**Master Project, Support and Maintenance Agreement**

between

**FTP Deutschland GmbH**

Kettwiger Str. 36

45127 Essen

– hereinafter referred to as ***"Contractor"*** –

and

**F.UN Business Services GmbH**

Musterstraße33

22399 Hamburg

Germany

– hereinafter referred to as ***"FBS"*** –

– both hereinafter collectively referred to as the ***"Parties"*** –

Table of Contents

[Preamble 4](#_Toc515455457)

[Part 1: Description of Project 5](#_Toc515455458)

[1. Definition 5](#_Toc515455459)

[2. Scope 8](#_Toc515455460)

[3. Subject Matter of contract 8](#_Toc515455461)

[4. Project Phases 9](#_Toc515455462)

[5. Rights of use to Basic Software 10](#_Toc515455463)

[6. Rights to Use the Individual Software 10](#_Toc515455464)

[7. Source Code Delivery 11](#_Toc515455465)

[8. Project Documentation 11](#_Toc515455466)

[9. Project management and project communication 12](#_Toc515455467)

[10. Training courses 13](#_Toc515455468)

[11. Schedule and deadlines 13](#_Toc515455469)

[12. Place of performance 14](#_Toc515455470)

[Part 2: Project Execution 14](#_Toc515455471)

[13. Principles of cooperation 14](#_Toc515455472)

[14. Cooperation duties of FBS 15](#_Toc515455473)

[15. Sending of written communication 15](#_Toc515455474)

[16. Use of subcontractors 16](#_Toc515455475)

[17. Accident reports 16](#_Toc515455476)

[18. Changes in the scope of work 16](#_Toc515455477)

[19. Acceptance [Abnahme] 17](#_Toc515455478)

[20. Approvals 18](#_Toc515455479)

[Part 3: Provisions for Support and Maintenance Services 20](#_Toc515455480)

[21. Support and Maintenance 20](#_Toc515455481)

[Part 4: Remuneration 21](#_Toc515455482)

[22. Terms and conditions of payment 21](#_Toc515455483)

[Part 5: Miscellaneous Provisions 22](#_Toc515455484)

[23. Contract assignment 22](#_Toc515455485)

[24. Non-disclosure and confidentiality 22](#_Toc515455486)

[25. Data protection and security 22](#_Toc515455487)

[26. Landed Resources 28](#_Toc515455488)

[27. Group-wide procurement 29](#_Toc515455489)

[28. Rights to work results 29](#_Toc515455490)

[29. Third party intellectual property rights 30](#_Toc515455491)

[30. Insurance policies 30](#_Toc515455492)

[31. Open source 31](#_Toc515455493)

[32. Claims based on defects 31](#_Toc515455494)

[33. Quality assurance 31](#_Toc515455495)

[34. Contractual penalties [Vertragsstrafen] 31](#_Toc515455496)

[35. Term and termination 32](#_Toc515455497)

[36. Order of preference 32](#_Toc515455498)

[37. Arbitration clause 33](#_Toc515455499)

[38. Final provisions 34](#_Toc515455500)

[Annex 1 – Individual Workpack Agreement 35](#_Toc515455501)

[Annex 2 – Change Request Form 35](#_Toc515455502)

[Annex 3 – Acceptance Form 36](#_Toc515455503)

[Annex 5 – Statements of Work 38](#_Toc515455504)

[Annex 6 – Approved Subcontractor 39](#_Toc515455505)

[Annex 9 - Contractors Location 57](#_Toc515455506)

# 

# Preamble

FBS is the IT service provider for the whole F.UN Group and, in this role, offers, *inter alia*, services in IT solutions, implementation, upgrades and hardware and software system operation as well as user consultation and customer service at the workplace.

The Contractor is a full service provider of IT consulting and IT project, support and maintenance services.

FBS has conducted a tender regarding certain IT consulting and IT project, support and maintenance services. Contractor has bid for and won one lot of this tender for certain IT project, support and maintenance services.

In order to create a uniform framework for structuring any future projects into which the Parties may enter and to accelerate the future negotiations, the Parties herewith enter into this Master Project, Support and Maintenance Agreement. The Parties shall make individual Agreements (in the following for purposes of specifically agreeing on the works to be rendered by Contractor, referring to this Master Project, Support and Maintenance Agreement. This Master Project, Support and Maintenance Agreement does not give rise to any claim whatsoever to the conclusion of future contracts, including the Workpack Agreements.

NOW THEREFORE, in consideration of the foregoing, the Parties agree as follows:

# Part 1: Description of Project

## Definition

#### All capitalized terms used in this Master Project, Support and Maintenance Agreement and/or the individual Workpack Agreements are defined terms and have the meaning as set out in this section or as defined elsewhere in this Master Project, Support and Maintenance Agreement and/or the respective individual Workpack Agreement (excluding the Attachments of the individual Workpack Agreement).

#### ***“Acceptance”*** has the meaning provided in section 19

#### ***“Basic License”*** has the meaning provided in section 5.1.

#### ***“Basic Software”*** hereinafter refers to a standard software of the Contractor as a part of the IT-System (if the IT System is based on such) and any third party software that is part of such standard software as well as any adaptions thereof within the meaning of § 3 of the German Copyright Act *Urheberrechtsgesetz* (hereinafter ***“UrhG”***). The Basic Software is defined in the respective individual Workpack Agreement.

#### ***“Commissioned Data Processing”*** has the meaning provided in section 25

#### ***“Customer”*** hereinafter refers to the Group Company where the IT-System and the other Project Work has to be implemented. . The Customer is defined in each individual Workpack Agreement.

#### ***“Data Controller”*** means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data. Therefore the Data Controller could be FBS, another service recipient or a Third Party.

#### ***“Data Exporter”*** means the data owner whose data will be processed Offshore by the Data importer.

#### ***“Data Importer”*** means the Service Provider who provides the Offshore services.

#### “***Deliverable***” means any software, documentation or other physical item to be supplied by the Contractor and detailed under an individual Workpack Agreement;

#### ***“Development Documentation”*** hereinafter refers to the internal development handbooks (e.g. configuration of an executable, complete development environment), documentation of the internal release/change management, and the documentation of the configuration management (versions, labels, and historiography) and the operation/maintenance concept of the development environment used by Contractor to fulfill the Project Work. The Development Documentation must be delivered in writing and must contain all information FBS needs to fully exercise all the rights defined in an individual Workpack Agreement including, but not limited to, those in sections 5 and 6 of this Master Project Agreement, without having to rely on Contractor.

#### ***“Functional Specification”*** within the meaning of the Master Project Agreement refers to the Customer´s and/or FBS´s written functional specifications, where the IT System requirements are described and which are attached to each individual Workpack Agreement.

#### “General Technical and Organizational Measures” and “Special Technical and Organizational Measures” have the meaning provided in section 25.4.

#### ***“Group Companies”*** or ***“F.UN SE Group”*** hereinafter refers to F.UN SE and all companies which are – directly or indirectly –affiliated with F.UN SE. The Group Companies are published under the status summary of holdings at <https://www.fun.com/en/about-us/business-units.html>. At the Contractor's request, FBS shall also furnish a hard copy of the Group ownership status summary.

#### ***“Workpack Agreement”*** has the meaning provided in section 2.1.

#### ***“Individual Software”*** hereinafter refers to all software which is programmed for FBS under the respective individual Workpack Agreement including but not limited to all its Interfaces as well as any adaptations thereof within the meaning of § 3 UrhG. In case Basic Software is used, “Individual Software” also includes the adaptions and modifications to the Basic Software including the software of third parties – as the case may be – within the meaning of § 3 UrhG.

#### ***“Interfaces”*** hereinafter refers to the interfaces that the Contractor must create in accordance with an individual Workpack Agreement as well as any adaptations thereof within the meaning of § 3 UrhG.

#### ***“IT System”*** hereinafter refers to the Basic Software and the Individual Software, which need to fully satisfy the requirements under the respective individual Workpack Agreement and the Functional Specifications. In case that no Basic Software is used by the Contractor, the “IT System” only consists of the Individual Software, which needs to fully satisfy the requirements under the respective individual Workpack Agreement and the Functional Specifications. Details about the functions of the IT System and its modules (as the case may be) are described in the respective individual Workpack Agreement and/or the Functional Specifications.

#### “Master Project, Support and Maintenance Agreement” is this agreement including its Annexes.

#### **“*Master Schedule”*** has the meaning provided in section 11.1

#### ***“Nearshore”*** means at Facilities located anywhere within the European Union (EU) or the European Economic Area (EEA).

#### ***“Offshore”*** within the meaning of **Annex 7** to this Master Project, Support and Maintenance Agreement means at Facilities located outside the EU or the EEA. This includes access from outside the EU or the EEA.

