data or information that is unlawful, abusive, malicious, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy right or right of publicity, or racially

- or ethnically objectionable; (c) infringe the intellectual property rights of any entity or person; (d) interfere with or disrupt the SAP software or SAP systems used to host the Cloud Service, or other equipment or networks connected to or used in support of the Cloud Service; (e) use the Cloud Service in the operation of a service bureau, outsourcing or time-sharing service; (f) circumvent or disclose the user authentication or security of the Cloud Service or any host, network, or account related thereto; (g) access the Cloud Service for the purpose of building a competitive product or service or copying its features or user interface; (h) permit access to the Cloud Service by a direct competitor of SAP; (i) make any use of the Cloud Service that violates any applicable local, state, national, international or foreign law or regulation or (j) use the Cloud Service components other than those specifically identified in an Order Form, even if technically possible.
- 2.5 The Cloud Service may contain links to external Web sites (including embedded widgets or other means of access) and information provided on such external websites by SAP partners and third-party service providers. SAP shall not be responsible for the contents of any linked Web site.
- 2.6 SAP shall be entitled to monitor Customer's number of Named Users (or other applicable usage metric stated in the Order Form) regarding usage of the Cloud Service to ensure Customer's compliance with this Agreement and, subject to Article 11 of this Agreement, SAP may utilize the information concerning Customer's use of the Cloud Service to improve SAP products and services and to provide Customer with reports on its use of the Cloud Service.
- 2.7 SAP may change or modify the Cloud Service at any time. During the initial Subscription Term, SAP will only make changes to the functionality or discontinue its Cloud Service if such change is necessary to address an emergency threat to the security or integrity of SAP or its Subprocessors, respond to claims, litigation, or loss of license rights related to third-party intellectual property rights, or comply with the laws or requests of a government entity.
- 2.8 If Customer is granted access under this Agreement to a free (no fee) version of the Service, to the extent permitted by applicable law, Customer agrees that (i) SAP has no obligation to provide any particular service level or support services; and (ii) SAP may cease providing the Service at any time without notice. This Article 2.8 supersedes any conflicting term of this Agreement.
- 2.9 SAP may offer and Customer may choose to accept access to functionality that is not generally available and not validated and quality assured in accordance with SAP's standard processes ("**Beta Functionality**"). Beta Functionality is described as such in the Documentation. SAP may require Customer to accept additional terms to use Beta Functionality. Any production use of the Beta Functionality is at Customer's sole risk. SAP does not warrant the correctness and completeness of the Beta Functionality, and SAP shall not be liable for errors or damages caused by the usage of the Beta Functionality.
- 2.10 Customer agrees that its purchase of subscription(s) for the Cloud Service is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by SAP, including any roadmaps, with respect to future functionality or features.

### **Article 3 SAP Responsibilities and Obligations**

- 3.1 SAP will provide support for the Cloud Service as set forth in the applicable Order Form. A description of the technical support is set forth in the attached NS2 Cloud – SAP SuccessFactors Suite – Federal Cloud Service Supplemental Terms and Conditions, SAP may update such support description at its sole discretion.
- 3.2 SAP will use commercially reasonable security technologies (such as encryption, password protection and firewall protection) in providing the Cloud Service. Additional security obligations, if any, shall be set forth in the applicable Order Form.
- 3.3 SAP shall notify Customer if SAP considers an instruction submitted by Customer to be in violation of any applicable Data Protection Law or any policy referenced in the Agreement. SAP shall not be obligated to perform a comprehensive legal examination. If and to the extent SAP is unable to comply with an instruction it shall promptly notify (email permitted) Customer hereof.
- 3.4 Upon notification to SAP by Customer of a spillage or upon discovery by SAP of a spillage, SAP will apply commercially reasonable measures to ensure that no further access to the spilled data occurs to include measures such as deletion of Customer Data and restoration to pre-incident data. If additional measures are required, SAP will reasonably cooperate with Customer to address the spillage to the extent it does not adversely affect the delivery of the Cloud Services or SAP Customers' operations. Customer will be responsible for all sanitization costs incurred by SAP resulting from Customer's spillage and the direction of the Customer regarding the treatment of the spillage.
- 3.5 SAP will use commercially reasonable efforts to maintain at least ninety-nine percent (99%) system availability over any calendar month. Should SAP fail to achieve ninety-nine percent (99%) system availability over a calendar month, Customer shall have the right to receive from the SAP Reseller a credit equal to two percent (2%) of its subscription fees for the Cloud Service for that month, for each one percent (1%) (or portion thereof) by which SAP fails to achieve such level, up to one hundred percent (100%) of the monthly subscription fees for the Cloud Service in accordance with the applicable Service Level Agreement, as set forth in the attached NS2 Cloud – SAP SuccessFactors Suite Service Level Agreement. Where Customer is entitled to receive credits under this Article 3.5, SAP will issue such credits to the SAP Reseller who will forward to Customer. This is Customer's sole and exclusive remedy for any failure to meet system availability. Changes to the Service Level Agreement may be made by SAP from time to time.
- 3.6 SAP may engage subcontractors for the processing of Personal Data (each a "Subprocessor") as long as SAP remains responsible for any acts or omissions of its Subprocessors in the same manner as for its own acts and omissions hereunder. SAP may remove, replace or appoint suitable and reliable Subprocessors at its own discretion.
- 3.7 Physical access to the physical data center is governed by the terms of access allowed by SAP's and Subprocessors' policies.
- 3.8 If Customer elects to have any services related to a Cloud Service provided by a third party, SAP shall have no liability for any defect or failure of the Cloud Service caused by such third-party services, and Customer shall not be entitled to any reduction in fees for the Cloud Service. SAP may deny access to a Cloud Service to any third party service provider which SAP determines in its reasonable discretion poses a security or confidentiality risk to SAP systems, data or intellectual property.
- 3.9 Supported accessibility features are provided by SAP solutions in combination with third-party assistive technologies such as the screen reader JAWS. JAWS and most other assistive technologies may require SAP and or customer furnished client side software. Detailed VPATs addressing Section 508 of the Workforce Rehabilitation Act requirements for many SAP applications are available for review upon request.

