



County of Fairfax, Virginia

AMENDMENT

Date: **APR 24 2020**

AMENDMENT NO. 17

CONTRACT TITLE: Enterprise Resource Planning (ERP) System/Software

CONTRACTOR

SAP Public Services, Inc.
3999 West Chester Pike
Newtown Square, PA 19073

SUPPLIER CODE

1000012120

CONTRACT NO.

4400000162

By mutual agreement, Contract 4400000162 is amended to incorporate the attached Software License and Support Agreement, Software Order Form No. 14.

All other terms and conditions remain the same.

Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Finance – Accounts Payable/e
Contract Specialist – L. Robinson
DIT – Afsaneh Tibbs/e
DIT – Hildegard Kjersgard/e
Contractor – david.gust@sap.com

cathleen.kiscaden@sap.com

Contractor
ACS, Team 1 – Cynthia Parker

Department of Procurement & Material Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/procurement
Phone (703) 324-3201, TTY: 711, Fax: (703) 324-3228



SOFTWARE LICENSE AND SUPPORT AGREEMENT
Software Order Form No. 14 ("Order Form")
effective as of the date of last signature below ("Effective Date")

between **SAP Public Services Inc.**
1300 Pennsylvania Ave NW
20004 Washington
("SAP")

and **Fairfax County**
12000 Government Center Pkwy
Fairfax, Virginia 22035-0002
United States
(hereinafter "Licensee")

PREAMBLE:

SAP and Licensee agree that this Order Form is hereby annexed to and made a part of the SAP Software License Agreement between SAP America, Inc. and Licensee effective **August 13, 2009** ("Agreement"). For purposes of this Order Form, all references to the term "Appendix" or "Appendices" under the Agreement shall be replaced by the term "Order Form". In each instance in which provisions of this Order Form contradict or are inconsistent with the provisions of the Agreement, the provisions of this Order Form shall prevail and govern.

- 1. LICENSED SOFTWARE FEES.** The Software products licensed to Licensee pursuant to this Order Form and the associated fees are identified in Schedule 1. All license fees are net after discount, if applicable. The total net license fees identified in Schedule 1 and payable under this Order Form are 64,708.35 USD which shall be invoiced upon execution of this Order Form.

If Licensee has an affiliate or subsidiary with a separate agreement for SAP software licenses and/or support services, with SAP SE, any SAP SE affiliate (including SAP) and/or any other distributor of SAP software, the Software shall not be Used to run such affiliate's or subsidiary's business operations and such affiliate or subsidiary shall not receive any support services under this Agreement even if such separate agreement has expired or is terminated, unless otherwise agreed in writing by the parties.

The Net License Fee set forth in Schedule 1 reflects a one-time reduction of fees ("Credit"), which represents a credit for licenses previously acquired by Licensee to be terminated pursuant to Schedule 2 of this Order Form attached hereto and made a part hereof. For the purposes of this Order Form, reference to "Credit" means the amount calculated by subtracting the Total Net License Fee from the Maintenance Base as set forth in Schedule 1.

- 2. SAP SUPPORT SERVICES AND FEES:** SAP and Licensee agree that SAP Enterprise Support is the applicable support ("SAP Support") offered by SAP for the Software licensed under this Order Form as set forth in the applicable SAP Support Schedule to the Agreement.

SAP Support Fees shall commence as of the first day of the month following the Effective Date of this Order Form. The initial term of SAP Support shall begin on the Effective Date and continue for the remainder of the current calendar year and the next full calendar year (except in cases of an Effective Date commencing on January 1 of a respective calendar year, in which case the initial term will run until December 31st of the respective calendar year) ("Initial Term"). After the Initial Term and subject to the Agreement and SAP Support Schedule, SAP Support shall renew at the beginning of each calendar year for the subsequent one year period. SAP Annual Support Fees shall be paid annually in advance and shall be as specified below.

The SAP Enterprise Support Fee for the Software licensed under this Order Form is priced at the then current annual SAP Enterprise Support Factor in effect (currently 22%) multiplied by the total Maintenance Base (set forth in the Schedule 1 as "Maintenance Base") for the licensed Software stated in Schedule 1. The current annual SAP Enterprise Support Fee for the Software licensed under this Order Form is set forth in Schedule 1 as the "Annual Support Fee". SAP agrees that the SAP Enterprise Support Factor shall remain at 22% until December 31, 2020. Thereafter, the SAP Enterprise Support Fee is subject to change once during a calendar year upon three (3) months' notice to Licensee and SAP may increase Licensee's Enterprise Support Fee hereunder from the prior year by the percentage increase in the Consumer Price



Index (CPI), applied on a cumulative year-over-year basis starting from either the effective date of this Order Form or the date of Licensee's last SAP Enterprise Support Fee increase, whichever occurred later. CPI as used herein means "U.S. Consumer Price Index for all Urban Consumers, U.S. City Average - All Items 1982-1984 = 100 Base for a twelve (12) month period prior to such increase as published by the Bureau of Labor Statistics".

