AGENTIL

LICENSE TERMS OF USE

GENERAL AND SPECIFIC CONDITIONS FOR LICENSE

SAP BUSINESS ONE SOLUTION

AGENTIL ZURICH AG

VERSION
2023

As part of the Customer's project, the conditions of maintenance and support services are also applicable and supplement these conditions and are available on our website www.agentil.com.

Article 1 – Definitions

Addon: An addon is an optional solution that allows you to add additionnal functionalities to those proposed as standard on SAP Business One.

Affiliated Company: Company in which more than half of the share capital is held by the Client, also known as the parent company.

Unaffiliated Third Party Company: Company that is not affiliated with the Customer.

Authorized personnel: The term "authorized personnel" means a legal or natural person having collaboration and / or subordination with the Client and duly informed by the Client of the "intuitu personae" nature of the right to use the licensed Software.

Client: The Client, as well as any company controlled by the Client. A company is considered to be controlled when the Client holds more than 50% of the capital (group company).

Client's Site (s): means the Customer's geographic location (s) where the Software / Prototype is installed and operated.

Delivery: means the operation by which AGENTIL transmits to the Customer the means of recording containing the Software Package or sends them to him by a network to be downloaded by informing the Customer.

License: is nothing other than a contract with the user, giving the user the right to use the software, imposing in return more or less restrictive obligations as well as a fee.

Major version: means a new functional, technical and legal version of the Software.
Minor version: means a version of the Software that has benefited mainly from bug fixes, or from the addition of secondary features.
Modules: The Software is divided into modules and functions. A Module corresponds to a general functional area carried out by SAP or a business area carried out by AGENTIL.
Patch: means the set of technical objects that are added to a software, in order to make minor modifications: correction of a bug, ...

Editor: company that designs, develops and markets software products, named "editor" or "publisher" in the present.
Reference documentation: "Reference documentation" means any document relating to the Software and in particular the description of the specifications and the instructions for use of the Software provided to the Customer in the form of electronic online help.
Software package: The term "Software package" applies to all programs, in their standard state, that is to say without service of any kind except for updates made by the publisher. This set of standard programs or software is marketed under the name "SAP BUSINESS ONE".

Specifications: The specifications (CDC) is a contractual document to be respected during a project. The specifications precisely describe the needs that the service provider or the tenderer must meet, and organize

the relationship between the different actors throughout the project.

SAP: means SAP Switzerland, the subsidiary company of SAP with which AGENTIL has concluded a resale contract (Partner Edge Channel VAR Contract). Also named Editor below.

Use: The term "Use" means the processing of all or part of the Software in a computer for the development and execution of the instructions they contain, in accordance with the functions described in the Reference Documentation.

Version: means Major Version or Minor Version.

If this user agreement does not define or explain the meaning of a specific term, the End User may request a definition from AGENTIL or may provide further explanations on the SAP Help Portal site, which is free to access.

Article 2 - Purpose and Scope

The object is the granting of a license to use the SAP Business One software package and any associated Addons.

The End User agrees to acquire the rights of use for the software packages indicated below (the "SAP Software") under these conditions.
Any additional licenses acquired subsequently will be subject to these conditions.

AGENTIL has the right to resell the Software which has been granted to it by SAP. After the Client has taken note of AGENTIL's offer made on the basis of the Specifications, has examined and definitively accepted it, AGENTIL undertakes to provide the Client with the Software for the legal term of protection of rights of intellectual property, a right of use, non-exclusive, with a view to its use on all Customer Sites located on Swiss territory. The SAP PartnerEdge EULA license agreement for Sell On Premise Program and Distribution Program is available on the SAP website.

AGENTIL undertakes to register the licenses by name in the name of the Client with the Editor.

If the Customer has an Affiliated Company or a subsidiary that has entered into a separate right of use and maintenance contract with SAP Switzerland and / or with any subsidiary of SAP Switzerland (including SAP) or with any other distributor of SAP software packages, it is expressly agreed that the rights of use granted hereunder must not be used within the framework of the activities of said Affiliated Company or of said subsidiary, which may not receive any maintenance service, even if said separate contract has expired or been terminated, unless expressly agreed otherwise by SAP.
The Customer may provide access to his environment to a Third Party Company not Affiliated to the Customer, it is expressly agreed that the rights of use remain the property of the Customer and that the Third Party Company does not own any.
This third-party company may not under any circumstances benefit from rights of use allowing it to be independent from the Customer.