### **Article 4 Customer Responsibilities and Obligations**

- 4.1 Subject to Article 11 below, Customer grants to SAP the nonexclusive right to process and use Customer Data for the sole purpose of and only to the extent necessary for SAP: (i) to provide the Cloud Service (including without limitation preparing backup copies or performing penetration tests); (ii) to verify Customer's compliance with the restrictions set forth in Section 2.2 if SAP has a reasonable belief of Customer's non-compliance; and, (iii) as otherwise set forth in the Agreement. SAP may utilize the information concerning Customer's use of the Cloud Service (excluding any use of Customer's personal data or Customer's Confidential Information) to improve SAP products and services, to provide Customer with reports on its use of the Cloud Service, and to compile aggregate statistics and usage patterns by customers using the Cloud Service.
- 4.2 Customer shall be responsible for entering its Customer Data into the Cloud Service and Customer shall be responsible for the content of the Customer Data supplied or generated through the use of the Cloud Service. Customer agrees that it has collected and shall maintain and handle all Customer Data in compliance with all applicable data privacy and protection laws, rules and regulations. Customer authorizes SAP

to process its personal data in accordance with the applicable data protection provisions and the technical and organizational measures referred to the Agreement or in the applicable Order Form. Further, Customer is solely responsible for determining the suitability of the Cloud Service for Customer's business and complying with any regulations, laws, or conventions applicable to the Customer Data and Customer's use of the Cloud Service(s).

- 4.3 Customer shall maintain commercially reasonable security standards for its and its Named Users use of the Cloud Service.
- 4.4 Customer shall be responsible for properly handling and processing notices that are sent to Customer regarding Customer Data, such as, but not limited to, any person claiming that Customer Data violates such person's rights, and notices pursuant to the Digital Millennium Copyright Act.
- 4.4 It is the Customer's responsibility to ensure the appropriate credentialing, access controls, and security controls are adhered to for its Named Users and that applicable data privacy and protection laws are followed, as well as any applicable rules and regulations. SAP has no liability in connection with any breach by Customer or failure of Customer to abide by or implement applicable policy, law or regulations in the use of the Cloud Services or any consequences related to such breach or failure.
- 4.5 The Cloud Services may not be used to process or store classified data. If Customer introduces classified data into the network, Customer will be responsible for all sanitization costs incurred by SAP or its Subprocessor. Additionally, Customer shall be responsible for any other ramifications resulting from the introduction of classified data into the network.
- 4.6 Customer specific controls/policies are not incorporated into the Agreement. It is incumbent upon the Customer to identify any gaps between Customer controls/policies and the SAP security controls as implemented and SAP will make commercially reasonable efforts to address any control/policy gaps identified by Customer.
- 4.7 All use of the Cloud Services by Customer and its Named Users will comply with the Acceptable Use Policy (AUP) included with and made part of the Order Form. SAP may make reasonable changes to the AUP at any time.

#### **Article 5 Privacy and Security**

SAP will not disclose Customer Data to any government or third party or access or use Customer Data; except in each case as necessary to maintain the Cloud Services or to provide the Cloud Services to Customer in accordance with this Agreement, or as necessary to comply with the law or a valid and binding order of a governmental or regulatory body (such as a subpoena or court order). Unless it would be in violation of a court order or other legal requirement, SAP will give Customer reasonable notice of any such legal requirement or order, to allow Customer to seek a protective order or other appropriate remedy. SAP will implement reasonable and appropriate measures for the Cloud Services (as determined by SAP) designed to implement the in-scope Federal Risk and Authorization Management Program ("FedRAMP") controls. SAP will maintain physical and logical access controls to limit access by SAP or Subprocessor personnel to U.S. persons, as defined by 22 CFR part 120.15 ("U.S. Persons").

#### **Article 6 Reseller Relationship, Prices and Payment**

- 6.1 Customer shall pay to the SAP Reseller on behalf of SAP the fees for the Cloud Service provided hereunder, in the amount as set forth in the Agreement between SAP Reseller and Customer, in accordance with the terms of the Order Form. Customer acknowledges and agrees that the SAP Reseller through which Customer has arranged for the procurement of the Cloud Service is not an agent of SAP.
- 6.2 The fees set forth in the Order Form will be fixed for the committed Subscription Term.
- 6.3 Customer may add additional Named Users or other applicable usage metrics during the Subscription Term of the Order Form by executing an addendum or additional schedule with SAP Reseller, as applicable, which shall then become an integral part of the amended Order Form. The term of each addendum or schedule shall be coterminous with the then-current Subscription Term of the Order Form irrespective of the effective date of such addendum and all fees shall be prorated accordingly. Upon renewal of the Order Form, the Subscription Term for all Named Users or other fee-based metric added to the Order Form prior to renewal shall be the same as specified in the Order Form.
- 6.4 Customer is responsible for monitoring its use of the Cloud Service. Customer shall promptly report to SAP any actual use in excess of the number of Named Users (or other applicable usage metric authorized in the Order Form). SAP shall be entitled to monitor Customer's number of Authorized Users (or other applicable usage metric authorized in the Order Form) regarding usage of the Cloud Service to ensure Customer's compliance with the Agreement. SAP shall be permitted to forward such data to SAP Reseller. SAP shall invoice SAP Reseller and Customer shall have the opportunity to execute an agreement with SAP Reseller to pay for any usage in excess of the usage metrics set forth in the applicable Order Form. Such fees shall accrue from the date the excess use began. For the avoidance of doubt, Customer shall not be entitled to claim any reduction of the fees payable under the Order Form or reduce the Named Users (or other applicable usage metric) during the Subscription Term of an Order Form or renewal.
- 6.5 Except as expressly set forth in this Agreement, GSAR 552.212-4(l), or the Order Form, all purchases of subscriptions hereunder are non-cancelable and all fees are non-refundable.