#### ***“Onshore”*** means at Facilities located anywhere within the respective country.

#### ***“Personal Data”*** has the meaning provided in section 25. Furthermore, in terms of Art. 4 GDPR Personal Data mean any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.

#### ***“Project”*** hereinafter refers to the implementation of the IT System in accordance with an individual Workpack Agreement.

#### ***“Project Documentation”*** hereinafter refers to all documents the Contractor is obliged to draft and/or deliver pursuant to an individual Workpack Agreement (e.g. application documentation, user handbooks, QA handbook, procedure descriptions etc.)

#### ***“Project Work”*** has the meaning provided in section 3.1

#### ***“Source Code Documents”*** hereinafter refers to a copy of the latest updated source code to the Individual Software (as stored on a data carrier) and a copy of the latest documentation of such source code as well as the Development Documentation, both in written form.

#### ***“Special Categories of Personal Data”*** means information on racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health or sex life. In other European countries other than Germany “Special Categories of Personal Data” might have a different meaning.

#### ***“Statements of Work”*** has the meaning provided in section 3.4.

#### ***“Technical Specification”*** within the meaning of the Master Project Agreement refers to the technical specification to be prepared by the Contractor according to an individual Workpack Agreement that shall fully reflect the duties and requirements under the Functional Specification.

#### ***“UAT”*** (User Acceptance Test) hereinafter refers to a test of the IT System that precedes the Acceptance and that is carried out by FBS and the Customer.

#### ***“Use”*** is above all any permanent or temporary, complete or partial reproduction (copying) as a result of loading, displaying, running, transferring and saving the Basic and Individual Software for purposes of their execution or processing of data that is contained and imported therein. Use also includes the execution of the aforementioned acts for purposes of monitoring, investigating or testing the Basic and Individual Software as well as creation of backup copies of the Basic and Individual Software and of the data that is contained and imported therein.

#### ***“Work Results”*** has the meaning provided in section 28.

## Scope

#### This Master Project, Support and Maintenance Agreement contains general rules, regarding which the Parties may enter into individual contracts regarding future projects (the individual ***“Workpack Agreement***(***s***)***”***). The Parties shall enter into the individual Workpack Agreements pursuant to the “Workpack Agreement Template” annexed to this Master Project, Support and Maintenance Agreement as **Annex 1**. No Party shall be entitled to assert any claim whatsoever for the conclusion of individual Workpack Agreements by FBS or Contractor.

#### Only the contractual relationships between FBS and Contractor shall be governed on the basis of this Agreement. The contractual relationships between FBS and the respective Customer are not subject matter of this Agreement.

#### The Parties’ respective standard terms and conditions do not apply in connection with this Master Project, Support and Maintenance Agreement and the individual Workpack Agreements, even if one Party does not expressly reject the standard terms and conditions of the other Party.

## Subject Matter of contract

#### The individual work to be rendered by Contractor under an individual Workpack Agreement (the **“*Project Work”*** shall be specified by mutual agreement of the Parties in the respective individual Workpack Agreement.

#### In respect of the Project Work to be rendered by Contractor, Contractor shall bear an obligation to produce a success [*Erfolg*] such that the requirements described in the respective individual Workpack Agreement are fully met.

#### The Parties are in agreement that the respective individual Workpack Agreement **must** contain at least the following items:

#### Subject-matter of agreement;

#### Description of the Project Work (including, but not limited to, the description of the IT System – including description of the Basic Software, if any –, the project phases in which the Project Work has to be performed, documentations to be delivered, tests to be conducted); in this respect, the Parties may refer to the Statements of Work, as defined in section 3.4 below, to detail the description of the Project and Project Work;

#### The timelines by which the Project Work or parts thereof shall be performed (Master Schedule);

#### The Customer and the place of performance;

#### The fixed price for the Project Work (and, if agreed by the Parties in an individual Workpack Agreement, a payment plan);

#### Special duties of cooperation on the part of FBS (where applicable);

#### Details for the Commissioned Data Processing (such as data categories, data subjects, processing steps) if they differ from the Details for the Commissioned Data Processing set out in **Annex 7** to this Master Project, Support and Maintenance Agreement.

#### In order to standardize and optimize the conclusion of individual Workpack Agreements further, FBS is – at any time – entitled to draft and deliver generic descriptions of Project Works and/or parts of it that apply in an opt-in format (as set out in the respective individual Workpack Agreement) as well as policies and guidelines applicable and to add them in **Annex 5** (the ***“Statements of Work”***) to this Master Project, Support and Maintenance Agreement.

## Project Phases

#### Unless agreed otherwise between the Parties in an individual Workpack Agreement, the Project Work shall be implemented in three (3) phases: the concept phase, the realization phase and the launch phase.

## Rights of use to Basic Software

#### Contractor hereby grants FBS the non-exclusive, perpetual, geographically unlimited, irrevocable, non-cancelable and transferable right to use the Basic Software in any system environment by an unlimited number of users at the same time (hereinafter the ***"Basic License"***). The Basic License includes particularly the right of FBS to transfer, or make available for download, the Basic Software in tangible or intangible form to Group Companies either gratuitously or for consideration and either for an unlimited or limited period of time. The transfer may be carried out specifically by using a software distribution program for automating installation and de-installation procedures as well as by using remote data transfer and by way of application service providing. In this respect and independently of any given user, a license key may be used for all users. Furthermore, Contractor herby grants FBS the right to have said Basic License used and/or operated by commissioned third parties (if necessary on hardware that is owned by the commissioned third party) for the purposes of FBS and/ or one or more Group Companies.

#### FBS is furthermore entitled to grant Group Companies the non-exclusive right to use the Basic Software in accordance with section 5.1 subject to the limitation that the Group Companies, for their part, may neither transfer or grant sub-licenses.

#### If any new companies join the F.UN SE Group, FBS will be authorized to grant right to such companies in accordance with section 5.2 If a company leaves the F.UN SE Group, then the company will continue to be treated as a Group Company within the meaning of section 5.2.

## Rights to Use the Individual Software

#### The Contractor hereby grants FBS the rights to the Individual Software that are described in section 5.1, subject to the condition that FBS will have the exclusive right of use to the Individual Software.

#### The provisions under sections 5.2 through 5.3 apply *mutatis mutandis* with respect to the Individual Software.

## Source Code Delivery

#### Contractor is obligated to provide FBS with a copy of the Source Code Documents no later than at the time of the Acceptance and to convey title in such Source Code Documents to FBS. Contractor hereby expresses its wish to convey title to the Source Code Documents, and FBS hereby accepts such offer. For purposes of fully transferring the title, Contractor is obligated to physically hand over the Source Code Documents to FBS. The act of physically transferring the Source Code Documents to FBS will give it title to the Source Code Documents. Contractor assures that the Source Code Documents will correspond to the version of the Individual Software at the time of the Acceptance.

#### The Parties agree that the provisions under section 7.1 should apply in the same manner to all future innovations and/or developments to the Individual Software obtained by FBS from Contractor. For each such innovation and/or development, Contractor will be obligated to deliver an updated version of the Source Code Documents to FBS immediately following completion of the innovation and/or development.

#### The Parties may agree in an individual Workpack Agreement that Contractor is also obligated to deliver the source code of the development environment used by Contractor to fulfill the Project Work and all related documentation to it. In this case, sections 7.1 through 7.2 shall apply *mutatis mutandis* on such delivery of the source code of the development environment and the related documentation.

## Project Documentation

#### Contractor is obligated to create and/or deliver all relevant Project Documentation as set out in an individual Workpack Agreement.

#### Unless otherwise agreed in an individual Workpack Agreement, Contractor must provide the relevant Project Documentation in a timely manner prior to the Acceptance of the Project Work under the respective individual Workpack Agreement.

#### Unless otherwise agreed in an individual Workpack Agreement, the Project Documentation must be delivered in a digital or electronic format. In the respective individual Workpack Agreement, the Parties may agree to the language in which the Project Documentation must be provided. If no such agreement has been reached, then the Project Documentation must be delivered in English.

#### With the delivery of the Project Documentation, Contractor is granting FBS the exclusive (the Parties may agree on a non-exclusive right for certain parts of the Project Documentation within an individual Workpack Agreement), perpetual and geographically unrestricted right (transferable only within the F.UN SE Group) to use the Project Documentation, as defined in sections 8.1 through 8.3, for deployment of the IT System and the adaptations related thereto within the F.UN SE Group and, to that end, to make copies of the Project Documentation and to deliver said documentation to the Group Companies either free of charge or for consideration and for a limited or unlimited period of time. Furthermore, Contractor grants FBS the right to adapt and modify the Project Documentation and to use such adaptations in accordance with sentence 1, although in that case, the actual warranty obligations of Contractor will expire.

## Project management and project communication

#### Contractor is obligated during the entire term of an individual Workpack Agreement to perform the project management in coordination with FBS. In connection with the project management, Contractor shall engage in all activities which are necessary to perform the Project Work which are the subject matter of the respective individual Workpack Agreement.

