



## Signavio Standard Agreement – Terms and Conditions

IMPORTANT – READ CAREFULLY: This is a legal agreement (“Agreement”) between you (“You” or “CUSTOMER”) and Signavio (“Signavio”) – “the Parties”.

IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL OR USE THE SOFTWARE, ASSOCIATED DOCUMENTATION, SERVICE OR ANY PORTION THEREOF AND DO NOT REQUEST OR ACCEPT SUPPORT SERVICES FROM SIGNAVIO. WARRANTIES, SUPPORT, LICENSES, AND DAMAGES ARE DISCLAIMED AND/OR LIMITED BELOW, PLEASE READ ENTIRELY AND CAREFULLY.

In case the CUSTOMER is located in North, Central or South America, the contractual partner is Signavio, Inc., 800 District Ave. Burlington, MA 01803, USA, a Delaware corporation. In case the CUSTOMER is located in Singapore, India, Japan, Mongolia, People's Republic of China, Republic of China (Taiwan), Republic of Korea (South Korea), Bangladesh, Bhutan, Maldives, Nepal, Pakistan, Sri Lanka, Brunei, Indonesia, Cambodia, Lao People's Democratic Republic (Laos), Malaysia, Myanmar, Philippines, Thailand, Timor-Leste, Viet Nam (Vietnam), Cook Islands, Fiji, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, Palau, Papua New Guinea, Solomon Islands, Samoa, Tonga, Tuvalu, Vanuatu, the contractual partner is instead Signavio Pte. Ltd., 100 Cecil Street # 10-01/02, The Globe, 069532, Singapore, Company Registration No. 201324234G. In case the CUSTOMER is located in Australia or New Zealand the contractual partner is instead Signavio ANZ Pty. Ltd., 520 Bourke Street, Melbourne, 3000, Australia, Australian Company Number (ACN) 618317641. In case the CUSTOMER is located in Switzerland the contractual partner is instead Signavio Schweiz GmbH, Grafenauweg 10, 6301 Zug, Switzerland, commercial register number CH17040144531. In case the CUSTOMER is located in France, Italy, Spain or Portugal, the contractual partner is instead Signavio France SAS, Saint Lazare, 26 rue de Londres, 75009 Paris, France. In case the CUSTOMER is located in Scandinavia, United Kingdom and Ireland the contractual partner is instead Signavio UK Ltd., 12 Melcombe Place Marylebone Station, London NW1 6JJ, UK. In case the CUSTOMER is located in any other country that is not mentioned before, the contractual partner is Signavio GmbH, Kurfürstenstraße 111, 10787 Berlin, Germany. Only the regionally applicable entity as defined above becomes the contractual partner and will be referred to as “Signavio” throughout this Agreement.

### § 1 Applicability of the Agreement

(1) Signavio’s Standard Agreement - Terms and Conditions (SATC) are applicable for all license related services and product sales of Signavio. Any conflicting or deviating terms or conditions of the CUSTOMER are not applicable, as long as Signavio does not explicitly accept them in writing.

(2) Depending on the product/service either the “Signavio SaaS User Agreement” or the “User Agreement Signavio On-Premise (Subscription)” for Signavio On-Premise” become an integral part of this Agreement. It is available (i) below in the same file or (ii) on the same website this “Standard Agreement – Terms and Conditions” was provided to you.

(3) The CUSTOMER may, at any point in time, also after the formation of a contract, open, print, download or save these SATC via the Link <https://www.signavio.com/de/agb/>.



## § 2 Formation of the Agreement

(1) The formation of a service contract for services of Signavio is triggered by;

- a) the receipt of the letter of acceptance for a written quotation of Signavio, or
- b) the acceptance of the request via E-Mail by Signavio, if the CUSTOMER has previously used the booking functionality of the respective APPLICATION or SERVICE of Signavio by entering complete and correct invoicing information along with the selection of the offering to be purchased and by pressing the button "Purchase".

The contract term for software subscriptions shall commence on the day of the license's delivery respectively the license's activation. Possible minimum terms shall commence on that day as well.