#### **Article 7 Term, Termination and Termination Support**

- 7.1 The term of this Agreement begins on the Effective Date set forth in the applicable Order Form and shall continue in effect as described in the Order Form. Termination of individual Order Forms shall leave other Order Forms unaffected.
- 7.2 Recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer. The Agreement shall terminate immediately upon a final judgment obtained under the Contracts Disputes Act (41 USC chapter 71) terminating the Agreement for Customer's material breach of any provision of the Agreement
- 7.3 SAP may, in its reasonable determination, deactivate Customer's user name(s) and password(s) and/or temporarily suspend access to the Cloud Service or a portion thereof, if and to the extent SAP can substantiate that the continued use of the Cloud Service may result in harm to the Cloud Service (including the security of the systems used to provide the Cloud Service) or other SAP customers, or the rights of third parties, upon prior written notice to Customer as the circumstances permit. SAP may immediately upon notice to Customer suspend Customer's right to access or use any portion of the Cloud Services if SAP in its sole determination reasonably concludes that Licensee is in violation of this Agreement. If SAP temporarily suspends Customer's right to access or use the any portion of the Cloud Services in accordance with the terms of this Agreement, Customer remains responsible for all fees and charges Customer incurs during the period of suspension and Customer will not be entitled to any service credits under the applicable Service Level Agreement for any period of suspension. SAP will use commercially reasonable efforts to restore Customer's rights to use and access those portions of the Cloud Services or accounts that gave rise to the suspension promptly after Customer has resolved the problem giving rise to the suspension.
- 7.4 SAP may terminate this Agreement upon thirty (30) day notice to Customer in order to comply with applicable laws or requests of governmental entities. Should the SAP FedRAMP certified IaaS Subprocessor issue a notice of discontinuance of its commercially available Services, SAP may discontinue the Cloud Services as described herein and shall negotiate a mutually agreeable alternative to include termination of the Agreement. Notwithstanding, such notice of discontinuance shall not be grounds for termination for default of SAP.

- 7.5 Upon the effective date of termination, Customer's access to the Service will be terminated. Customer shall have the ability to access its Customer Data at any time during the Subscription Term set forth in the applicable Order Form, unless earlier terminated pursuant to this Article 7. Customer may export and retrieve its Customer Data during a Subscription Term, which will be subject to technical limitations caused by factors such as (i) the availability of self-service extraction tools compatible with the Service, (ii) the size of Customer's instance of the Cloud Service; and (iii) the frequency and/or timing of the export and retrieval.
- 7.6 At the end of the Agreement, Customer may request return of all Customer Data remaining on the production system and such Customer Data shall be returned to Customer in a mutually agreed upon format and timeframe. SAP NS2 will delete the Customer Data remaining on servers hosting the Cloud Services unless applicable law requires retention; retained data is subject to the confidentiality provisions of the Agreement.
- 7.7 Articles 6 (other than 6.2), 9, 10, 11, and 12 shall survive the expiration or termination of this Agreement.

#### **Article 8 Warranties by SAP**

- 8.1 SAP warrants that the Cloud Service will substantially conform to the specifications stated in the Documentation. The foregoing warranty shall not apply to the extent: (i) the Cloud Service is not being used in accordance with this Agreement and/or any Documentation; or (ii) any non-conformity is caused by Customer products, third party products, implementation or configuration performed by any party other than SAP, or any content or service being accessed through a Cloud Service that is identified as third party products, content or services; or (iii) the Cloud Service being used was provided for no fee or is a trial license of the Cloud Service. Subject to Article 8.3, Customer's sole and exclusive remedy, and SAP's entire liability for breach of the limited warranty in this Article 8.1, shall be correction of the warranted non-conformity or, if SAP fails to correct the warranted non-conformity after using reasonable commercial efforts, SAP may terminate access to the non-conforming Service and refund the subscription fees paid by Customer for such Service (as identified in the applicable Order Form) for the remainder of the then-current Subscription Term (starting on the date Customer reported the non-conformity).
- 8.2 SAP warrants that (i) it will perform any Consulting Services in a workmanlike and professional manner consistent with generally accepted industry practices, and (ii) the Consulting Services and Cloud Materials will conform in all material respects with the descriptions set forth in the applicable Order Form, statement of work or deployment descriptions, as applicable. Subject to Article 8.3, Customer's sole and exclusive remedy, and SAP's entire liability for breach of the limited warranty in this Article 8.2, shall be the re-performance of such deficient Consulting Services; and if SAP fails to re-perform such Consulting Services as warranted, Customer shall be entitled to recover the fees paid to SAP for such deficient Consulting Services.
- 8.3 Customer shall provide SAP with prompt written notice of any non-conformity described in this Article 8 as follows: (i) for any non-conformity of the Cloud Service, within ninety (90) days of Customer's discovery of such non-conformity, and (ii) for any non-conformity of any Consulting Service, within ninety (90) days of completion of the applicable Consulting Service.
- 8.4 EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, NEITHER SAP NOR ITS VENDORS OR SUBPROCESSORS MAKE ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER, INCLUDING THE MERCHANTABILITY, SUITABILITY, ORIGINALITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE, NON-INFRINGEMENT OR RESULTS TO BE DERIVED FROM THE USE OF OR INTEGRATION WITH ANY CLOUD SERVICE, CLOUD MATERIALS, CONSULTING SERVICES, SOFTWARE, HARDWARE OR OTHER MATERIALS PROVIDED UNDER THE AGREEMENT, OR THAT THE OPERATION OF ANY SUCH CLOUD SERVICE, CLOUD MATERIALS, CONSULTING SERVICES, SOFTWARE, HARDWARE OR OTHER MATERIAL WILL BE SECURE, UNINTERRUPTED OR ERROR FREE.

