

# Meridian Partners LLC

## Appendix D to DIR Contract No. DIR-SDD-1709 MINIMUM REQUIRED LICENSE TERMS

The following terms are required applicable to Meridian's sublicensing of Software under the Agreement, and shall govern all End User orders sublicensed thereunder. All Meridian licenses of the Software shall be consistent in all respects with the Minimum Required License Terms set forth herein. Meridian shall administer all orders placed under its relevant End user agreements for SAP Software with End User customers to assure such consistency and conformity.

DIR Contract No. DIR-SDD-1709 and the End User Agreement referencing these terms constitutes a binding agreement between Licensee and Meridian defined in the signed Appendix ("Meridian") for the purchase of software licenses and/or services. DIR Contract No. DIR-SDD-1709 and this Agreement contain four parts: DIR Contract No. DIR-SDD-1709, these required Software License Agreement terms, the applicable on-line schedules referenced herein, and the signed Appendix. All four parts are integral to this Agreement. Licensee agrees that the on-line schedules may be updated by Meridian Partners LLC from time to time without notice to Licensee, but no change will apply to Licensee retroactively.

### 1. DEFINITIONS.

1.1 "Business Partner" means an entity that requires access to the Software in connection with the operation of Licensee's business, such as customers, distributors and suppliers.

1.2 "Documentation" means Meridian's and SAP's documentation which is delivered to Licensee under this Agreement.

1.3 "Modification" means a change to the Software that changes the delivered source code or an enhancement to the Software that is made using SAP tools or utilizing or incorporating SAP Proprietary Information.

1.4 "Named Users" means any combination of users licensed under this Agreement.

1.5 "Proprietary Information" means: to the extent consistent allowable under the Texas Public Information Act (i) with respect to Meridian, SAP and SAP AG (the licensor of the SAP Proprietary Information to SAP), the Software and Documentation, any other third-party software licensed with or as part of the Software, benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications; (ii) the concepts, techniques, ideas, and know-how embodied and expressed in the Software and (iii) information reasonably identifiable as the confidential and proprietary information of SAP or Licensee or their licensors excluding any part of the SAP or Licensee Proprietary Information which: (a) is or becomes publicly available through no act or failure of the other party; or (b) was or is rightfully acquired by the other party from a source other than the disclosing party prior to receipt from the disclosing party; or (c) becomes independently available to the other party as a matter of right; or (d) is required to be disclosed pursuant to the Texas Public Information Act.

1.6 "Software" means (i) all software specified in agreed upon Appendices or Order Schedules hereto, developed by or for SAP and its affiliates entities and delivered to Licensee hereunder; (ii) any new releases thereof made generally available pursuant to Support; and (iii) any complete or partial copies of any of the foregoing.

1.7 "Territory" means the United States of America.

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

2. LICENSE GRANT.

2.1 License.

(a) Meridian grants, a non-exclusive perpetual (except for subscription based license and/or unless terminated in accordance with Section 5 herein) license to Use the Software, Documentation, other SAP Proprietary Information, at specified site(s) within the Territory to run Licensee's internal business operations and to provide internal training and testing for such internal business operations and as further set forth in Appendices or Order Schedules hereto. This license does not permit Licensee to use the SAP Proprietary Information to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training). Business Partners may have screen access to the Software solely in conjunction with Licensee's Use and may not Use the Software to run any of their business operations. Licensee acknowledges that the terms in the Product Use Rights Schedule found at [www.sap.com/company/licenses](http://www.sap.com/company/licenses) apply to Licensee's Use of the Software (unless otherwise stated in the applicable Order Schedule).

(b) Licensee agrees to install the Software only on hardware identified by Licensee pursuant to this Agreement that has been previously approved by Meridian in writing or otherwise officially made known to the public as appropriate for Use or interoperation with the Software (the "Designated Unit"). Any individuals that Use the Software including employees or agents of Subsidiaries and Business Partners, must be licensed as Named Users. Use may occur by way of an interface delivered with or as a part of the Software, a Licensee or third-party interface, or another intermediary system. Software may only be installed on a Designated Unit within the Territory. Named Users may be located outside of the United States, subject to the Use restrictions provided in this Agreement and any Appendix hereto.

3. VERIFICATION. Meridian shall be permitted to audit (at least once annually and in accordance with standard procedures) the usage of the SAP Proprietary Information. In the event an audit reveals that Licensee underpaid License and/or Support Fees to Meridian, Licensee shall pay such underpaid fees based on Appendix C of DIR Contract No. DIR-SDD-1709.

4. PRICE AND PAYMENT.

4.1 License Fees. Licensee shall pay to Meridian license fees for the Software and Support fees in accordance to Appendix A, Section 7C of DIR Contract No. DIR-SDD-1709.

4.2 Taxes. Taxes will be handled in accordance with Section 4F of DIR Contract No. DIR-SDD-1709.

5. TERM.

5.1. Term. This Agreement and the license granted hereunder shall become effective as of the date first set forth above and shall continue in effect thereafter unless terminated upon the earliest to occur of the following: (i) thirty (30) days after Licensee gives Meridian written notice of Licensee's desire to terminate this Agreement, for any reason, but only after payment of all License and Support Fees then due and owing; (ii) thirty (30) days after Meridian gives Licensee notice of Licensee's material breach of any provision of the Agreement (other than Licensee's breach of its obligations under Sections 6 or 10, which breach shall result in immediate termination), including more than thirty (30) days delinquency in Licensee's payment of any money due hereunder, unless Licensee has cured such breach during such thirty day period; (iii) immediately if Licensee files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors.

