

**GENERAL TERMS AND CONDITIONS  
OF THE  
DEVELOPMENT FACILITY/TECHNICAL ASSISTANCE  
FACILITY**

Unless otherwise agreed in writing, explicitly and in advance, the following General Terms and Conditions (the "**General Conditions**") shall apply to all Agreements, legal and/or factual, with nothing excepted, to the extent not superseded by the Specific Conditions contained in any Agreement.

The terms and conditions of the Contracted Party and/or of any third parties shall not be applicable even in the event where they have not been rejected or opposed explicitly by the relevant Development Facility/Technical Assistance (TA) Facility.

Unless agreed otherwise in the Specific Conditions or elsewhere, this version of the General Conditions automatically replaces, as from its publication or notification as stated below, all previous editions of any general terms and conditions and any agreement previously agreed between the Parties and shall remain in effect until the Contracted Parties are otherwise notified.

Finance in Motion GmbH reserves the right to change any of the terms, or conditions of these General Conditions, at any time in its sole discretion. If Finance in Motion GmbH decides to change these General Conditions, it will publish a new version on its website or notify it to the other Parties. Any such changes will be effective upon publishing or the notification of the revisions. Continued performance of the Agreement by the Parties following the publishing of any such changes constitutes acceptance of such changes by the Parties.

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**PART I - DEFINITIONS AND INTERPRETATION**

**1. DEFINITIONS**

In these General Conditions the following terms shall have the following meanings unless explicitly stated otherwise in the Specific Conditions:

"**Agreement**" means, as the case may be, any Consultancy Agreement (whether a Bilateral Consultancy Agreement or a Tri-partite Consultancy Agreement), Sponsorship Agreement or Grant Agreement, or any other agreement which explicitly incorporates these General Conditions. For the avoidance of doubt, each Agreement shall be formed and governed by these General Conditions and the Specific Conditions applicable thereto.

"**Beneficiary**" means the person named as Beneficiary in the Specific Conditions.

"**Company**" means the person named as Company in the Specific Conditions.

"**Consultancy Agreement**" means a consultancy agreement concluded between at least the Sponsor and the Consultant (in such a case a "**Bilateral Consultancy Agreement**") and shall also include any Tripartite Consultancy Agreement, when a Company is a Party thereto.

"**Consultancy Services**" means the services of the Consultant as defined in the Specific Conditions.

"**Consultant**" means the person named as Consultant in the Specific Conditions.

"**Contract Value**" has the meaning given to that term in the relevant Agreement, as detailed in the Specific Conditions.

"**Contracted Party**" means, in case of a Consultancy Agreement the Consultant, in the case of a Grant Agreement, the Grant Administrator, and in case of a Sponsorship Agreement, the Beneficiary.

"**Designated Staff**" means the person or people identified as Designated Staff in the Specific Conditions.

"**Fiduciary Agreement**" means the fiduciary agreement entered into between, amongst others, the relevant Sponsor, the Fund and Finance in Motion GmbH in accordance with the Luxembourg law on trusts and fiduciary contracts dated 27 July 2003, as amended from time to time.

"**Fiduciary Assets**" means the assets transferred under the Fiduciary Agreement.

"**Finance in Motion**" means Finance in Motion GmbH, with registered office at Carl-von-Noorden-Platz 5, D-60596 Frankfurt am Main, Germany.

"**Financing of Terrorism**" means the provision or collection of funds, by any means, directly or indirectly, with the intention that they be used or in the knowledge that they are to be used, in full or in part, to commit, or to contribute to the commission of, any of the offences referred to in articles 3 to 10 of Directive (EU) 2017/541 of 15 March 2017 on combating terrorism. Where the Financing of Terrorism concerns any of the offences laid down in articles 3, 4 and 9 of Directive (EU) 2017/541, it shall not be necessary that the funds be in fact used, in full or in part, to commit, or to contribute to the commission of, any of those offences, nor shall it be required that the offender knows for which specific offence or offences the funds are to be used.

"**Follow-Up Period**" means the period specified as the Follow-Up Period in the Specific Conditions, if any.

"**Fund**" has the meaning given to that term in the Specific Conditions.

"**Funder**" means the person providing back-to-back funding to the Sponsor allowing the Sponsor to fund the relevant Project.

"**Grant Administrator**" means the person named as Grant Administrator in the Specific Conditions.

"**Grant Agreement**" means an agreement of the Sponsor to pay a grant to the Grant Administrator, on the terms set out in the Agreement.

"**Money Laundering**" means the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action; the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity; the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

"**Parties**" means the parties mentioned in the Specific Conditions and "**Party**" means any of them.

"**Payment Failure Notice Period**" has the meaning as set out in the Specific Conditions.

"**Permitted Absence Period**" has the meaning as set out in the Specific Conditions.

"**Prior Termination Notice Period**" has the meaning as set out in the Specific Conditions.