Maintenance and support services or any other service relating to the Software ("Services") are covered by separate conditions concluded between the End User and AGENTIL and are subject to a fee validated by means of an offer commercial.

These conditions will apply to all commercial offers signed concerning the purchase or subscription of licenses.

These conditions and the annexes (commercial offers) constitute the entire agreement between the parties and supersede any communication, representation or prior agreement, oral or written.

Article 3 - Conditions of engagement

3.1 - Duration

These conditions are granted for the duration mentioned in the attached commercial offers:

- In the context of an acquisition, the period is indefinite, it runs until the Customer decides to stop using the Software, in this case the Customer may signify the stoppage of use and terminate according to the conditions mentioned below.

- In the context of a subscription, it is a defined subscription period, the Customer must respect the initial commitment period, then the subscription is tacitly renewed for the same duration, unless there is a request for termination according to the conditions below.

3.2 - License pricing principle

The price is that of the attached commercial offer, it being specified that any increase in the price by the editor between the time of the offer and that of the order will be passed on to the Customer. Any purchase of additional licenses will be the subject of a new offer, on the one hand due to the evolution of supplier prices and on the other hand due to the exchange rate. The price of subscription licenses (OnDemand) is likely to change during the subscription period according to the price revision mentioned below.

3.3 - Billing and payment conditions

3.3.1 Licenses in acquisition (On Premise):

Licenses are billable upon signature entirely.

3.3.2 Subscription licenses (On Demand):

For the first year, licenses are billed on a pro rata basis from the date of their activation. Then licenses are billed quarterly at the start of each quarter.

The applicable method of payment is that validated in the attached commercial offers.

3.4 – Price revision

AGENTIL reserves the right to increase the price once a year, it will notify the Customer in writing of this modification respecting an initial notice of sixty (60) days and will confirm the final percentage increase applicable to the minimum thirty (30) days before the effective date of the increase. This change will come into effect from the next Annual Service Renewal Period or annually at the beginning of the year.

The increase applies only to subscription licenses (On Demand).

The applicable increase will be at least based on the consumer price index (CPI) according to the formula described below or a higher percentage based on all the increase costs of our various suppliers and the costs of the market :

Calculation if application of the minimum CPI index:

Indexed amount (final) = Initial amount x Final index / Initial index

In which :

- Indexed amount = fee after revision;

- Initial amount = initial fee;

- Final index = the most recent CPI index on the revision date;

- Initial index = CPI index known on the initial billing date (for additional licenses, the last CPI index known on the billing date of the additional licenses will be used).

Calculation if increase via a percentage set according to an average of supplier increase guidelines and market costs above the CPI index:

Indexed amount (final) = Initial amount x Percentage

In which :

- Indexed amount = fee after revision;

- Initial amount = initial fee;

- Percentage = percentage of increase defined on an average of the costs of increase of the suppliers and costs of the market.

Any delay in the payments authorizes AGENTIL to suspend its Services and obligations ten days after the sending of a reminder letter, except in the event of dispute of the invoices concerned by the Customer.

3.5 - Termination / Non-renewal

3.5.1 Licenses in acquisition (On Premise):

Partial termination:

Due to the general conditions of the publishers, the Customer may partially terminate the number of licenses, whether these licenses were acquired via a previous contract or by signed commercial offer, whether it was signed with AGENTIL or a other service provider, if and only if the publisher accepts his request, the publisher may refuse or change the conditions of application of partial terminations and in this case the request will not be admissible.

To make the request, the Customer makes his request by registered letter, the processing time and consideration of the partial termination may vary depending on the publishers, this can be done during the year exceptionally but as a general rule it is on the annual renewal date that the change will be effective, i.e. for January the 01st of the year following the request. The Customer will then lose the rights to use his terminated licenses and will not be able to recover them later, he will have to buy new licenses to reactivate rights.

A license cannot be suspended, it can only be permanently terminated.

Total termination:

Due to the general conditions of the publishers, the Customer may request the total termination of his License whether they were acquired via a previous contract, or by signed commercial offer whether it was signed with AGENTIL or another service provider.

The customer makes his request by registered letter with acknowledgment of receipt at least 4 months before the end of the current period (i.e. maximum before 30.08 for a stop on 31.12 of the same year), he will then lose the rights to use his licenses and will not be able to recover them later, he will have to buy new licenses to reactivate rights.