(2) The Signavio websites solely represent a request to submit quotations.

(3) The CUSTOMER must be either a corporation or entrepreneur, that is a natural or juristic person or a non-incorporated firm having legal capacity, which at the time of formation of the Agreement, solely acts as part of their commercial function. For CUSTOMERS of Signavio GmbH this means a CUSTOMER must be either a corporation or entrepreneur within the meaning of § 14 BGB (*German Civil Code*).

## § 3 Prices

(1) The prices for Signavio's products and services are based on the underlying quotation.

(2) The remuneration shall become due for payment (i) in accordance with the agreed period of time in the written quotation or (ii) unless otherwise agreed, within 14 (fourteen) calendar days upon the rendering of the invoice for the entire contract term. The remuneration shall be payable for each calendar month commenced as from the provision of the use in operable condition. The CUSTOMER may settle the same by means of bank transfer or accepted credit cards. If the CUSTOMER has legitimately terminated the contract summarily, the remuneration is to be repaid pro rata temporis. In the case of default in payment, the statutory provisions shall apply.

(3) Signavio shall be entitled to increase the remuneration for the first time after the expiration of 12 (twelve) months following the commencement of the Agreement upon written notice of 4 (four) weeks, with effect from the commencement of the month following thereon. The CUSTOMER shall have the right, within a period of 4 (four) weeks following receipt of the notice, to terminate the contractual relationship in writing. Signavio shall draw the attention of the CUSTOMER to this right of termination with each notice of increase.

(4) The Fee for the products or services shall be owed with the addition of any applicable tax.

(5) Additional services may be delivered by Signavio according to then current rates for time and actual expenses incurred in the delivery of such service at a cost mutually agreed to in advance by the Parties under a separate Statement of Work (SoW). This shall apply in particular for the training of CUSTOMERS and/or users.

(6) Changes related to invoice details (e.g. invoice address or order number) shall be communicated to Signavio forthwith. If the rendering of an invoice is already completed by the time Signavio becomes aware of such change, especially the Customer's payment obligation at the original due date shall remain unaffected by the rendering of a new invoice and the associated delay.



## § 4 Confidentiality

(1) The Parties hereto shall maintain as confidential, all information which they receive from each other within the scope of this contractual relationship, and only use the same vis-à-vis third parties – irrespective for which purpose – with the previously obtained written consent of the respective other party. Companies affiliated with the respective party shall not be understood as third parties. Affiliation means any entity which is controlled by, is in control of or under common control with the party. For purposes of this definition, “control” means the direct or indirect beneficial ownership of over 50% (fifty percent) of the voting interests (representing the right to vote for the election of directors or other managing authority) in an entity. For CUSTOMERS of Signavio GmbH the above definition of affiliated companies is to be understood in accordance with § 15 AktG [Aktiengesetz – Corporation Law]. Information to be treated confidentially shall only include information which is expressly designated as confidential by the party providing the information and such information whose confidential nature unequivocally derives from the circumstances of the provision of the same. In particular, the CLIENT DATA is to be treated confidentially by Signavio, should Signavio obtain knowledge of the same.

(2) The obligations under section (1) shall not apply for such information or any parts thereof in respect of which the recipient party proves that

- a) it had knowledge of the same or the information was generally accessible prior to the date of receipt, or
- b) the information was in the public domain or generally accessible prior to the date of receipt, or
- c) the information was in the public domain or generally accessible following the date of receipt without the party receiving the information being responsible therefore.

(3) The obligations under section (1) shall also continue in existence beyond the end of the Agreement for an indefinite period of time for as long as the criteria of exception under § 2 have not been proven.

(4) Only if the contractual partner is Signavio, Inc., the liability of either Party for claims arising under this § 4 shall be limited by nothing in this Agreement.