#### Both Parties shall appoint respective project managers for each Project and name them in each individual Workpack Agreement. The project managers shall be available for purposes of clarifying issues and escalations and will be authorized to provide information and issue binding decisions.

#### Neither Party will remove its project manager without first receiving the prior consent of the respective other Party. The other Party will provide its consent, if the removal of the current project manager is urgently required for organizational reasons and if the one Party offers an equally qualified and adequately trained substitute person to serve as project manager.

#### Both the project managers as well as the Contractor´s employees, who are retained for the Project Work, must have adequate qualifications. The Contractor shall not replace individual employees, who are retained for the Project and are in direct contact with FBS, without the prior consent of FBS. If, in well-grounded cases, demanded by FBS, the Contractor is obligated to replace individual employees of the Contractor, who are retained for the Project Work.

#### The Parties may under an individual Workpack Agreement agree to the relevant project language. If no such agreement is reached, then the project language shall be English.

#### In addition and unless otherwise agreed in an individual Workpack Agreement, Contractor is obligated to carry out the project reporting pursuant to the following terms and conditions.

#### Contractor shall inform FBS about the current status of the project, and whether new project risks and/or new findings have emerged regarding preventative measures against project risks. Contractor is also obligated to inform FBS about any items that require a decision on the part of FBS.

#### Unless otherwise agreed in an individual Workpack Agreement, the reporting shall generally be made electronically on a weekly basis. Risks that pose a danger to the project must be reported in writing (in electronic form, unless otherwise agreed) to the FBS project manager without undue delay.

## Training courses

#### FBS is entitled, but not obligated, to demand in accordance with an individual Workpack Agreement that Contractor conducts basic and/or advanced training sessions in exchange for compensation agreed to in the respective individual Workpack Agreement. In this case the Parties will agree on the details of the training (e.g. number, time, location, language) within the respective individual Workpack Agreement.

#### In order to carry out the training courses, Contractor shall provide each trainee with suitable course material. The Parties are in agreement that ownership of the course materials shall pass to FBS when such materials are physically delivered to the trainees.

#### Upon making the delivery, Contractor shall grant FBS the rights of use to the training materials in accordance with section 8.

## Schedule and deadlines

#### The Parties shall mutually stipulate the schedule and timelines by which the Project Work defined in an individual Workpack Agreement must be performed. The schedule in which such timelines are stipulated shall be part of the respective individual Workpack Agreement (the “***Master Schedule***”).

#### If, as the project progresses, it is determined that the agreed Master Schedule is at risk of not being met, then the project managers of the Parties shall without undue delay inform one another thereof in writing (electronically, unless an individual Workpack Agreement prescribes otherwise).

#### In the event that a situation, for which only FBS or the Customer solely is responsible, causes an inability to meet a timeline as set out in the Master Schedule, then the Parties shall in this regard agree on a new timeline and amend the Master Schedule in accordance with Section 18.

## Place of performance

#### Unless otherwise expressly agreed to in an individual Workpack Agreement, the Contractor shall perform the Project Work defined in the respective individual Workpack Agreement in accordance with the legal requirements at Contractor’s business places, the Customer’s business places and FBS’s business places. The Contractor’s business places mean the Contractor’s locations approved by FBS and listed in **Annex 9** to this Master Project, Support and Maintenance Agreement. The Contractor’s locations listed in **Annex 9** are deemed to be approved by FBS. Contractor may not perform the Project Work at other places of his own without the prior written consent of FBS not to be unreasonably withheld.

# Part 2: Project Execution

## Principles of cooperation

#### The success of each project requires the close cooperation of the Parties. For this reason, the Parties hereby declare, in accordance with the statutory provisions, their unconditional willingness to be considerate to one another, to share comprehensive information, to give precautionary warnings about risks and to provide protection against disruptive influences by third parties. A corporate partnership between the Parties is not thereby established.

#### The Parties agree that as of the date this Master Project, Support and Maintenance Agreement and each individual Workpack Agreement is concluded, not all issues from a technical, commercial and legal perspective can be covered and regulated. If, in case of a project impediment or based on an agreement, the further performance of the respective individual Workpack Agreement should prove to become unreasonable for one of the Parties, then the Parties shall implement a change request procedure as defined in section 18.

#### FBS ascribes a very high level of importance to social responsibility in connection with business activities and is therefore a participant in the initiative, "United Nations Global Compact". The initiative is based on ten fundamental principles, which are intended to make globalization more social and economically responsible and to prevent corruption. The bulletin, "Principles of Responsible Procurement at F.UN", describes the principles of the UN Global Compact and can be downloaded from the following website <https://www.fun.com/en/about-us/sustainability/strategy.html>. Contractor agrees to comply with these principles.

## Cooperation duties of FBS

#### Cooperation duties of FBS are derived from the principles set forth in section 13 and are stipulated exclusively in a definitive listing of duties of cooperation in the respective individual Workpack Agreement and – as the case may be – in the Statements of Work.

## Sending of written communication

#### Unless otherwise expressly provided in an individual Workpack Agreement, all written communication, from FBS to the Contractor in connection with the project implementation, shall be sent by mail to the respective designated project manager of Contractor as named in the respective individual Workpack Agreement.

#### All written communication, from FBS to Contractor which relate to the Master Project, Support and Maintenance Agreement or an individual Workpack Agreement, such as contract modifications and inquiries about changing the scope of work under section 18, shall be sent via mail by FBS to Contractor to the following address:

**F.UN Business Services GmbH**

Department Vendor and Contract Management

Unfallstraße 5

22399 Hamburg Germany.

#### Unless otherwise expressly provided in an individual Workpack Agreement, all written communication, from Contractor to FBS in connection with the project implementation, shall be sent by mail to the respective designated F.UN project manager as named in the respective individual Workpack Agreement.

#### All written communication, from Contractor to FBS which relate to the Master Project, Support and Maintenance Agreement or an individual Workpack Agreement, such as contract modifications and inquiries about changing the scope of work under section 18, shall be sent via mail by Contractor to FBS to the following address:

**F.UN Business Services GmbH**

Department Vendor and Contract Management

Unfallstraße 5

22399 Hamburg

Germany.

1. **Use of subcontractors**

#### Contractor may not use any subcontractors without the prior written consent of FBS not to be unreasonably withheld. For the avoidance of doubt, Affiliates to the Contractor are deemed to be subcontractors in the meaning of this section. The

#### subcontractors listed in **Annex 6** are deemed to be approved by FBS.

## Accident reports

#### If subcontractors within the meaning of section 16 or an employee of the Contractor should suffer an accident going to or coming from the job site (job commute accident) or at the job site in connection with the Project Work owed under an individual Workpack Agreement (occupational accident), then the Contractor will be obligated to inform the onsite security personnel of FBS in writing about the additional details.

## Changes in the scope of work

#### FBS is entitled to request changes to the scope of the Project Work agreed in the respective individual Workpack Agreement at any time prior to its Acceptance. A change in the scope of the Project Work will be deemed to exist, if the Project Work, which Contractor should provide, is different from that prescribed in the respective individual Workpack Agreement and such discrepancy existed at the time the respective individual Workpack Agreement was concluded. The procedure for handling and compensation for change requests shall be as set out in sections 18.2 through 18.6 to follow such procedure; the Parties shall use the Change Request. Form attached to this Agreement as **Annex 2**.

#### If FBS seeks a change in the scope of the Project Work, then the change must be documented by Contractor in a change list, which shall be maintained for each individual Workpack Agreement and identified with a sequential letter.

#### Contractor is obligated to evaluate the change request with respect to the impact on the overall project (such as additional costs or cost reductions, agreed timelines and/or the Functional Specification) as well as the advantages and disadvantages for the project and specifically any risks for the Project Work and to communicate without undue delay this evaluation to FBS in writing. In this written communication, alternatives must also be shown which would help to achieve the results desired by FBS in a more cost-favorable and/or effective manner. The above evaluation by Contractor shall be free of costs for FBS.

#### The remuneration of any additional expenses caused by the change request has to be agreed between the Parties and shall be provided at a fixed price. At the request of FBS, the compensation may also be provided on the basis of time and material. In the latter case, agreed hourly rates will apply.

#### The scope of the Project Work will be changed only if the Parties thereupon agree to the change in the way **Annex 2** describes. In the absence of any such agreement, the agreed timelines, remuneration and Project Work description will in any case remain the same.

#### The Contractor shall continue to perform its obligations under the relevant individual Workpack Agreement during the change request procedure set forth above, unless explicitly instructed otherwise by FBS. The Contractor shall inform FBS in writing without undue delay, if any Project Work to be performed by the Contractor prior to the end of the change request procedure would be rendered useless if the change request is observed.

## Acceptance [*Abnahme*]

#### FBS shall issue its formal acceptance of the Project Work (***“Acceptance”***) under each individual Workpack Agreement according to the following terms and conditions.