#### **Article 9 Third Party Claims**

- 9.1 SAP shall defend (at its sole expense) Customer and its Affiliates against claims brought against Customer by any third party alleging that Customer's use of the Cloud Service, in accordance with the terms and conditions of the Agreement, constitutes a direct infringement or misappropriation of a patent claim(s), copyright, or trade secret rights. SAP will pay damages finally awarded against Customer (or the amount of any settlement SAP enters into) with respect to such claims, and will pay reasonable attorney's fees in connection with such defense. This obligation of SAP shall not apply if the alleged infringement or misappropriation results from use of the Cloud Service in conjunction with any other software or service or to free (no fee) or trial licenses of the Service. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.
- 9.2 In the event a claim under Article 9.1 is made or in SAP's reasonable opinion is likely to be made, SAP may, at its sole option and expense: (i) procure for Customer the right to continue using the Cloud Service under the terms of this Agreement; or (ii) replace or modify the Cloud Service to be non-infringing without material decrease in functionality. If SAP provides written notice to Customer that the foregoing options are not reasonably available, SAP or Customer may terminate Customer's subscription to the affected Cloud Service and SAP shall refund to Customer all prepaid fees for the affected Cloud Service for the remainder of its term after the date of termination.
- 9.3 Customer shall be responsible for (i) any use of the Cloud Service in violation of any applicable law or regulation; or (ii) an allegation that the Customer Data or Customer's use of the Cloud Service in violation of the Agreement violates, infringes or misappropriates the rights of a third party. The foregoing shall apply regardless of whether such damage is caused by the conduct of Customer and/or its Named Users or by the conduct of a third party using Customer's access credentials.
- 9.4 The obligations under this Article 9 are conditioned on (a) the GSA Customer timely notifying SAP in writing of any such claim, provided however that a party's failure to provide or delay in providing such notice shall not relieve a party of its obligations under this Article 9 except to the extent such failure or delay prejudices the defense (b) the party who is obligated hereunder to defend a claim having the right to control the defense of such claim to the extent permitted by 28 U.S.C. §516; and (c) the party against whom a third party claim is brought reasonably cooperating in the defense of such claim. Any settlement of any claim shall not include a financial or specific performance obligation on or admission of liability by the party against whom the claim is brought, provided however that SAP may settle any claim on a basis requiring SAP to substitute for the Cloud Service any alternative substantially equivalent non-infringing services. SAP will have the opportunity to intervene in the in any suit or claim filed against the GSA customer, at its own expense, through counsel of its own choosing. Neither party shall undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation that is prejudicial to the other party's rights. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.
- 9.5 THE PROVISIONS OF THIS ARTICLE 9 STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF THE PARTIES, THEIR AFFILIATES AND THEIR LICENSORS TO THE OTHER PARTY, AND IS THE OTHER PARTY'S SOLE REMEDY, WITH RESPECT TO THIRD PARTY CLAIMS COVERED HEREUNDER AND TO THE INFRINGEMENT OR MISAPPROPRIATION OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

#### **Article 10 Limitation of Liability**

- 10.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, EXCEPT FOR (A) THE PARTIES' OBLIGATIONS UNDER ARTICLE 9; (B) DAMAGES FOR A PARTY'S MISUSE OR MISAPPROPRIATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; (C) SAP'S RIGHT TO COLLECT UNPAID FEES DUE HEREUNDER; (D) PERSONAL INJURY OR DEATH RESULTING FROM EITHER PARTY'S NEGLIGENCE; (E) FRAUD; OR (F) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE LIMITED BY LAW UNDER

NO CIRCUMSTANCES AND REGARDLESS OF THE NATURE OF ANY CLAIM SHALL EITHER PARTY (OR THEIR RESPECTIVE AFFILIATES OR SAP'S LICENSORS) BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY UNDER THE AGREEMENT (I) FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE FEES FOR THE APPLICABLE CLOUD SERVICE PAID TO SAP RESELLER BY CUSTOMER IN THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE INCIDENT GIVING RISE TO LIABILITY; (II) FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL, CUSTOMER DATA, BUSINESS PROFITS, WORK STOPPAGE OR FOR EXEMPLARY OR PUNITIVE DAMAGES; OR (III) FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES.

- 10.2 The provisions of this Agreement allocate the risks between SAP and Customer. The Cloud Service fees reflect this allocation of risk and limitations of liability herein. The aforementioned liability limitations shall include any claims against employees of, subcontractors of, or any other persons authorized by, either party.

#### **Article 11 Confidentiality**

- 11.1 Confidential Information shall not be used or reproduced in any form except as required to accomplish the intent of the Agreement. Any reproduction of any Confidential Information of the other party 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 individuals whose access is necessary to enable it to exercise its rights and/or perform its obligations hereunder and who are under obligations of confidentiality substantially similar to those set forth herein. 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 the Agreement shall be subject to the protections afforded hereunder. If the receiving party is compelled by law or legal process to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prompt prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's expense, if the Disclosing Party wishes to contest the disclosure. Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. § 552, which requires that information that does not fall under certain exceptions must be released when requested and, therefore, some information may be released despite being characterized as "confidential" by the vendor.
- 11.2 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.
- 11.3 Customer may provide, or SAP may solicit, input regarding the Cloud Service, including, without limitation, comments or suggestions regarding the possible creation, modification, correction, improvement or enhancement of the Cloud Service or any other SAP site, service or product, or input as to whether Customer believes SAP's development direction is consistent with Customer's business and IT needs, the technology marketplace in general, and the like (collectively "Feedback"). Customer acknowledges and agrees that any information disclosed by SAP during discussions related to Feedback shall be considered SAP Confidential Information and shall be protected from disclosure in accordance with the terms of the Agreement. In order for SAP to utilize such Feedback, Customer hereby grants to SAP a non-exclusive, perpetual, irrevocable, worldwide, royalty-free license, with the right to sublicense to SAP's licensees and customers, under Customer's relevant intellectual property rights, to use, publish, and disclose such Feedback in any manner SAP chooses and to display, perform, copy, make, have made, use, sell, and otherwise dispose of SAP's and its sublicensee's products or services embodying Feedback in any manner and via any media SAP chooses, without reference to the source. SAP shall be entitled to use Feedback for any purpose without restriction or remuneration of any kind with respect to Customer and/or Customer's representatives. Customer acknowledges that the information related to the Service disclosed by SAP under this Agreement is only intended as possible strategies, developments, and functionalities of the Service and is not intended to be binding upon SAP to any particular course of business, product strategy, and/or development.