Not raising fees in any given year or years is not a waiver of SAP's right to do so. SAP Support Fees are invoiced on an annual basis effective January 1 of a calendar year. Any SAP Support Fees due prior to January 1 are invoiced on a pro-rata basis for the given calendar year in effect. SAP Support Fees will increase as additional software is licensed.

SAP Solution Manager is available to all SAP Support customers to the extent stated in the applicable SAP Support schedule, but does not currently interface with selected SAP BusinessObjects portfolio products.

3. **PAYMENT TERMS:** All fees are in USD. All payment terms for Software and Support are net thirty (30) days from date of invoice.

4. **DELIVERY:** Delivery of all Software licensed hereunder will be made by making such Software available for download or other electronic transmission to Licensee's location at: 12000 Government Center Pkwy, 22035-0002 Fairfax, Virginia, United States ("Delivery Location").

The Licensee acknowledges having received the remote access information listed below allowing download of the Software through the SAP ServiceMarketplace (<https://support.sap.com/swdc>):

USER ID: S0006666383

Initial Password: JW743HBA

Licensee agrees not to request any physical delivery of Software or Support Services and should it occur that any such delivery will be rejected by Licensee. Licensee agrees and understands that the calculation of Taxes may be affected by the delivery method and Delivery Location of the Software and corresponding SAP Support.

5. **LICENSED SOFTWARE:**

The Software licensed to Licensee pursuant to this Order Form consists of the component(s) identified in Schedule 1. Only individuals licensed as Named Users under the Agreement are permitted to Use the Software and third party software licensed under the Agreement. Such Use shall be in accordance with their respective Named User type, the identified Licensed Level, and the terms of this Order Form. Each Software product licensed hereunder may be referred to as a "Package". At SAP's request, Licensee shall deliver to SAP a report, as defined by SAP, evidencing Licensee's usage of the Software.

Licensed SAP Software may utilize limited functionality of other SAP Software products ("SAP Runtime Software"). Unless Licensee has expressly licensed the SAP Runtime Software (under this or a separate Order Form), Licensee's Use of such SAP Runtime Software is limited to access by and through the licensed SAP Software for the sole purpose of enabling performance of the licensed SAP Software. In the event Licensee Uses the SAP Software to build and/or operate a custom developed or third party application, additional license fees may be required.

There are no applicable country/language specific versions licensed by Licensee from SAP hereunder.

6. **PRODUCT SPECIFIC TERMS AND METRIC TYPES.** The following product specific terms and metric types apply to the Software licensed under this Order Form as applicable. In the event of a conflict or inconsistency between Schedule 1 and this Section 6, Schedule 1 shall take precedence.



6.1 SAP SOFTWARE

SAP NETWEAVER:

SAP NETWEAVER PACKAGES ^{(a)(b)}:

Material Code	Software	License Metric	Licensed Level
7015920	SAP Process Orchestration	Cores ⁽¹⁾	

^(a) SAP NetWeaver

General terms applicable to use of SAP Netweaver

Adapters are only available with a SAP NetWeaver PI license and are licensed for a defined release of a backend system or protocol. Maintenance for adapters covers the support of connectivity to a backend system or compliance to a protocol specification at that given release at the time of licensing. It is within SAP's sole discretion to extend the use rights of an adapter (either partly or fully) to a higher release of the respective backend system or protocol. This applies to change of version of protocols as well.

Provided Licensee has licensed an SAP software component based on SAP NetWeaver, Licensee shall have rights to SAP Fiori and SAP Screen Personas. SAP Fiori and SAP Screen Personas software usage rights are included in the respective SAP NetWeaver Software components to the extent of licensee's licensed use rights for such SAP prerequisite components.

Provided Licensee has licensed an SAP software component based on SAP NetWeaver, Licensee shall have rights to Use the following Runtime Software: SAP Information Lifecycle Management ("ILM"). Use is limited to SAP ILM and ILM Store components only for (i) storing and archiving files to filesystem, Hadoop, HANA, and IQ, (ii) blocking and deleting personal data within a specified time period or at the end of a specified time period. This runtime license excludes use of any other capabilities of SAP Information Lifecycle Management.