(5) Signavio is explicitly allowed to name the CUSTOMER as reference in publications on the Internet and print media. Aside from its company name the CUSTOMER designates for this purpose the advertising materials, logos, and agrees to grant all the necessary rights to use them. The CUSTOMER will inform Signavio, without request, if specific policies (e.g. Corporate Identity) for the usage of such logo or reference naming exist. Furthermore, the CUSTOMER agrees to contribute a one-page success story and to participate in three reference customer visits per year of other Signavio prospects upon request. A reference will be used only objectively in an appropriate way and shall be excluded, if obvious CUSTOMERS' legitimate interests are in opposition to this use of reference. The CUSTOMER has always the possibility to reject in writing future use of reference, but the existing print media at the moment of the rejection can still be used. The CUSTOMER can be used as a reference until three years after the end of the contract.

## § 5 LIABILITY; LIMITATION OF LIABILITY

(1) THE PARTIES SHALL BE LIABLE TO EACH OTHER WITHOUT LIMITATION IN THE CASE OF DELIBERATE INTENT, WILLFUL MISCONDUCT OR GROSS NEGLIGENCE FOR ALL DAMAGE CAUSED BY THEM OR THEIR STATUTORY REPRESENTATIVES OR VICARIOUS AGENTS.



(2) IN THE CASE OF ORDINARY NEGLIGENCE, THE PARTIES SHALL BE LIABLE WITHOUT LIMITATION ONLY IN THE CASE OF INJURY TO LIFE, LIMB OR HEALTH.

(3) EXCEPT AS EXPRESSLY PROVIDED HEREIN, A PARTY SHALL ONLY BE LIABLE FOR DAMAGES ARISING OUT OF THE MATERIAL BREACH OF THIS AGREEMENT. LIABILITY FOR A MATERIAL BREACH OF THIS AGREEMENT SHALL BE LIMITED TO THE REIMBURSEMENT OF THE DIRECT DAMAGES WHICH TYPICALLY RESULT FROM A MATERIAL BREACH IN SUCH CASE.

(4) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION (INCLUDING NEGLIGENCE OR STRICT LIABILITY), WHETHER OR NOT THE PARTY IS ADVISED OF OR MIGHT HAVE ANTICIPATED THE POSSIBILITY OF SUCH DAMAGES.

(5) EACH PARTY'S TOTAL LIABILITY SHALL BE LIMITED TO THE AMOUNT PAID OR PAYABLE BY THE CUSTOMER TO SIGNAVIO FOR THE SERVICES PROVIDED UNDER THIS AGREEMENT, AND IN NO EVENT, SHALL EITHER PARTY'S LIABILITY EXCEED 500,000.00 € (IN THE CASE OF Signavio, Inc.: USD \$500,000.00; IN THE CASE OF Signavio Pte Ltd.: SGD \$500,000.00; IN THE CASE OF SIGNAVIO SCHWEIZ GMBH: CHF 500,000.00 AND IN THE CASE OF SIGNAVIO ANZ PTY. LTD.: AUD \$750,000.00). SECTIONS (1) and (2) SHALL REMAIN UNAFFECTED HEREBY.

## § 6 Minimum wage

(1) Signavio hereby assures that it complies with the applicable regulations for minimum wage (in case of the Federal Republic of Germany the MiLoG (*German minimum wage Law*)).

(2) Signavio is also fully liable for its subcontractors, or any one of its subcontractors' suppliers to comply with the applicable regulations for minimum wage.

(3) Signavio fully indemnifies, holds harmless and defends the CUSTOMER against fines based on any claim concerning the applicable regulations for minimum wage (e.g. § 21 MiLoG (*German minimum wage Law*)) due to a breach of the same by Signavio's employees or employees of its subcontractors in the entire delivery/service chain.

## § 7 Insolvency or threatened insolvency of a party to the Agreement

Either party shall notify the other party without delay if

- a) it has made application for the opening of insolvency proceedings or intends to do so in the coming 14 (fourteen) calendar days,
- b) the opening of insolvency proceedings has been applied for by third parties,
- c) it must cease payments by reason of financial difficulties,
- d) in temporal connection with financial difficulties, measures have been taken against it for the satisfaction of claims of third party creditors, or
- e) in temporal connection with financial difficulties, it has consented to agreements for the satisfaction of claims of third party creditors.