#### Unless otherwise agreed in an individual Workpack Agreement, FBS will not issue its Acceptance unless and until Contractor has completely performed the Project Work which is subject matter of an individual Workpack Agreement.

#### Prior to the Acceptance, Contractor must grant FBS a possibility, for a period of at least eight weeks (unless otherwise agreed in an individual Workpack Agreement), to carry out and conclude the UAT, also with the involvement of the Customer. As part of the UAT, test cases will be conducted on the basis of the Functional Specification. After completion of the Project Work, Contractor must notify FBS in writing regarding a willingness to carry out the UAT.

#### The Parties agree that an obligation on the part of FBS, to execute an acceptance will exist only if all UATs have shown that the IT System has no defects (unless otherwise agreed in an individual Workpack Agreement).

#### Contractor shall take the precautionary measures that are required for an Acceptance and shall provide FBS with all necessary and practicable support for carrying out the Acceptance specifically also with respect to an acceptance that Customer may declare to FBS.

#### The Acceptance must be declared only by using the form annexed to this Agreement as **Annex 3** and in the way such form describes.

#### Above all, the use of the Project Work on the productive system will not constitute an Acceptance of the Project Work that is the subject matter of an individual Workpack Agreement.

## Approvals

#### To the extent that FBS is required to issue an approval under the provisions of an individual Workpack Agreement, any such action will not be deemed an acceptance or partial acceptance within the meaning of the law.

#### If an approval by FBS is required under an individual Workpack Agreement, then such approval will be a prerequisite for the commencement of any of the work requiring approval. FBS may render its approval in its own discretion, taking into account the work performed by Contractor and the progress of the project. There is no right to demand that FBS issues an approval.

#### If Contractor commences work without a required approval from FBS, then it assumes the risk associated with doing that. In that case, Contractor will in particular not have any claim to

#### remuneration for such services, unless FBS has issued the approval after the fact;

#### remuneration for additional expenses incurred;

#### remuneration for follow-up work related to the services that were not approved.

#### FBS shall issue the approvals exclusively in writing.

# Part 3: Provisions for Support and Maintenance Services

## Support and Maintenance

#### The Parties agree that FBS is entitled to order Support and Maintenance Services in addition to the Project Work under an individual Workpack Agreement to the conditions regulated in each Workpack Agreement. In addition to the regulations in the individual Workpack Agreement, the following provisions of this Master Project, Support and Maintenance Agreement apply for the provision of the Support and Maintenance Services:

#### 1, 4.15.3, 6.2, 11.3 to 17.1 and 22 to 37.5

# Part 4: Remuneration

## Terms and conditions of payment

#### The remuneration for all Project Work under an individual Workpack Agreement (including the granting of rights of use to the IT System and the related adaptations thereof and to the Technical Specification, the Project Documentation, Source Code Documents, the training materials and all Work Results as defined in this Master Project, Support and Maintenance Agreement or an individual Workpack Agreement) is stipulated in the respective individual Workpack Agreement.

#### Unless otherwise agreed in an individual Workpack Agreement, the Parties agree on a fixed price and this fixed price is a system price irrespective of the number of users, number of the locations and the number of workstations from which or at which the IT System and the related adaptations thereof or any other Project Work are used.

#### The Contractor shall issue an invoice for each Project Work to be performed under an individual Workpack Agreement once FBS has declared the formal Acceptance as set out in section 19. Unless otherwise agreed in an individual Workpack Agreement, FBS shall pay the invoice within 45 calendar days until the end of a given month net, due on the 5th of a month from receipt thereof without deduction, by transfer to the Contractor`s bank account. Any applicable local value added taxes, sales taxes or other similar taxes imposed are chargeable in addition to FBS. In case the VAT reverse charge mechanism is applicable, the Contractor issues a net invoice with a notification of the applicability of the reverse charge procedure. Original invoices – quoting order numbers and attaching invoice documentation – must be sent via eMail or (but only in case the electronic transfer is not possibe) in paper form to the administrative offices of FBS.

#### .

**F.UN Business Services GmbH, Rechnung**

**Postfach 999999**

**D- 23552 Lübeck**

**Germany**

**eMail invoice-ger @fun.com**

In addition to the a.m. invoice address the recipient of benefits [*”Leistungsempfänger”*] needs to be mentioned as follows:

F.UN Business Services GmbH, Musterstraße. 33, D-22399 Hamburg, Germany

# Part 5: Miscellaneous Provisions

## Contract assignment

#### The rights and duties of both Parties under this Master Project, Support and Maintenance Agreement and each individual Workpack Agreement may not be transferred – either in whole or in part – to a third party without the prior express written consent of the respective other Party.

#### The Contractor may refuse to grant its consent only if the transfer of rights and duties of FBS to the third party would place the Contractor in worse contractual position or the Contractor has justified concerns about the third party’s commercial ability to perform.

#### Notwithstanding, FBS may transfer the rights and duties of both Parties under this Master Project, Support and Maintenance Agreement and each individual Workpack Agreement to a Group Company without additional consent.

## Non-disclosure and confidentiality

#### Both Parties are obligated to treat as confidential all business and trade documents made available to it, and to specifically ensure that third parties cannot gain access to such documents. The documents, which are made available, must be returned (1) upon request during the term of this Master Project, Support and Maintenance Agreement and/or the individual Workpack Agreements and (2) unbidden after the respective agreement has ended.

#### Both Parties are obligated not to disclose any information, to which they become aware of in connection with its work, irrespective of whether the information relates to the respective other Party (and/or the Customer) itself or to their business connections, unless the issuing Party has previously released the receiving Party in writing from such duty of non-disclosure.

#### The duties under sections 24.1 through 24.2 will not be affected by the expiration or termination of the Agreement.

## Data protection and security

#### Provided that the compliance with the contractual data protection requirements and applicable law on data protection is given, FBS authorizes the Contractor to collect, process and use the Personal Data provided to the Contractor and to do so at the instructions of FBS (hereinafter "Commissioned Data Processing") from the date each individual Workpack Agreement enters into effect until all Project Work under such respective individual Workpack Agreement are fully completed. The personal data (hereinafter "***Personal Data***") and the processing steps, which are subject to the Commissioned Data Processing under this Master Project, Support and Maintenance Agreement, are set out in **Annex 7** to this Master Project, Support and Maintenance Agreement . If personal data and/ or processing steps that are not listed in **Annex 7** to this Master Project Agreement are subject to the Commissioned Data Processing in an individual Workpack Agreement, then those have to be set out in the respective individual Workpack Agreement. The access to data files and the right to Commissioned Data Processing will be granted only if and to the extent that it is required to duly perform the duties stipulated in **Annex 7** to this Master Project, Support and Maintenance Agreement, unless otherwise expressly agreed to in an individual Workpack Agreement. In case of a conflict between the following sections 25.2 – 25.22 and **Annex 7, Annex 7** will prevail.

#### Within each individual Workpack Agreement the Contractor shall process Personal Data of FBS and/or the Customer on behalf of FBS as a data processor in accordance and within the meaning of commissioned data processing [*Auftragsdatenverarbeitung*] under § 28 of the General Data Protection Regulation (hereinafter “*GDPR*”). FBS and/or the Customer will continue to remain the owner/data controller of the Personal Data, even if such data is processed on behalf of FBS. The Contractor will not have a right of retention regarding the Personal Data including the data carriers. Contractor shall not be entitled to start with the Processing of Personal Data, before compliance with the contractual data protection requirements and applicable law on data protection is given. Within its sphere of responsibility Contractor shall undertake all necessary steps and actions in good time in order to comply with the contractual data protection requirements and applicable law on data protection.

#### The Contractor is only entitled to engage in processing the Personal Data pursuant to the instructions issued by FBS. If the Contractor believes that an instruction issued by FBS violates the statutory provisions regarding data protection, then it must notify FBS thereof without undue delay.

#### The Contractor is exclusively entitled to undertake the processing and use of the Personal Data within the territory of the Federal Republic of Germany, a Member State of the European Union or in another Contracting State of the Agreement on the European Economic Area only. Each and any relocation to a country other than those stated above is only permitted if and when the special requirements of Art. 44, 49, 45, 46, 47, 49 GDPR – as well as applicable national data privacy provisions of other affected countries – are fully satisfied and if and when all the additional requirements of **Annex 7** to this Master Project, Support and Maintenance Agreement are fully met.

#### In connection with the Commissioned Data Processing, the Contractor guarantees sufficient data protection to ensure the confidentiality, availability and accuracy of the data and, agrees to monitor the compliance with the technical and organizational security measures as set out in Annex 4 to this Master Project, Support and Maintenance Agreement (hereinafter the “***General Technical and Organizational Measures***”). If and to the extent additional or other technical and organizational security measures (i.e. in addition or amendment to the General Technical and Organizational Measures, hereinafter the “***Special Technical and Organizational Measures***”) are needed for a specific Project Work, the Parties shall agree on such special technical and organizational security measures in an individual Workpack Agreement. For the avoidance of doubt: The technical and organizational measures as set out in Annex 7, lit. 3a shall apply in Contractors sphere of responsibility, whereas in all other cases this section 25.5 shall apply.