#### **Article 12 Miscellaneous**

- 12.1 Severability. It is the intent of the parties that in case any one or more of the provisions contained in the Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of the Agreement, and the Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.
- 12.2 No Waiver. If either party should waive any breach of any provision of the 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 Electronic Signature. The Order Form may be signed in two counterparts, each of which shall be deemed an original and which shall together constitute one Order Form. Signatures sent by electronic means (facsimile or scanned and sent via e-mail, or signed by electronic signature service where legally permitted) shall be deemed original signatures.
- 12.4 Regulatory Matters. The Cloud Service, Documentation and Cloud Materials are subject to the export control laws of various countries, including without limitation the laws of the United States and Germany. Customer agrees that it will not submit the Cloud Service, Documentation or Cloud Materials to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP, and will not export the Cloud Service, Documentation and Cloud Materials to countries, persons or entities prohibited by such laws. Customer shall also be responsible for complying with all applicable governmental regulations of the country where Customer is registered, and any foreign countries with respect to the use of the Cloud Service, Documentation or Cloud Materials by Customer and its Named Users.
- 12.5 Governing Law. This Agreement and any claims arising out of or relating to this Agreement and its subject matter shall be governed by and construed under United States Federal law. Venue and statute of limitations are established by applicable Federal law. 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.
- 12.6 Notices. All notices pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered (certified or registered mail or by an overnight courier services with delivery receipt) to the respective executive offices of SAP or Customer at the address first set forth in any Order Form directed to the General Counsel, or in the case of notices by SAP relating to the operation of the Service, such notices, may, at SAP's option, be in the form of an electronic notice delivered by SAP to the authorized administrator identified by Customer in the applicable Order Form or as otherwise agreed by the parties. Where in this Article 12.6 or elsewhere in this Agreement, a written form is required, except for notification of any notice of termination or notice of a material breach, that requirement can be met by facsimile transmission, exchange of letters or other written form, including email.
- 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, including but not limited to, governmental action, acts of

terrorism, fire, flood or other acts of God, power failures, and internet disturbances, 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. The Agreement and the terms of the GSA Schedule Contract constitutes the complete and exclusive statement of the agreement between SAP and Customer in connection with the parties' business relationship related to the subject matter hereof, and all previous representations, discussions, and writings (including any confidentiality agreements) are merged in, and superseded by the Agreement and the parties disclaim any reliance on any such representations, discussions and writings. The Agreement may be modified only by a writing signed by a GSA Contracting Officer and the SAP Reseller. In event of a conflict between the Agreement and any purchase order furnished by one party to the other, and any additional terms and conditions in any such purchase order, the conflict shall be resolved in accordance with GSAR 552.212-4(s) Order of Precedence.
- 12.9 Assignment. Customer 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 any 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. Assignment by SAP is subject to FAR 52.232-23 "Assignment of Claims" (May 2014) and FAR subpart 42.12 "Novation and Change-of-Name Agreements." SAP may in its sole discretion sub-contract parts of the Service to third-parties.
- 12.10 Order of Precedence. In the event of conflict or inconsistency between the components of the Agreement between the parties, the conflict shall be resolved in accordance with GSAR 552.212-4(s).
- 12.11 Relationship of the Parties. The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created hereby. There are no third party beneficiaries to this Agreement.





## NS2 Cloud - SAP SuccessFactors Suite Federal Cloud Service Supplemental Terms and Conditions

This Supplement is part of an agreement for SAP NS2 Cloud Services between SAP NS2 and Customer and applies only to the NS2 Cloud - SAP SuccessFactors Suite Federal product(s) for which Customer is subscribed (the “**Cloud Service**”).

### 1. CLOUD SERVICE

**1.1 Packages (“Packages”)** consist of several products as set out in Appendix 1. Packaged pricing for the Cloud Service, if applicable, will not be disaggregated and Customer will not be entitled to credits, swaps or other concessions. Packages do not include any new products that may be released after the Effective Date of the applicable Order Form.

**1.2** Not all content is available in each language but that language packs may only provide translations for the text strings used in the software system interface, not the content such as goals wizards texts and the like.

The Enterprise Language Pack (“ELP”) is included with Customer’s subscription. English Language Pack will be set as the Default. Access to and delivery of any future language packs will occur only when such language packs are made generally available to all customers. Implementation service fees set forth in an Order Form, if any, are only for those language packs Customer has initially selected for implementation. Implementation of any additional language packs will result in additional service fees, which fees will be documented in an additional Order Form or addendum.

### 2. USAGE METRICS

**2.1 User.** Users are individuals authorized to access the Cloud Service. Users are measured as individuals with an active profile in the Cloud Service and/or whose data has been processed in the Cloud Service.

**2.2 Employee.** Employee means the number of Customer’s total active employee population. Pricing for the SAP SuccessFactors Recruiting Management Product is based on Employees. For purposes of calculating pricing, Employees shall exclude external candidates using the Recruiting Management Cloud Service.

### 3. ADDITIONAL TERMS.

**3.1 Storage.** Customer will reasonably cooperate with SAP to optimize Customer’s use of the Cloud Service, including the storage of Customer Data in the Cloud Service.