5.2 End of Term Duties. To the extent allowable under the Texas Public Information Act, upon any termination hereunder, Licensee and its Subsidiaries shall immediately cease Use of all SAP Proprietary Information. Within thirty (30) days after any termination, Licensee shall deliver to Meridian or destroy all copies of the SAP Proprietary Information in every form. Licensee agrees to certify in writing to Meridian that it and each of its Subsidiaries has performed the foregoing. Sections 3, 4, 6, 7.2, 8, 9, 11.4, 11.5 and 11.6 shall survive such termination. In the event of any termination hereunder, Licensee shall not be entitled to any refund of any payments made by Licensee.

6. PROPRIETARY RIGHTS.

6.1 Protection of Proprietary Information Licensee shall not copy, translate, disassemble, or decompile, nor create or attempt to create, by reverse engineering or otherwise, the source code from the object code of the Software. Except for the rights set forth below, Licensee is not permitted to make derivative works of the Software and ownership of any unauthorized derivative works shall vest in SAP. Meridian and Licensee agree to take all reasonable steps and the same protective precautions to protect the Proprietary Information from

disclosure to third parties as with its own proprietary and confidential information. Except to comply with the Texas Public Information Act, neither party shall, without the other party's prior written consent, disclose any of the Proprietary Information of the other party to any person, except to its bona fide individuals whose access is necessary to enable such party to exercise its rights hereunder. Each party agrees that prior to disclosing any Proprietary Information of the other party to any third party, it will obtain from that third party a written acknowledgment that such third party will be bound by the same terms as specified in this Section 6 with respect to the Proprietary Information. Licensee acknowledges and agrees that SAP America, Inc. is conferred third party beneficiary status with respect to Licensee's protection of SAP's Proprietary information hereunder.

## 6.2 Modifications.

Licensee may make Modifications to the Software, and shall be permitted to use Modifications with the Software in accordance with this Agreement. Licensee shall comply with SAP's registration procedure prior to making changes to the source code. All Modifications and all rights associated therewith shall be the exclusive property of SAP and SAP AG. Licensee agrees to execute those documents reasonably necessary to secure SAP's rights in the foregoing. SAP retains the right to independently develop enhancements to the Software and Licensee agrees not to take any action that would limit SAP's sale, assignment, licensing or use of its own Software or Modifications or enhancements thereto.

## 7. PERFORMANCE WARRANTY.

7.1 Warranty. Meridian warrants that the Software will substantially conform to the functional specifications contained in the Documentation for six months following delivery. The warranty shall not apply: (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect is caused by a Modification, Licensee, third-party software, or third party database. Neither Meridian nor SAP warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of Licensee's business requirements.

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

## 8. INDEMNIFICATION.

8.1 Indemnification of Licensee. Indemnification will be handled in accordance to Appendix A, Section 9A of DIR Contract No. DIR-SDD-1709.

## 9. LIMITATIONS OF LIABILITY.

9.1 Licensee's Remedies. Limitation of Liability will be handled in accordance to Appendix A, Section 9K of DIR Contract No. DIR-SDD-1709.

9.2 Not Responsible. Meridian will not be responsible under this Agreement (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect is caused by Licensee, a Modification, third-party software, or third party database. MERIDIAN AND ITS LICENSORS, INCLUDING SAP, SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE SOFTWARE AND/OR THIRD-PARTY SOFTWARE LICENSED HEREUNDER.

9.3 Severability of Actions. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH.

10. ASSIGNMENT. Assignments will be handled in accordance to Appendix A, Section 4D of DIR Contract No. DIR-SDD-1709.

## 11. GENERAL PROVISIONS.

11.1 Severability. It is the intent of the parties that in case any one or more of the provisions contained in DIR Contract No. DIR-SDD-1709 and this Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

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

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

11.4 Export Control Notice. The Software, Documentation and Proprietary Information are being released or transferred to Licensee in the United States and are therefore subject to the U.S. export control laws. Licensee acknowledges its obligation to ensure that its exports from the United States are in compliance with the U.S. export control laws. Licensee shall also be responsible for complying with all applicable governmental regulations of any foreign countries with respect to the use of the Proprietary Information by its Subsidiaries outside of the United States. Licensee agrees that it will not submit the Software to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP.

11.5 Notices. All notices will be handled in accordance to Appendix A, Section 11 of DIR Contract No. DIR-SDD-1709.

11.6 Force Majeure. Force Majeure will be handled in accordance to Appendix A, Section 10C of DIR Contract No. DIR-SDD-1709.

11.7 Entire Agreement. DIR Contract No. DIR-SDD-1709 and this Agreement and each Schedule and Appendix or Order Schedule hereto constitute the complete and exclusive statement of the agreement between Meridian and Licensee, and all previous representations, discussions, and writings are merged in, and superseded by, this Agreement. DIR Contract No. DIR-SDD-1709 and this Agreement may be modified only by a writing signed by both parties. In the event of conflict between the DIR Contract No. DIR-SDD-1709 and this Agreement, Schedules, Appendices or Purchase Order or other document, DIR Contract DIR-SDD-1709 shall prevail.