#### Furthermore, the Contractor warrants that Personal Data collected for different purposes will be capable of being processed separately. In addition, the Contractor warrants that the following data will be processed separately:

#### the data of FBS,

#### the data of the Contractor and

#### the data of the Contractor's other customers.

#### Prior to the commencement of the Commissioned Data Processing and thereafter regularly every 12 months and additionally at any time upon request by FBS, the Contractor shall furnish written proof that it is complying with the General and/or Special Technical and Organizational Measures and/or the technical and organizational measures as set out in Annex 7 lit. 3a to this Master Project, Support and Maintenance Agreement.The Contractor is obligated to provide the proof to FBS in the form of written documentation in such form and detail that FBS is able to comply with the inspection duties imposed on it pursuant to Art. 28 GDPR.

#### Because of the technical advancement and the development of anticipated legislation, it may be necessary to adapt the General and/or Special Technical and Organizational Measures in place and/or the technical and organizational measures as set out in Annex 7 lit. 3a to this Master Project, Support and Maintenance Agreement to such technical advancement and legislative developments.In this respect, the Contractor is entitled to implement adequate alternative technical and organizational measures in order to adapt to the technical advancement. The security level must not fall short of that agreed with FBS.

#### The Contractor is obligated to implement the necessary adaptations to the technical and organizational measures to meet the changed legal specifications without undue delay.

#### The essential adaptations must be documented by the Contractor and FBS must be informed without undue delay.

#### No later than at the commencement of the Commissioned Data Processing, the Contractor must appoint a data protection officer [*Datenschutzbeauftragten*] in accordance with the provisions under Artikel 37, 38 und 39 GDPR and any other national applicable law on data protection. This data protection officer must provide proof of his or her requisite professional competence and reliability and must endeavor to promote compliance with the provisions regarding data protection as codified in Artikel 37, 38 und 39 GDPR.

#### In the case that, due to the requirements under national applicable law, Contractor is obliged to appoint more than one (1) data protection officer, Contractor shall, subject to FBS’s prior approval, appoint one of such data protection officers to be the single point of contact for the Data Controller with respect to all matters relating to data protection and data Processing. Contractor shall promptly inform FBS in writing of any changes of such data protection officers, it being understood that Contractor may replace the data protection officer appointed as the single point of contact for FBS only with FBS’s prior approval.

#### As the responsible office, FBS is competent for assessing the reliability of the data processing as well as for protecting the rights of the impacted persons under the data protection laws. In the event that FBS directs the Contractor to make a correction, deletion and blockage of Personal Data in accordance with the requirements of Art. 5 Sect. 1 d) and e), Art. 16, Art. 12, Art. 19, Art. 17, Art. 18 and EG 65 GDPR, the Contractor will be obligated to fully adhere to such directive.

#### If a data subject [betroffene Person] asserts rights against FBS or Customer, then the Contractor shall without undue delay take any and all actions required to satisfy the obligations owed to the data subject.

#### Subject to mandatory local applicable law, the Contractor grants FBS (and specifically its data protection officer) or a third party delegated by FBS the right at any time – during normal working hours – to monitor, without hindrance, whether the Commissioned Data Processing is being conducted in accordance with the data protection provisions, the terms and conditions of this Master Project, Support and Maintenance Agreement and the respective individual Workpack Agreement and the directives issued by FBS. This right to perform said audit rights for any purpose regarding Commissioned Data Processing extends to the Approved Subcontractors of the Contractor. The audit takes place either at Contractor’s and Approved Subcontractors location(s) or remotely. A remote Audit can be done –as requested by FBS – in particular in the form of a written self-assessment, a remote PC session or in form of a verbal interview by telephone or collaboration tool. In any audit FBS has the right to use general audit software and other reporting tools against the data files/or databases.

#### The Contractor and Approved Subcontractors agree to provide FBS with the requisite amount of support, in particular by furnishing the necessary documents and all other information required by FBS and by taking any and all actions required therefore and by granting the requisite physical access, systems access and data access rights and by providing all proof required to that effect as well as knowledgeable staff. FBS is entitled to carry out the aforementioned monitoring by also relying on third parties (specifically those who are authorized to conduct such monitoring vis-à-vis FBS, e.g. contractors and regulatory authorities).

#### After the completion of the Commissioned Data Processing, the Contractor will be obligated without undue delay to deliver all Personal Data, which it has in its possession, to FBS. This also includes Personal Data which was created for data backup and logging. After the Personal Data is transferred to FBS, the Contractor must without undue delay destroy any remaining data in accordance with the data protection provisions.

#### In the event that a subcontractor – which may be engaged in accordance with the provision under section 16 – is engaged with commissioned data processing of Personal Data, the Contractor will be obligated to carefully select the subcontractor and prior to engaging the subcontractor, must convince itself that the subcontractor can comply with all duties imposed on the Contractor under this section 25. The Contractor is also obligated to impose upon the respective subcontractor those duties memorialized in this section 25, subject to the condition that the subcontractor will be deemed to have assumed the Contractor’s contractual rights and duties. The Contractor must also contractually ensure that all rights memorialized in this section 25 can be protected and enforced either by the Contractor at the direction of FBS or by FBS itself. In the event that the Contractor protects and enforces the rights at the instruction of FBS, the Contractor will be obligated to forward all information, specifically documentation and monitoring results, to FBS without undue delay. At the request of the FBS data processing agent, the Contractor will be obligated to prove in writing that the duties set forth in this section 25.16 have been satisfied.

#### The Contractor is obligated to ensure that it communicates the instructions from FBS to all employees who have access to the Personal Data in connection with the performance of the duties that are the subject matter of the respective individual Workpack Agreement. Moreover, the Contractor is obligated in accordance with Art. 29 GDPR to prohibit such employees – even for the period following their employment – from processing or otherwise using the Personal Data, in contravention of the instructions of FBS, for purposes other than those related to performing the contractual duties under the respective Workpack Agreement (data secrecy). The obligation to maintain data secrecy shall be imposed upon the employees before the Commissioned Data Processing is commenced. The Contractor owes a duty to the FBS data protection agent to prove in writing (upon request) that this obligation has in fact been imposed.

#### If the Contractor or any persons or subcontractors deployed by it violate any rules regarding the protection of Personal Data, breach the terms documented under this section 25 or if there is a justified suspicion that the aforementioned rules and provisions have been violated, then the Contractor must without undue delay provide written notice thereof to FBS or to a person authorized by FBS. The aforementioned also specifically includes any facts related to unlawfully acquiring knowledge of data within the meaning of Art. 85 and EG 153 GDPR.

#### If an audit report reveals that the Contractor, Approved Subcontractors or any Third Party used by Contractor to render the Services are not in compliance with any Applicable Law, Internal Controls@F.UN, or other audit requirement applicable to Contractor pursuant to this Agreement, Contractor shall take, and shall cause, Approved Subcontractors or such Third Party to take, prompt actions to comply with such law, rules and other audit requirements.

#### Contractor shall bear all costs and expenses to implement any such remediation of deficiencies related to the contracted Services that is:

#### a) Required by any applicable law, Internal Controls@F.UN or other audit requirement relating to the Services or

#### b) Necessary due to Contractor's non-compliance with any such law, rule or other requirement.

If the Contractor culpably breaches its contractual duties of confidentiality and data protection under this Master Project, Support and Maintenance Agreement, then Contractor agrees to pay a contractual penalty as set out in §10, Annex 7. The contractual penalty is payable immediately after it is incurred.

#### If the security and confidentiality of the Personal Data held by the Contractor should be threatened by attachment or confiscation, by insolvency or composition proceedings or by other events or actions taken by third parties, then the Contractor must inform FBS thereof without undue delay. The Contractor shall without undue delay notify all responsible persons in this connection that FBS has dominion over and ownership of the information.

#### The provisions under sections 25.1 through 25.19 apply mutatis mutandis, if the Contractor inspects or maintains the automated procedure or data processing equipment based on a job commissioned by FBS and it can therefore not be guaranteed that the Personal Data of FBS and/or Customer will not be accessed.

#### Sections 25.1 through 25.20 shall apply *mutatis mutandis* (again) in the event Contractor processes data within its liability for defects. Notwithstanding the foregoing, the duties under sections 25.1 through 25.20 will not be affected by the expiration or termination of this Master Project, Support and Maintenance Agreement or the respective individual Workpack Agreement. The aforementioned also applies, above all, to the obligation to maintain data secrecy.