A license cannot be suspended, it can only be permanently terminated.

The Customer must comply with the request formalism indicated in the paragraphs, failing which his request cannot be processed.

3.5.2 Subscription licenses (On Demand):

Partial Termination and/or Authorized License Changes:

The customer can also, after the minimum commitment period, make changes to his licenses (reduction, downgrade) each year on the initial anniversary date of his engagement by making his request in advance and at least 2 months before that date. The customer in this case will have to make his request by email, validate an offer which specifies the quantified elements related to this change concerning his invoicing.

The change will then be effective on the engagement anniversary date on the publisher portal and the change in your billing will also be effective from this date.

In the case of a downgrade, the prices of previously subscribed licenses being different depending on the date of subscription, it is the first licenses subscribed that will be counted first in favor of the price of a current limited license.

In the case of a reduction, the prices of the licenses subscribed previously being different according to the date of subscription, it is the first licenses subscribed which will be deducted first.

<u>Total termination:</u>

Due to the publisher's general conditions, the customer may request the non-renewal of his subscribed licenss after the minimum commitment period by registered letter with acknowledgment of receipt 4 months before the anniversary date of his engagement each year for a full termination.

In the event that the customer wishes an early termination before the minimum commitment term, he agrees to pay the remaining balance due until the end of the commitment. He makes his request by registered letter with acknowledgment of receipt.

The Customer must comply with the request formalism indicated in the paragraphs, failing which his request cannot be processed.

3.6 – Change/replacement or discontinuation of a product:

In the event that a publisher informs AGENTIL of the change/replacement or discontinuation of the marketing of a product, AGENTIL will inform the Customer as soon as possible and will offer him a service continuity solution or a replacement solution offering the same functionalities in possible or another workaround, within the limits of its product portfolio. AGENTIL cannot be held responsible for any inconvenience or consequences of any nature whatsoever resulting from a change/replacement or discontinuation of the marketing of a product which does not result from its will but from that of the publishers.

Article 4 - Use of the Software Package

4.1 – Rules and obligations regarding use

Use of the Software must comply with the Reference Documentation associated with the Software, which is available on the SAP Help Portal.

The Customer undertakes in particular not to make any modification, even considered by him to be minor, to the Software Package, and not to reproduce all or part of the Documentation accompanying the Software Package, except for its internal needs.

Regarding the hardware on which the Software will be installed, if the Customer is in charge of the hardware part, he undertakes to respect the infrastructure prerequisites communicated to him in writing by AGENTIL, the standard infrastructure prerequisites provided by the editor can be supplemented by the recommendations provided by AGENTIL according to its expertise and prerequisites for the installation.

In the event that the Customer changes his computer or acquires others and requests the installation of SAP on this computer, he undertakes to inform AGENTIL beforehand and to give him the identification characteristics of the new computer, for this do it opens a ticket on our support portal. This new computer must have the operating system approved by AGENTIL.

AGENTIL may be required, in consultation with the Client, to implement the necessary procedures to facilitate the testing or data recovery operations. These operations may lead to a temporary shutdown of the Software Package for a reasonable and necessary period.

The right to reproduce the Software is licensed to Customer to make backups for security purposes only.

The Customer may in particular duplicate all the applications of the Software Package on a backup machine for temporary use in the event of unavailability of the original Software Package.

The licenses are nominative, all persons using SAP Business One must have a "Named User" License assigned to them. Named user licenses cannot be assigned to more than one person.

Transfer of a named user license from one individual to another can only be done if the individual is on vacation, absent due to illness, employment has ended, or is transferring to a new position that does not no longer require you to use SAP Business One.

"Use" means to activate the processing capabilities of SAP Business One, load, execute, access, use SAP Business One or display information resulting from these capabilities. Use may take place through an interface delivered with or as part of SAP Business One, a licensee or a third-party interface or other intermediary system.

There are 3 exceptions to this requirement detailed below:

- SAP application access

- Indirect access by non-employee

- Indirect static read

The rights to use the licenses and the licenses remain the property of the purchaser declared to the publishers, and are not assignable or transferable to another company, unless they can legally justify that the company wishing recover all or part of the licenses owns more than 50% of the capital of the assigning company and provided that the publisher recognizes the validity of the documents justifying this membership.

4.2 - List of licenses granted

The Customer can ask list of granted licenses to AGENTIL when he wants, this list may be updated with each new acquisition of licenses only at the request of the customer. AGENTIL retains in all cases the history of acquisitions if necessary.