## § 8 General Terms

(1) Signavio reserves the right to change provisions of this Agreement. Such change requires the CUSTOMER'S approval. Signavio will notify the CUSTOMER of such change by e-mail or in written form at least 30 (thirty) calendar days before coming into effect. The approval is given automatically if the CUSTOMER does not object the change via e-mail or in written form within 30 (thirty) calendar days



of the receipt. If the CUSTOMER objects, the contractual relationship continues to be governed by the original Agreement terms.

(2) For CUSTOMERS of Signavio, Inc. this Agreement and any action related thereto between the Parties shall be governed, controlled, interpreted and defined by and under the laws of the State of California and the United States of America, without regard to conflicts of laws principles. For CUSTOMERS of Signavio, Inc. the exclusive jurisdiction and venue of any action with respect to the subject matter of this Agreement shall be the state courts of the State of California for the County of Santa Clara or the United States District Court for the Northern District of California and each of the Parties hereto submits itself to the exclusive jurisdiction and venue of such courts for the purpose of any such action. For CUSTOMERS of Signavio Pte. Ltd. the contractual relationship shall be governed, controlled, interpreted and defined by and under the laws of Singapore. For CUSTOMERS of Signavio Pte. Ltd. the exclusive jurisdiction and venue of any action with respect to the subject matter of this Agreement shall be the courts of Singapore and each of the Parties hereto submits itself to the exclusive jurisdiction and venue of such courts for the purpose of any such action. For CUSTOMERS of Signavio ANZ Pty. Ltd. the contractual relationship shall be governed, controlled, interpreted and defined by and under the laws of Australia. For CUSTOMERS of Signavio ANZ Pty. Ltd. the exclusive jurisdiction and venue of any action with respect to the subject matter of this Agreement shall be the courts of Melbourne and each of the Parties hereto submits itself to the exclusive jurisdiction and venue of such courts for the purpose of any such action. For CUSTOMERS of Signavio GmbH and Signavio Schweiz GmbH the contractual relationship shall be governed, controlled, interpreted and defined by and under the laws of Germany. For CUSTOMERS of Signavio GmbH and Signavio Schweiz GmbH the exclusive jurisdiction and venue of any action with respect to the subject matter of this Agreement shall be the courts of Berlin and each of the Parties hereto submits itself to the exclusive jurisdiction and venue of such courts for the purpose of any such action. For CUSTOMERS of Signavio France SAS the exclusive jurisdiction and venue of any action with respect to the subject matter of this Agreement shall be the courts of Paris. For CUSTOMERS of Signavio UK Ltd. the exclusive jurisdiction and venue of any action with respect to the subject matter of this Agreement shall be the courts of London.

(3) The Parties specifically disclaim the UN Convention on Contracts for the International Sale of Goods.

(4) Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. Any waiver of any provision of this Agreement will be effective only if in writing and signed by waiving party.

(5) The CUSTOMER is allowed to transfer this Agreement including all rights and obligations to an affiliated corporation. Affiliation means any entity which is controlled by, is in control of or under common control with the CUSTOMER. For purposes of this definition, "control" means the direct or indirect beneficial ownership of over 50% (fifty percent) of the voting interests (representing the right to vote for the election of directors or other managing authority) in an entity. For CUSTOMERS of Signavio GmbH the above definition of affiliated companies is to be understood in accordance with § 15 AktG [Aktengesetz – Corporation Law]. The CUSTOMER shall inform Signavio in writing about the new contractual partner within a period of 30 (thirty) calendar days before the effective date of the transfer.

(6) Signavio is allowed to transfer this Agreement including all rights and obligations to a corporation of its choice. The transfer will come into effect 30 (thirty) calendar days after the receipt of the transfer notification sent by e-mail to the CUSTOMER. In case of a transfer of the Agreement, the CUSTOMER



has the right for extraordinary termination of the Agreement, which needs to be exercised within 7 (seven) calendar days after receipt of the notification.

(7) Should individual provisions of this Agreement be adjudicated to be unenforceable, the effectiveness of the remainder of this Agreement shall remain unaffected thereby.

(8) Oral arrangements are only valid and applicable if confirmed by both Parties in writing.

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