#### FBS is authorized to permit a reliability check [*Zuverlässigkeitsprüfung*] of the Contractor’s service providers in accordance with § 12b of the German Nuclear Act [*Atomgesetz*] (“***AtomG***”), if such persons provide services that are related to the handling or transport of radioactive substances or to the installation and operation of facilities within the meaning of § 7, § 11 (1) no. 2, or § 9a (3) AtomG. The Contractor agrees to furnish the service provider data that is required for these purposes.

## Landed Resources

#### The Contractor is entitled to render the Project Work as defined in the respective individual Workpack Agreement with resources from EU or the EEA (so called “EU-Resources”) and with resources from Offshore which will render the services within the EU or EEA (so called „Landed Resources“), provided that the legal requirements for the deployment of each Landed Resource are fully met. This means in particular:

#### The Contractor shall provide FBS upon request beforehand and in writing with information about the name, the nationality and a copy of the valid labor permit as well as a valid residence authorization of every landed resource that shall perform Project Work under the respective individual Workpack Agreement and the Contractor shall ensure that only these Landed Resources shall be delivering Project Work for FBS.

#### Landed Resources shall perform the Project Work under the individual Workpack Agreement only in accordance with the instructions of the Contractor or an approved subcontractor of the Contractor that is seated within the EEA. This means that for the duration of the performance of the Project Work under an individual Workpack Agreement the Landed Resource shall - with respect to the performance of the Project Work under the respective individual Workpack Agreement- not be bound by the instructions of an affiliated company of the Contractor that is located outside of the EEA.

#### Furthermore, Landed Resources shall be bound by all internal policies and operating instructions of the aforementioned Contractor or subcontractor seated within the EEA and shall be integrated into its organizational structure.

#### They shall only be using equipment from the Contractor and/ or approved subcontractor seated in the EEA or FBS for the delivery of the Project Work under the individual Workpack Agreement and are under no circumstances entitled to take this equipment physically outside the EEA or access it from outside the EEA.

#### For the duration of the performance of the Project Work under an individual Workpack Agreement, the Landed Resources shall only be working within the territory of the EEA and shall be working for the Contractor and/ or approved subcontractor seated in the EEA only.

#### If the requirements of this provision are not fully satisfied or until they are satisfied, the resources shall not be considered as Landed Resources, but as Offshore resources, which means that they are not allowed to process Personal Data until the additional requirements of provision 24.3 and the **Annex 7** to this Agreement are fully met.

#### FBS or a designated third party auditor is entitled but not obliged to conduct an audit with respect to the fulfillment of the requirements in this provision.

## Group-wide procurement

#### FBS is authorized to disclose data, which is furnished by the Contractor in connection with the order, to companies of the F.UN SE Group for purposes of the "Group-wide procurement" and to save such data beyond the expiration or termination of a contract in accordance with applicable data retention rules or for other possible job orders.

## Rights to work results

#### The Contractor shall grant FBS the exclusive, perpetual, irrevocable, uncancellable and transferable right to use – in any and all forms – all work results which are created for Contractor in connection with an individual Workpack Agreement; these rights include the rights to the agreed intermediate results and resources (all such results and intermediate results together the “Work Results”). Furthermore, Contractor grants FBS the right to share the Work Results with third parties either gratuitously or for consideration and either for an unlimited or limited period of time. Contractor also grants FBS the right to adapt the Work Results and to use the adaptations in accordance with sentences 1 and 2. The provisions under sections 5, 6, 8.4 and 10.3 of this Master Project, Support and Maintenance Agreement remain unaffected thereof.

## Third party intellectual property rights

#### The Contractor warrants that the Project Work is free and clear of any third party rights and that its contractual use will not infringe any patents, copyrights or other intellectual property rights of third parties. The Contractor shall, upon first demand, indemnify FBS with respect to all demands and claims, which are enforced on the basis of an infringement of such third party rights. In the event that FBS engages in defensive measures against the enforcement of demands and claims based on the infringement of third party rights or enters into negotiations with respect thereto, the Contractor will be obligated to use its best efforts in supporting FBS and to reimburse all defense costs and other damages incurred.

#### The Parties are obligated without undue delay to inform one another in writing, if claims are asserted against them based on an infringement of intellectual property rights in connection with the Project Work which are the subject matter of an individual Workpack Agreement.

#### If the Project Work or the use thereof infringe third party rights, then the Contractor shall either procure the right of unrestricted use for FBS or without undue delay modify the Project Work in question at its own cost such that such Project Work can be delivered without infringing such intellectual property rights and still satisfying the requirements under an individual Workpack Agreement. More extensive claims and rights held by FBS shall not be affected thereby.

## Insurance policies

#### The Contractor must maintain liability coverage upon terms and conditions customary in the sector to cover personal injury, property damage and pecuniary losses with a coverage amount of at least EUR 1.5 million per claim (unless otherwise agreed in an individual Workpack Agreement), which also includes damages resulting from producing and supplying the Project Work. The Contractor is obligated to maintain such insurance coverage at least until the end of all obligations arising under this Master Project, Support and Maintenance Agreement and each individual Workpack Agreement. Proof of the insurance policy must be provided at the time this Master Project, Support and Maintenance Agreement is concluded.

## Open source

#### In the event the Contractor is directed by F.UN in writing to use Open Source Software in the Deliverables, the Contractor shall use such Open Source Software as an agent of F.UN, and any open source licensing shall be between F.UN and the open source licensor. For the avoidance of doubt the Parties hereby agree that in case F.UN did not explicitly request Contractor in writing to use Open Source Software, Contractor is not allowed to use Open Source Software in the Deliverables at all.

## Claims based on defects

#### The Contractor will be liable for any defects in the Project Work in accordance with the statutory provisions.

## Quality assurance

#### The Contractor is obligated to adhere to all FBS policies and guidelines as stated in this Master Project, Support and Maintenance Agreement or an individual Workpack Agreement.

## Contractual penalties [*Vertragsstrafen*]

#### The Parties may agree on contractual penalties within an individual Workpack Agreement for the case that Contractor fails to meet key milestones as defined in the Master Schedule in the individual Workpack Agreement based on reasons for which Contractor is responsible and thereby is in performance default [*Verzug*]. In any case, the overall amount of contractual penalties for each individual Workpack Agreement shall not exceed five percent (5%) of the respective remuneration under such individual Workpack Agreement

## Term and termination

#### This Master Project, Support and Maintenance Agreement shall commence on the date it is duly signed by both Parties. The term of this Master Project Agreement ends on the 31.12.2018 unless terminated by either Party in accordance with the provisions as set out below. The Contractor grants FBS the irrevocable option to extend the term of the Master Project, Support and Maintenance Agreement by up to one additional year under the same conditions.

#### FBS may exercise this option at any time by sending a written notice to the Contractor at least 30 calendar days before the expiry date of the Master Project, Support and Maintenance Agreement.

#### The Parties shall agree on the term of each individual Workpack Agreement in such individual Workpack Agreement.

#### The Parties have the right to exercise extraordinary termination of this Master Project, Support and Maintenance Agreement (without notice) for good cause. In addition, this Master Project, Support and Maintenance Agreement may be terminated in writing by either Party upon three (3) months prior notice without cause.

#### In case of a termination of this Master Project, Support and Maintenance Agreement all individual Workpack Agreements shall remain unaffected and in force.

#### If FBS terminates an individual Workpack Agreement, the Contractor shall grant FBS the rights of use as set out in this Master Project, Support and Maintenance Agreement to all Work Results created under such individual Workpack Agreement by Contractor until termination and the Contractor shall be compensated for the services performed and in progress up to the effective date of termination of this Master Project, Support and Maintenance Agreement and/or the individual Workpack Agreement.

## Order of preference

#### The contractual agreements have the following order of preference:

#### - The Individual Workpack Agreement(s) excluding Attachments

#### - This Master Project, Support and Maintenance Agreement excluding Annexes

#### - The Annexes to this Master Project, Support and Maintenance

#### - The Attachments of the individual Workpack Agreement(s)

#### - Statutory provisions

#### For purposes of clarity, the Parties hereby note that an individual Workpack Agreements may only derogate from the provisions of this Master Project, Support and Maintenance where the Master Project, Support and Maintenance expressly permits a different rule. Furthermore, in cases of conflict, the rules and provisions set forth higher in the aforementioned list will always take precedence over those set forth lower on that list. Any gaps or omissions will be constructively filled by referring to the rules and provisions set forth lower on the aforementioned list. The same rule of construction applies to amendments contained in the rules and provisions set forth lower on the list. For documents listed at the same level of precedence, the more recent document will take precedence over the older document.

## Arbitration clause

#### The Parties shall use their best efforts to bring about an out-of-court resolution to any differences of opinion arising from and connected with this Master Project, Support and Maintenance and any individual Workpack Agreement by engaging in direct, informal and fair negotiations.