4.3 - Delivery of the Software Package

The Software will conform to the functionalities described in the Reference Documentation available on the SAP Help Portal in free access.

AGENTIL may ask the Customer for confirmation of delivery of the license keys.

Article 5 - Nature and guarantees

The Software is guaranteed provided that it is used in accordance with the Reference Documentation available on the self-service SAP Help Portal, and provided that it is installed and used in a configuration system approved by SAP and the Publishers and AGENTIL.

AGENTIL will have the obligation and the right to provide a defense against any claim, legal action or lawsuit related to intellectual property rights brought against the Customer if the claim, action or lawsuit is based on an allegation to the the effect that a product, in particular the Software, and the Prototype infringes the intellectual property rights (IPR) of a third party. In addition, AGENTIL will indemnify the Client for any amount incurred by it in the context of pre-litigation or litigation (conviction, legal fees, etc.) relating to such a claim.

These obligations borne by AGENTIL are subject to compliance by the Client with the following conditions:

• The Client must promptly inform AGENTIL in writing of the existence of the IRP claim and the threat it entails;

• The Client must leave AGENTIL with total and exclusive authority over the conduct of the defense and settlement negotiations of the IPR Claim, as well as any subsequent appeal, and the Client must then choose the lawyer in agreement with AGENTIL, agree on the defense strategy and the legal fees to be incurred;

• Customer shall provide AGENTIL with all information and assistance reasonably requested by AGENTIL for the conduct of the defense and settlement negotiations of the IPR Claim, as well as any subsequent appeal.

• SAP makes available on its website SAP Help Portal, information concerning the use of the Software, as well as several other additional information concerning the latter.

• Disclaimer: AGENTIL cannot be held responsible in the event of use contrary to the recommendations for use defined in the Reference Documentation of the Software Package or misuse of the latter (for example non-compliance with the Specifications of infrastructure).

Article 6 – Intellectual Property

6.1 - Intellectual property of AGENTIL:

The Client undertakes not to infringe, directly or indirectly or through third parties with which he is associated, the property rights of the Publishers and AGENTIL.

The Customer undertakes to take all necessary measures with regard to its staff and all outside persons who have access to the Software Package to ensure secrecy, confidentiality and respect for the right of ownership of the said Software Package.

The Customer undertakes not to copy, reproduce, disassemble, decompile, personalize or modify the Software Package in any way other than that described in the Reference Documentation without the written consent of AGENTIL and the Publishers.

Under no circumstances does the user license include delivery of the Software Package in source language form. Only the object language is delivered to the Client.

6.2 - Intellectual property of the Customer:

The Customer is and remains the owner of all intellectual property rights to the data, files, documents, word marks and/or logos, texts, visuals, etc. covered by such rights transmitted or made available to AGENTIL as part of the performance of the present conditions. The present conditions or the signed commercial offers do not entail any transfer of intellectual property rights to AGENTIL on these elements other than the rights necessary for the performance by the latter of its obligations under these conditions. The Client is the owner of the contents of its databases used and/or managed by AGENTIL within the framework of the execution of the presente conditions. AGENTIL undertakes to use the databases only for the sole purpose of executing the present for the exclusive account of the Client. AGENTIL acknowledges that the Client is the sole producer of the databases in their entirety and that AGENTIL does not acquire any rights to all or part of the databases as a result of its services.

Article 7 - Intervention of AGENTIL Group Companies

It is recalled that AGENTIL SA is part of the AGENTIL group and as such, any of the companies of the group could be brought to intervene within the framework of the present conditions, subject to having informed the Customer beforehand and except opposition on the part of the latter within 48 hours.

Article 8 - Domiciliation

The Parties elect domicile at their head office.

Article 9 - Dispute

Any complaint must be made by registered letter with acknowledgment of receipt.

In case of difficulty of interpretation and execution of these and their continuation, the Parties agree to meet, before any referral to the courts, in order to find an amicable outcome to the dispute.

If within thirty (30) calendar days following the first notification referred to in the first paragraph of this article, the Parties have not reached an amicable agreement, each of the Parties will recover the right to refer the matter to the judge.

This dispute resolution procedure will be inapplicable in the event of an emergency, imminent damage, or clearly unlawful disturbance.

The applicable law is Swiss law.

The competent courts are those of the Canton of Zurich.