^(b) SAP NetWeaver Foundation Runtime License. An application-specific runtime license of SAP NetWeaver Foundation is included with all Software Package licenses provided that SAP NetWeaver is delivered with the software. This runtime license grants the Licensee the right to Use SAP NetWeaver Foundation only with (i) the licensed SAP application (including customization), (ii) Modifications (iii) Add-Ons to the SAP application that do not access the information contained in the database of the SAP applications, and (iv) third party applications that do not access the information contained in the database of the SAP applications. Licensee's Developer Users may Use the tools included in SAP NetWeaver Foundation runtime license only for the development of these Modifications and Add-Ons described above. Licensee's Use of the Planning Application Kit to develop planning applications that leverage in-memory processing of core planning functions requires a separate license for the applicable version of SAP Business Planning and Consolidation.

⁽¹⁾ Cores are the number of cores in CPUs that are available for use by the licensed software. The number of Core licenses must be an integer. When counting physical Cores, each Core of a physical CPU that runs at least parts of the licensed software, including those that are temporarily assigned or scheduled to cover peak processing, is considered and counted.

When counting virtual Cores, each virtual Core that runs at least parts of the licensed software, including those that are temporarily assigned or scheduled to cover peak processing, is counted. If the licensed Software will run in a pure virtual environment, physical Cores will not be counted. For purposes of clarification, "Core" as defined in this metric definition is different from "core" as referenced in the metric definition for any Software licensed on a CPU basis (if any), and therefore is not applicable in that context.

7. DATABASE:

The Software licensed hereunder may require a database product. This Agreement does not contain a license to use any database product, even where integrated or pre-installed as part of the Software.

Each database product is subject to its respective vendor license agreement. SAP makes no representations or warranties as to the terms of any license or the operation of any database product obtained directly from a third party vendor by Licensee. Licensee is responsible for support and maintenance of any database product obtained from a third party vendor, and SAP has no responsibility in this regard.



8. **PUBLICITY:** In consideration of the additional Software discount, Licensee agrees to participate in reference activities for the Software including but not limited to reference calls and stories, press testimonials, site visits, SAPPHIRE participation, etc., at times mutually agreeable to the parties. SAP will make reasonable efforts to avoid having the reference services unreasonably interfere with Licensee's business.
9. **VALIDITY OF OFFER:** The validity of this offer will expire on **March 31, 2020**, unless sooner executed by Licensee, or extended in writing by SAP.

Accepted By:

SAP Public Services Inc.

(SAP)

Accepted By:

Fairfax County

(Licensee)

DocuSigned by:

Patrick Martell

Patrick Martell

DS

Name:

SG Title: VP, Assistant General Counsel

Date: March 27, 2020

Cathy A. Muse 3/26/20

Name: **Cathy A. Muse, CPPO, Purchasing Agent**

Title: **Fairfax County, Virginia**

Date: **Department of Procurement
and Material Management**



SCHEDULE 1

Schedule 1 to Order Form	
Customer Name	Fairfax County
Net License Fee	64,708.35 USD
Support Type	SAP Enterprise Support
Support Percent %	22.00%
BSI Support Percent %	N/A
Maintenance Base	72,000.00 USD
Annual Support Fee	15,840.00 USD

Software Licensed						
Product	TPP	SAV	License Metric	Blocks of (units)	License Quantity	Net License Fee
SAP Process Orchestration		X	Cores	1	2	72,000.00
Credit for previous VC/IC/ZVAL/ZVCL				0	1	7,291.65-

Legend:

TPP "Third Party Product" indicates the software product is a Third Party Product licensed from SAP

SAV "SAP Application Value" indicates that the product is part of the SAP application value and thus relevant for runtime databases licensed by SAP.

**SCHEDULE 2****LICENSE TERMINATION**

Upon the execution of this Order Form and in consideration of the Credit granted towards the purchase of new licenses associated with a license conversion transaction herein, Licensee's right to use the following licenses (the "Terminated Licenses") and the related SAP Support of such licenses are hereby terminated. Licensee may continue to Use the Terminated Licenses until such time as the Software licensed hereunder is in production Use. Licensee hereby certifies that it shall take all necessary measures to uninstall and cease using the Terminated Licenses within such 30 days after the date of such production Use. At any moment in time the cumulative total number of licenses installed and in production use of both the newly deployed Software and the existing Software whose licenses are being terminated may not exceed the License Quantity set forth in the "Software Licensed" section of Schedule 1.

Terminated Software Title and/or User*	License Level/Quantity	Sales Order Number
SAP NetWeaver Process Integration	100	10653656

Total Maintenance Base of the Terminated Licenses	\$7,291.65
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