#### If, however, the Parties are unable to reach an out-of-court resolution on the differences of opinion, then they agree to have any and all disputes arising from or connected with this Master Project, Support and Maintenance and any individual Workpack Agreement finally decided in accordance with the Arbitration Rules of the German Institute of Arbitration [*Deutsches Institut für Schiedsgerichtsbarkeit e.V.*] by three arbitrators appointed pursuant to the foregoing rules, to the exclusion of the ordinary courts of laws. The Parties recognize the arbitral award as final and binding.

#### The provisions under §§ 1025 et seq. of the German Code of Civil Procedure [*Zivilprozessordnung*] (hereinafter “***ZPO***”) will govern the arbitration procedures, unless the Arbitration Rules cited in section 37.2 provide otherwise.

#### If an arbitration proceeding is pending between FBS and Customer and such proceeding impacts the Project Work under an individual Workpack Agreement, then FBS will be entitled to serve third party notice [*Streitverkündung*] about the dispute upon the Contractor. The Parties are in agreement that with respect to the requirements, form and effect of the third party notice, the statutory provisions under §§ 72 et seq. ZPO will apply mutatis mutandis. In addition, the Parties are in agreement that the third party notice in the arbitration proceedings will have all the same substantive law effects as a third party notice in court of law proceedings, specifically with respect to the tolling of any statute of limitations pursuant to § 204 (1) no. 6 BGB.

#### The venue for the arbitration proceedings is Hamburg. The language of the arbitration proceedings will be German.

## Final provisions

#### If, under the terms of an individual Workpack Agreement, documents must be delivered to FBS, such documents must be provided – unless otherwise agreed in an individual Workpack Agreement – in the English language and in the versions of MS-Office and MS-Project as used by FBS. Unless this Master Project, Support and Maintenance or an individual Workpack Agreement expressly provides otherwise, all documents defined in sentence 1 must be delivered at least electronically.

#### No ancillary agreements were reached. All agreements, which contain a modification, addendum or specification to this Master Project, Support and Maintenance, must be made in writing to be valid. The foregoing rule also applies to a rescission of this writing requirement.

#### Annexes 1 through 9 are incorporated by reference into this Master Project, Support and Maintenance.

#### The laws of the Federal Republic of Germany govern, to the exclusion of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980.

#### Should any one or more provisions of this Master Project, Support and Maintenance be or become invalid or should this Master Project, Support and Maintenance contain contractual gaps, then the validity of the remaining provisions of this Master Project, Support and Maintenance will not be affected thereby. In this case, the Parties agree to work towards reaching a valid agreement, which would most closely reflect economically the invalid or omitted agreement, had the Parties known of its invalidity or omission.

Essen, dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Hamburg, dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ FTP F.UN Business Services GmbH

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Annex 1 – Individual Workpack Agreement

to the Master Project, Support and Maintenance Agreement concluded between FBS and [FTP Deutschland GmbH]

# Annex 2 – Change Request Form

# Annex 3 – Acceptance Form

to the Master Project, Support and Maintenance Agreement concluded between FBS and FTP Deutschland GmbH]

**Acceptance Form**

|  |  |
| --- | --- |
| Project: | [please identify] |
| Contractor: | FTP Deutschland GmbH |
| FBS Company: | FBS GmbH  Musterstraße 33  D-22399 Hamburg |
| Customer: | [please identify] |
| Contract: | [designation of the contract] dated [date] |
| Contract amendments: | [designation of the contract amendment] dated [date]  [designation of the contract amendment] dated [date]  [designation of the contract amendment] dated [date] |
| This form is being used for the Declaration of  ¨ Final Formal Acceptance | |

|  |  |
| --- | --- |
| Details regarding the Full Acceptance | |
| Project Work requiring formal acceptance | FBS hereby declares its formal Acceptance of the following listed Project Work pursuant to the terms and conditions set forth below:  [please complete]  [please complete] |
| The following defects were identified at the time of the formal acceptance inspection: | [please identify nature and scope of the defect]  [please identify nature and scope of the defect]  [please identify nature and scope of the defect]  [please identify nature and scope of the defect] |
| The Contractor corrects the defects within the separately identified periods of time and reports the successful correction of defects to the Customer without undue delay. | for defects noted in item 1, [*time period*] from [*date*].  for defects noted in item 2, [*time period*] from [*date*].  for defects noted in item 3, [*time period*] from [*date*].  for defects noted in item 4, [*time period*] from [*date*]. |
| FBS is exercising the right to which it is entitled pursuant to § 641 para. 3 of the German Civil Code (BGB) and is withholding an amount of EUR XX,XX [*please add*] until the above-listed defects have been corrected. | |
| FBS hereby expressly reserves the right to enforce any and all claims it may have on the basis of the defects described, above all the right to enforce warranties against defects as well as any claims seeking compensatory damages.  FBS also reserves the right to enforce any agreed contractual penalties [*Vertragsstrafen*].  Otherwise, the provisions under the aforementioned contract and the contract amendments remain unaffected. | |

\_\_\_\_\_\_\_\_\_\_\_(place), \_\_\_\_\_\_\_\_\_(date) \_\_\_\_\_\_\_\_\_\_\_(place), \_\_\_\_\_\_\_\_\_(date)

FTP Deutschland GmbH F.UN Business Services GmbH

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Annex 5 – Statements of Work

to the Master Project, Support and Maintenance Agreement concluded between FBS and

FTP Deutschland GmbH.

# Annex 6 – Approved Subcontractor

to the Master Project, Support and Maintenance Agreement concluded between FBS and FTP Deutschland GmbH.

**Approved Subcontractors located within the EEA:**

FTP Slovakia s.r.o.

Protifašistických bojovníkov 3012/6,

040 01 Staré Mesto, Slovakia

FTP Czech s.r.o.

Vysočanská 556/65,

190 00 Praha 9-Prosek, Czech

**Approved Subcontractors in accordance with Annex 7:**

FTP Australasia Pty. Ltd.

443 Concord Rd, Rhodes NSW 2138,

Australia

Elusive Technology Limited

Hood St,

Coventry CV1 5PX,

UK

**Approved Subcontractors located Offshore:**

For the avoidance of doubt: it is agreed between the Parties that the following subcontractors are only deemed to be approved by FBS if and when the requirements of section **25 and Annex 7** of this Master Project, Support and Maintenance Agreement are fully met prior to the commencement of the Commissioned Data Processing.

|  |  |  |
| --- | --- | --- |
| **No.** | **Location (full address and contact details)** | **Type** |
| **1.** | **FTP Software Company Limited;**  Hanoi Headquarters FTP Cau Giay Building, Duy Tan Street, Cau Giay District  Ha Noi, Vietnam | **FTP group company** |
| **2.** | **FTP Software Hanoi Co., Ltd.**  7 Thanh Niên,  Trúc Bạch, Ba Đình,  Hà Nội,  Vietnam | **FTP group company** |
| **3.** | **FTP Software Da Nang**  142 Châu Thị Vĩnh Tế, Bắc Mỹ Phú,  Ngũ Hành Sơn,  Đà Nẵng 550000,  Vietnam | **FTP group company** |
| **4.** | **FTP Software Ho Chi Minh Co., Ltd.**  1 Lê Ngô Cát,  Phường 7, Quận 3,  Hồ Chí Minh 70000,  Vietnam | **FTP group company** |
| **5.** | **FTP Slovakia s.r.o.**  Protifašistických bojovníkov 3012/6,  040 01 Staré Mesto,  Slovakia | **FTP group company** |
| **6.** | **FTP Czech s.r.o.**  Vysočanská 556/65,  190 00 Praha 9-Prosek,  Cze | **FTP group company** |
| **7.** | **FTP Japan Co., Ltd**  3 Chome-11-1 Ariake,  Koto City,  Tokyo 135-0063,  Japan | **FTP group company** |
| **8.** | FTP Software Philippines Corp.  Address: M. J. Cuenco Ave,  Cebu City,  Cebu,  Philippines | **FTP group company** |

**Appendix 1 EU Standard Contractual Clauses Agreement (Template)**

**EU STANDARD CONTRACTUAL CLAUSES AGREEMENT**

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

**F.UN Business Services GmbH whose registered office is at:**

**Musterstraße 33**

**22399 Hamburg**

**Germany**

on behalf of itself and the F.UN group companies (including former F.UN group companies) as set out in the Schedule to Appendix 1 hereto

**(each the "data exporter")**

and

**(the "data importer")**

each a "party"; together "the parties",

have agreed on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

*Clause 1*

***Definitions***

For the purposes of the Clauses:

(a) *'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject'* and *'supervisory authority'* shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[[1]](#footnote-1);

(b) '*the data exporter'* means the controller who transfers the personal data;

(c) *'the data importer'* means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) *'the subprocessor'* means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) '*the applicable data protection law****'*** means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) *'technical and organizational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

*Clause 2*

***Details of the transfer***

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

*Clause 3*

***Third-party beneficiary clause***

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

*Clause 4*

***Obligations of the data exporter***

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organizational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

*Clause 5*

***Obligations of the data importer[[2]](#footnote-2)***

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organizational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,

(ii) any accidental or unauthorized access, and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorized to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

*Clause 6*

***Liability***

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations, referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

*Clause 7*

***Mediation and jurisdiction***

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

*Clause 8*

***Cooperation with supervisory authorities***

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

*Clause 9*

***Governing Law***

The Clauses shall be governed by the law of the Member State in which the data exporter is established, namely German law

*Clause 10*

***Variation of the contract***

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

*Clause 11*

***Subprocessing***

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses[[3]](#footnote-3). Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.