**3.2 Data Exports.** Customer can request up to 1 data export per month.

**3.3 Onboarding Cloud Service.** If E-Verify is included, Customer must sign a separate Memorandum of Understanding between the United States Department of Homeland Security, Customer, and SAP’s Affiliate, SuccessFactors, Inc., designating SuccessFactors, Inc. as its Web Services E-Verify Employer Agent. Customer must also provide SAP NS2 a completed Interconnection Security Agreement with E-Verify prior to the start of the configuration workshop

#### **3.4 Employee Central Service.**

**(a) HANA Cloud Integration Technology.** SAP HANA Cloud Integration based on Netweaver 7.5 with Process Integration is the available integration middleware for Employee Central. The Customer must subscribe to the Employee Central Cloud Service to use SAP HANA Cloud Integration as the integration middleware. The election shall be reflected on the Order Form and shall be in effect for the term of the subscription to Employee Central. The Customer may connect SAP SuccessFactors Performance & Goals, SAP SuccessFactors Compensation, SAP

SuccessFactors Succession & Development, SAP SuccessFactors Learning, SAP SuccessFactors Onboarding, SAP SuccessFactors Recruiting, SAP SuccessFactors Workforce Analytics & Planning and SAP SuccessFactors Employee Central in NS2's datacenters to SAP cloud, on-premise or third-party solutions using NS2 SAP HANA Cloud Integration. Any integration is subject to a mutually agreed upon Interconnection Security Agreement ("ISA"). Should the customer choose to use SAP NS2 Professional Services to configure and implement additional integrations then these Professional Services may be subject to additional fees.

- (b) **Custom Metadata Framework (MDF) Objects.** When Customer subscribes to the Employee Central Cloud Service, Customer will be able to create unlimited custom MDF objects.
- (c) **Employee Central, Functional Use.** Employee Central, functional use, is available only for the following categories of individuals: Non-employee (includes contingent/contractors); former employees who retain active usage rights (retirees, terminated employees who are still granted system access); individuals with a limited or temporary employee relationship over 12 month period; employees with access to Employee Central but whose records are mastered within SAP ERP HCM; employees whose records are mastered within Employee Central and the Customer does not provide those employees access to the system.

### 3.5 Learning, Content Storage.

- (a) Content storage included with the Learning Cloud Service includes content throughput and the availability of twenty five (25) Gigabytes (GBs) of eLearning content storage.
- (b) Content throughput is calculated based on two hundred and fifty (250) Megabytes (MBs) per User per year.
- (c) In the event Customer exceeds the amount of content storage or content throughput, Customer may subscribe to additional GBs of storage or throughput, by signing an addendum to the applicable Order Form.
- (d) Content storage includes infrastructure, including web server and disc space, and uses Akamai as the Content Delivery Network (CDN) provider. If Customer cannot support Akamai as its CDN, Content storage cannot be provisioned to Customer.
- (e) SAP will provide one SFTP Content account per Customer.
- (f) Content is not dependent on server-side software (databases, server side scripts).
- (g) Content is backed-up nightly.
- (h) SAP NS2 is not responsible for client network limitations.

### 3.6 Employee Learning, Functional Use.

- (a) For Learning, functional use is restricted to no more than five (5) Courses (e-learning, classroom or virtual classroom) per subscription year.
- (b) A Course is defined as: (i) a learning event recorded; (ii) an item assignment made; (iii) enrollment in or wait-listing for a learning offer; (iv) launched online content; or (v) a launched or attended virtual learning system event.
- (c) Users with functional use rights must be identified in the Learning Cloud Service by Customer separately from other Users.

### 3.7 SAP NS2 Secure CloudEdge for SAP NS2 Cloud – SAP SuccessFactors Suite. This Service includes both SAP NS2 Secure CloudEdge and Secure Preferred Care as defined below.

- (a) **SAP NS2 Secure CloudEdge** provides Federal and Critical Infrastructure clients with the components needed to meet their security and compliance needs. The following enhancements to the SAP SuccessFactors Suite are included in this package:
  - NS2 U.S. Person Operations & Support
  - Secure Preferred Care
  - Private U.S. Ticketing System for Support
  - Disaster Recovery/High Availability
  - Hosting in a FedRAMP compliant data center

(b) **Secure Preferred Care** All SAP NS2 Secure Preferred Care support is staffed by U.S. persons on U.S. soil. Each NS2 Secure Cloud Support customer receives a dedicated Customer Success Manager. SAP NS2 Secure Preferred Care is not provided for any third party services purchases through or provided by SAP. SAP NS2 Secure Preferred Care is only available for the SAP NS2 Cloud – SAP Success Factors Suite.

(i) **Contacting Support**

Beginning on the effective date of a customer’s agreement for SAP NS2 Cloud - SAP SuccessFactors Suite, that customer may contact SAP NS2’s support organization as primary point of contact for support services. The preferred contact channels are:

- www.support.sapns2.com
- Support Phone Number: 1-(844)-NS2-SUPP or 1-(844)-672-7877

Customers subscribed to the SAP NS2 Secure Preferred Care services may contact SAP NS2 directly through the assigned Customer Success Manager.

SAP NS2 provides support for SAP NS2 Cloud – SAP Success Factors Suite in English.

(ii) **Customer Response Levels**

SAP NS2 responds to submitted support cases (also referred to as “case”, “incident”, or “issue”) as described in the table below.

Priority	Definition	Response Level
P1	<p><b>Very High:</b> An incident should be categorized with the priority "very high" if the problem has very serious consequences for normal business processes or IT processes related to core business processes. Urgent work cannot be performed. 24 hour/7 days per week support is provided for P1.</p> <p>This is generally caused by the following circumstances:</p> <ul style="list-style-type: none"> <li>- A productive service is completely down.</li> <li>- The imminent system Go-Live or upgrade of a production system cannot be completed.</li> <li>- The customer's core business processes are seriously affected.</li> </ul> <p>A workaround is not available for each circumstance.</p> <p>The incident requires immediate processing because the malfunction may cause serious losses. In case of a Go-Live or upgrade, the reason to delay the Go-Live or upgrade must be one that would cause serious losses if not resolved before Go-Live.</p>	<p><b>Initial Response:</b> Within one hour of case being submitted.</p> <p><b>Ongoing Communication:</b> Once every hour, unless otherwise communicated by SAP NS2 Support.</p> <p><b>Resolution Target:</b> SAP NS2 to provide for issues either a (i) resolution, or (ii) workaround or (iii) action plan within 4 hours.</p>
P2	<p><b>High:</b> An incident should be categorized with the priority "high" if normal business processes are seriously affected. Necessary tasks cannot be performed. This is caused by incorrect or inoperable functions in the SAP service that are required immediately. 24 hour/7 days per week support is provided for P2.</p>	<p><b>Initial Response:</b> Within two hours of case being submitted.</p> <p><b>Ongoing Communication:</b> Once every six hours unless otherwise communicated by SAP NS2 Support.</p> <p><b>Resolution Target:</b> SAP NS2 to provide</p>

	The incident is to be processed as quickly as possible because a continuing malfunction can seriously disrupt the entire productive business flow.	for issues either a (i) resolution, or (ii) workaround or (iii) action plan within three business days for only SAP NS2 Secure Preferred Care customers.
<b>P3</b>	<b>Medium:</b> An incident should be categorized with the priority "medium" if normal business processes are affected. The problem is caused by incorrect or inoperable functions in the SAP service.	<b>Initial Response:</b> Within 4 hours of case being submitted.  <b>Ongoing Communication:</b> Once every three business days for Non-Defect Issues and 10 business days for product defect issues unless otherwise communicated by SAP NS2 Support.
<b>P4</b>	<b>Low:</b> An incident should be categorized with the priority "low" if the problem has little or no effect on normal business processes. The problem is caused by incorrect or inoperable functions in the SAP service that are not required daily, or are rarely used.	<b>Initial Response:</b> Within one business day of case being submitted  <b>Ongoing Communication:</b> Once every week unless otherwise communicated by SAP NS2 support.

The following types of incidents are excluded from customer response levels as described above: (i) incidents regarding a release, version and/or functionalities of SAP NS2 Cloud – SAP SuccessFactors Suite developed specifically for customer (including without limitation those developed by SAP Custom Development and/or by SAP subsidiaries); (ii) the root cause behind the incident is not a malfunction, but a missing functionality (“development request”) or the incident is ascribed to a consulting request (“how-to”).

**(iii) Customer’s Responsibilities**

In order to receive support hereunder, customers shall designate qualified English speaking contact persons (each a “Customer Contact” or “key user”) for the SAP Support Advisory Center and Mission Critical Support.

SAP NS2 allows customers to have two primary Customer Contacts (as defined below) and two back-up Customer Contacts per Product Bundle. Only authorized Customer Contacts may contact SAP NS2’s support organization.

At least one of a customer’s primary and back-up Customer Contacts shall be an application administrator. Application administrators should have taken SAP’s Admin Training Course located at the SAP Support Portal under the SAP Enterprise Support Academy. Customers shall provide contact details (in particular e-mail address and telephone number) by means of which the Customer Contact or the authorized representative of such Customer Contact can be contacted at any time.

Customers shall update their Customer Contacts for the SAP NS2 Cloud – SAP SuccessFactors Suite through the SAP NS2 Support Portal at <https://support.sapns2.com> or the “Service Control Center” embedded in the SAP NS2 Cloud Service as applicable. SAP NS2 may, from time to time, confirm with customers the correctness of information customers provide as required herein.

To receive support services hereunder, customers shall reasonably cooperate with SAP NS2 to resolve support incidents, and shall have adequate technical expertise and knowledge of their configuration of the SAP NS2 Cloud – SAP SuccessFactors Suite to provide relevant information to enable SAP NS2 to reproduce troubleshoot and resolve the experienced error such as, by way of an example, instance name, username, form name and screenshot.

**(iv) Capitalized Terms**

Below are further explanations of the capitalized terms used above:

Term	Definition
<b>Customer Success Manager</b>	A specific SAP NS2 customer representative that is assigned as primary contact for ongoing management, provides support case oversight, technical guidance and mentorship. Provides personalized information on release updates and guidance on adoption and usage.
<b>Go-Live</b>	Go-Live marks the point in time from when, after set-up of the SAP NS2 Cloud – SAP Success Factors Suite for the a customer, the SAP NS2 Cloud – SAP Success Factors Suite can be used by that customer for processing real data in live operation mode and for running that customer's internal business operations in accordance with its agreement for such SAP NS2 Cloud – SAP Success Factors Suite.
<b>Mission Critical Support</b>	Global incident handling by SAP NS2, staffed by U.S. persons on U.S. soil, for issues related to support hereunder with P1 and P2, including Service Level Agreements for Initial Response, Ongoing Communications and Resolution Targets (as set forth in the above table for Response Levels).
<b>Non-Defect Issue</b>	A reported support case that does not involve a defect in the applicable NS2 Cloud – SAP Success Factors Suite and does not require engineering or operations personnel to resolve.
<b>NS2 Cloud – SAP Success Factors Suite</b>	Any NS2 Cloud – SAP Success Factors Suite set forth in an applicable Order Form.
<b>SAP Enterprise Support Academy</b>	Content and services in several formats, supporting different learning styles and needs, from ad hoc problem solving to structured, long-term knowledge acquisition.
<b>SAP Support Advisory Center</b>	A global unit within SAP's support organization for Mission Critical Support-related requests.