2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established, namely German law

4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

*Clause 12*

***Obligation after the termination of personal data processing services***

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

**On behalf of the data exporter:**

Name (written out in full):

Position:

Address: F.UN Business Services GmbH

Signature ……………………………………….

(stamp of organization)

**On behalf of the data importer:**

Name (written out in full):

Position:

Address:

Signature ……………………………………….

(stamp of organization)

**Appendix 1 to the EU Standard Contractual Clauses Agreement**

This Appendix forms part of the Clauses and must be completed and signed by the parties.

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

**Data exporter**

The data exporter is F.UN Business Services GmbH and each of the F.UN group companies (including former F.UN group companies) as listed in the Schedule to this Appendix 1.

………………………………………………………

**Data importer**

The data importer is

**Data subjects**

The personal data transferred concern the following data subjects:

Employees (internal staff), Partners (external staff), Customers (sales partners), Vendors (external staff)

**Categories of data**

The personal data transferred concern the following categories of data:

**Identification Data:**

Last name/first name/title

Date of birth/place of birth

House no/street

City/postal code

Country

Telephone/mobile/fax number

Email address

ID card number, passport number

**Contract Data**

Customer number

Contract number

Credibility rating

Account/credit card details

Payment terms/billing data

Dunning history

Metering data/consumption data

Customer/business partner correspondence

**Individual Data**

Personnel number (only employees)

Group ID, KID, certificates, access rights

Department/role/cost center/organizational unit

Nationality

Marital status

Details of spouse or children

Connection data

Log files

Passwords

**Other Data**

System Data

Network data

Photos & videos

SIM card number/PUK

Biometrical data

Criminal record

Recording of voice data

**Special categories of data (if appropriate)**

The personal data transferred concerns the following special categories of data:

none

**Processing operations**

The personal data transferred will be subject to the following basic processing activities:

* APPLICATION METHODOLOGIES, STANDARDS AND ARCHITECTURE SERVICES
* APPLICATION PLANNING AND ANALYSIS SERVICES
* APPLICATION DESIGN/ BUILD SERVICES
* APPLICATION TESTING SERVICES
* APPLICATION IMPLEMENTATION SERVICES
* APPLICATION MAINTENANCE AND SUPPORT SERVICES
  + Error Correction
  + Preventive Maintenance
  + Minor Enhancements
  + Service Requests
  + Operations Support
  + Support of Service Desk
  + User Authorization Management
  + Managed User Account and Access Management
* ADM MANAGEMENT SERVICES
  + Application Documentation
  + Application Release Control
  + Application Source Code Security
  + Data Interfaces
  + Applications Integration
  + Application IT Service Continuity Management
  + Authorized User Support
  + Logical Database Administration (DBA) and Development Support
* APPLICATION QUALITY ASSURANCE SERVICES
* APPLICATION DECOMISSION SERVICES
* APPLICATION KNOWLEDGE TRANSFER SERVICES  
  (To gather knowledge for provisions of the services mentioned above)

This Appendix 1 forms an integral part of the Standard Contractual Clauses (processors) between the F.UN group companies (including former F.UN group companies) listed in the Schedule to Appendix 1 (data exporters) and FTP Deutschland GmbH (data importer). The signatures of the data exporters (each represented by F.UN Business Services GmbH) and the data importer can be found on the last page of the main body of the Standard Contractual Clauses (processors).

**SCHEDULE To Appendix 1 to the Standard Contractual Clauses**

This Schedule of Appendix 1 forms an integral part of the Standard Contractual Clauses (processors) between the F.UN group companies (including former F.UN group companies) listed in the Schedule to Appendix 1 (data exporters) and [FTP Deutschland GmbH (data importer). The signatures of the data exporters (each represented by F.UN Business Services GmbH) and the data importer can be found on the last page of the main body of the Standard Contractual Clauses (processors).

DATA EXPORTERs

F.UN Business Services GmbH

**Appendix 2 to the EU Standard Contractual Clauses Agreement**

This Appendix forms part of the Clauses and must be completed and signed by the parties

**Description of the technical and organizational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):**

The data importer will comply with the security measures summarized below.

In addition data importer shall ensure the implementation of the following technical and organizational measures described in the following explicitly named documents and corresponding documents as far as there is a reference in the explicitly named documents.

In particular:

1. **Technical and organizational measures of Data Importer**

The data importer shall implement, in his sphere of responsibility, the following technical and organizational measures:

[to be filled in]

1. **Organizational control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

1. **Physical access control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

1. **System access control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

1. **Data access control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

1. **Transmission control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

1. **Input control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

1. **Contract control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

1. **Availability control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

1. **Separation control**

Data importer shall implement the technical and organizational measures described in the following document:

List measures [to be filled in]

# Annex 9 - Contractors Location

to the Master Project, Support and Maintenance Agreement concluded between FBS and FTP Deutschland GmbH.

**Contractor’s locations**

For the avoidance of doubt: Contractor may only use the below listed locations no. 1 to 4 and 7 to 9 if and when the requirements of section **Fehler! Verweisquelle konnte nicht gefunden werden.** of this Master Project, Support and Maintenance Agreement are fully met prior to the commencement of the Commissioned Data Processing.

|  |  |  |
| --- | --- | --- |
| **No.** | **Location (full address and contact details)** | **Type** |
| 1. | FTP Software Company Limited;  7 Thanh Niên,  Trúc Bạch, Ba Đình,  Hà Nội,  Vietnam | FTP group company |
| 2. | FTP Software Hanoi Co., Ltd.  Unnamed Road,  Tân Xá,  Thạch Thất,  Hà Nội,  Vietnam | FTP group company |
| 3. | FTP Software Da Nang  142 Châu Thị Vĩnh Tế, Bắc Mỹ Phú,  Ngũ Hành Sơn,  Đà Nẵng 550000,  Vietnam | FTP group company |
| 4. | FTP Software Ho Chi Minh Co., Ltd.  1 Lê Ngô Cát,  Phường 7, Quận 3,  Hồ Chí Minh 70000,  Vietnam | FTP group company |
| 5. | FTP Slovakia s.r.o.  Protifašistických bojovníkov 3012/6,  040 01 Staré Mesto,  Slovakia | FTP group company |
| 6. | FTP Czech s.r.o.  Vysočanská 556/65,  190 00 Praha 9-Prosek,  Czech | FTP group company |
| 7. | FTP Japan Co., Ltd  3 Chome-11-1 Ariake,  Koto City,  Tokyo 135-0063,  Japan | FTP group company |
| 8. | FTP USA Corp.  3 Plaza View Ln,  Foster City,  CA 94404,  California | FTP group company |
| 9. | FTP Asia Pacific Pte. Ltd.  Harbour Front Tower 2,  3 Harbourfront Pl,  Level 1,  Singapur 099254 | FTP group company |
| 10. | FTP Australasia Pty. Ltd.  443 Concord Rd,  Rhodes NSW 2138,  Australia | FTP group company |
| 11. | FTP Software Philippines Corp.  Address: M. J. Cuenco Ave,  Cebu City,  Cebu,  Philippines | FTP group company |

1. Parties may reproduce definitions and meanings contained in Directive 95/46/EC within this Clause if they considered it better for the contract to stand alone. [↑](#footnote-ref-1)
2. Mandatory requirements of the national legislation applicable to the data importer which do not go beyond what is necessary in a democratic society on the basis of one of the interests listed in Article 13(1) of Directive 95/46/EC, that is, if they constitute a necessary measure to safeguard national security, defense, public security, the prevention, investigation, detection and prosecution of criminal offences or of breaches of ethics for the regulated professions, an important economic or financial interest of the State or the protection of the data subject or the rights and freedoms of others, are not in contradiction with the standard contractual clauses. Some examples of such mandatory requirements which do not go beyond what is necessary in a democratic society are, inter alia, internationally recognized sanctions, tax-reporting requirements or anti-money-laundering reporting requirements. [↑](#footnote-ref-2)
3. This requirement may be satisfied by the subprocessor co-signing the contract entered into between the data exporter and the data importer under this Decision. [↑](#footnote-ref-3)