**Appendix 1**  
**Package Descriptions**

<b>PRODUCT</b>	<b>SAP SFSF Perform &amp; Reward package</b>	<b>SAP SFSF Talent Management package</b>	<b>SAP SFSF Advanced Learning package</b>	<b>SAP SFSF Enterprise basic package*</b>	<b>SAP SFSF Enterprise package*</b>
<b>SAP SFSF Performance &amp; Goals</b>	✓	✓		✓	✓
<b>SAP SFSF Compensation</b>	✓	✓		✓	✓
<b>SAP SFSF Succession &amp; Development</b>		✓	✓	✓	✓
<b>SAP SFSF Learning</b>		✓	✓	✓	✓
<b>SAP SFSF Workforce Analytics</b>				✓	✓
<b>SAP SFSF Workforce Planning</b>				✓	✓
<b>SAP SFSF Employee Central</b>				✓	✓
<b>SAP SFSF Onboarding</b>					✓

## NS2 Cloud - SAP SuccessFactors Suite Service Level Agreement

### 1. Service Level Agreement

This Service Level Agreement (SLA) for SAP NS2 Cloud Services sets forth the System Availability for the Application Production Environment of the applicable SAP NS2 Cloud Service to which Customer has subscribed in an Order Form with SAP NS2.

This Service Level Agreement for SAP NS2 Cloud Service shall not apply to any SAP NS2 Cloud Service for which a System Availability service level is explicitly set forth in the applicable Supplemental Terms and Conditions for such SAP NS2 Cloud Service or for which the applicability of service levels is explicitly excluded in the Agreement.

SAP NS2 may change this SLA from time to time, but will provide 12 months advance notice to Customer before materially reducing the benefits offered to Customer under the SLA.

### 2. Definitions

**“Downtime”** means the Total Minutes in the Month during which the Application Production Environment of the applicable Cloud Service is not available, except for Excluded Downtimes.

**“Month”** means a calendar month.

**“Monthly Subscription Fees”** means the monthly (or 1/12 of the annual fee) subscription fees paid for the Cloud Service which did not meet the System Availability SLA.

**“System Availability”** means the average percentage of total time during which the Application Production Environment the Cloud Service is available to Customer during a calendar month.

**“Total Minutes in the Month”** are measured 24 hours at 7 days a week during a Month.

**“Application Production Environment”** means the environment (s) licensed and utilized by Customer for processing real data in live operation mode and for running Customer's internal business operations in accordance with its Agreement for such SAP NS2 Cloud – SAP Success Factors Suite.

### 3. System Availability SLA and Credits

#### 3.1 Claim process, Reports

Customer may claim a credit in the amount described in the table of Section 3.2 below in case of SAP NS2's failure to meet the System Availability SLA, which credit Customer may apply to a future invoice relating to the SAP NS2 Cloud Service that did not meet the System Availability SLA.

Claims under this Service Level Agreement must be made in good faith and by submitting a support case within thirty (30) business days after the end of the relevant Month in which SAP NS2 did not meet the System Availability SLA.

SAP NS2 will provide to Customer a monthly report describing the System Availability percentage for the applicable SAP NS2 Cloud Service in response to a ticket submitted through the customer support system. The SAP NS2 system availability report is the sole determination of the SLA calculation.

This is Customer's sole and exclusive remedy for failure to meet System Availability.

### 3.2 System Availability

System Availability percentage is calculated as follows:

$$\text{System Availability\% age} = \left[ \left( \frac{\text{Total Minutes in the Month} - \text{Downtime}}{\text{Total Minutes in the Month}} \right) * 100 \right]$$

<b>System Availability SLA ("SLA")</b>	99.5% System Availability percentage during each Month for the Application Production Environment
<b>Credit</b>	2% of Monthly Subscription Fees for each 1% below SLA, not to exceed 100% of Monthly Subscription Fees
<b>Excluded Downtime</b>	Total Minutes in the Month attributable to: (i) a Scheduled Downtime for which a Regular Maintenance Window is described in Section 4 below, or (ii) any other Scheduled Downtime according to Section 4 for which the Customer has been notified at least five (5) business days prior to such Scheduled Downtime or (iii) unavailability caused by factors outside of SAP NS2's reasonable control, such as unpredictable and unforeseeable events that could not have been avoided even if reasonable care had been exercised.
<b>Scheduled Downtime</b>	Scheduled Downtime for the applicable Cloud Services to which Customer has subscribed is set forth in Section 4 below entitled "Maintenance Windows for SAP Cloud Services".

### 4. Maintenance Windows for SAP Cloud Services

Maintenance performed under the following maintenance windows are considered scheduled downtimes as listed below.

	<b>Maintenance Windows</b>
<b>Regular Maintenance Windows</b>	<b>NS2 Centers:</b> weekly, midnight (Friday-Saturday) to 7:00 a.m. Saturday U.S. Eastern Time; midnight (Saturday-Sunday) to 7:00 a.m. Sunday U.S. Eastern Time; and midnight (Sunday-Monday) to 7:00 a.m. Monday U.S. Eastern Time



## **5. Excluded Downtime**

SAP NS2 shall not be liable for any failure to meet the Service Levels, to the extent such failure was caused by one or more of the following: (i) a failure of Customer or any of its employees, agents or contractors (including any of Customer's third party service providers) to perform any of its responsibilities under this Order Form; (ii) any act or omission of Customer or any of its employees, agents or contractors (including Customer's third party service providers or other third parties acting on behalf of Customer); (iii) any hardware, software or other product of a third-party or Customer Equipment; (iv) any failure of Customer to secure the proper access rights or maintenance and support services with respect to any component of the Services (e.g., hardware, software, network, maintenance) for which SAP NS2 does not bear operational responsibility; (v) downtimes resulting from a SAP NS2 or its subprocessor's scheduled maintenance windows; (vi) Customer's requests or reprioritization of the tasks to be performed by SAP NS2 where such request or reprioritization causes SAP NS2 to miss a Service Level; (vii) security vulnerability remediation or viruses; provided that the infected system had virus protection for which the virus protection software updates were up to date; (viii) factors outside of SAP NS2 or its subprocessor's reasonable control such as unpredictable and unforeseeable events that could not have been avoided even if reasonable care had been exercised, including any force majeure event or internet access; (ix) micro outages (meaning an inaccessibility that lasts less than fifteen (15) minutes, provided that there are no more than three (3) micro outages within a calendar month); or (x) any other Scheduled Downtime according to Section 4 for which the Customer has been notified at least five (5) business days prior to such Scheduled Downtime.