"**Prohibited Conduct**" means any of the following:

- (a) (i) impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of any person to improperly influence the actions of any person; (ii) an arrangement between two or more persons designed to achieve an improper purpose,

including influencing improperly the actions of another person; (iii) offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of a person; (iv) any action or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a person in order to obtain a financial benefit or avoid an obligation; and (v) in connection with any investigation by the Sponsor into allegations of any circumstances described in (i) to (iv) above: (A) deliberately destroying, falsifying, altering or concealing evidence material to such investigation or making false statements to investigators in order to materially impede such investigation; (B) threatening, harassing or intimidating any person to prevent any person from disclosing knowledge of matters relevant to such investigation or from pursuing such investigation; or (C) taking any action intended to materially impede the exercise of the rights to access, information and inspection provided to the Sponsor under the Agreement;

- (b) Money Laundering and Financing of Terrorism; and
- (c) organised crime; tax evasion; tax avoidance; tax fraud; fraud; and any other illegal activity that may affect the financial interests of the European Union.

"**Project**" means the project as described in the Specific Conditions.

"**Replacement Period**" has the meaning as set out in the Specific Conditions.

"**Sanction**" means the economic, financial or trade sanctions laws, regulations, embargoes or restrictive measures administered, enacted, enforced and/or implemented from time to time by any of (a) the United Nations; (b) the European Union or any then present member state thereof, (c) the United States of America and/or (d) the respective governmental institutions and/or agencies of any of the foregoing, including the Office of Foreign Assets Control of the US Department of Treasury.

"**Sanctions Event**" means any event or activity which results in or could result in any of the Contracted Party, any member of its management bodies or other governing bodies or any of its shareholders, being or becoming a Sanctioned Person.

"**Sanctions List**" means any list of specially designated persons, groups or entities which are subject to Sanctions.

"**Sanctioned Person**" means a person that is:

- (a) listed on any Sanctions List or directly or indirectly majority owned (50 percent or more), or otherwise controlled, by any one or more persons listed on a Sanctions List;
- (b) located or resident in or incorporated or organised under the laws of, or directly or indirectly majority owned (50 percent or more) or controlled by a person located or resident in or incorporated or organised under the laws of, a country, region or territory that is the subject of country-wide, region-wide or territory-wide Sanctions; or
- (c) otherwise a target of or in breach of any Sanction.

"**Services**" means either the Consultancy Services or the Sponsored Services (as the case may be).

"**Specific Conditions**" means the terms and conditions set out in the relevant Agreement excluding the General Conditions.

"**Sponsor**" means the person named as Sponsor in the Specific Conditions.

"**Policy Requirements**" means the policy requirements set out and marked as such in the Specific Conditions.

"**Sponsored Services**" means the services of the Beneficiary or Grant Administrator as defined in the relevant Specific Conditions.

"**Sponsorship Agreement**" means a sponsorship agreement concluded between the Sponsor and the Beneficiary.

"**Sub-Contractor**" means any consultant, expert or other person to whom part(s) of the services are outsourced in accordance with of Part II - Clause 19 (*Assistance and sub-contracts*) of these General Conditions and the Specific Conditions.

"**TA Counterparty**" means the Sponsor and, in case of a Tripartite Consultancy Agreement, both the Sponsor and the Company.

"**Term**" means the term of the Agreement as specified in the Specific Conditions.

"**Terms of Reference**" means the document appended to the Specific Conditions and marked "**terms of reference**", which details the Services.

"**Tri-partite Consultancy Agreement**" means a Consultancy Agreement concluded between at least the Sponsor, the Company and the Consultant.

## 2. INTERPRETATION

Words importing the singular shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine and neutral genders, and vice versa.

All terms used here below and not otherwise defined herein shall have the meaning ascribed to them in the Specific Conditions.

Reference to any law or law provisions shall include a reference to such law or provisions as may be amended from time to time.

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## PART II - PROVISIONS APPLICABLE TO ALL AGREEMENTS

### 3. TERM AND EARLY TERMINATION

#### 3.1 Term

The Agreement shall be effective and terminate as specified in the Specific Conditions (the "**Term**").

#### 3.2 Early termination by the Sponsor

**3.2.1** Notwithstanding anything contrary in these General Conditions or any Specific Conditions, the Sponsor may by giving written notice of not less than the Prior Termination Notice Period terminate any Agreement at any time for convenience, without giving rise to any right or indemnity for the Contracted Party. In case of Tripartite Consultancy Agreement, the Sponsor may at its sole discretion, but is not required to, consult with the Company first before deciding to terminate the Agreement. Nothing in this Clause 3.2 shall put in question the execution of the TA Counterparty's obligations under any Agreement until the termination date thereof.

**3.2.2** Without prejudice to any other rights it may have by law or herein, the Sponsor may immediately terminate any Agreement in case of gross negligence or wilful misconduct of the Contracted Party in performing such Agreement.

**3.2.3** The Sponsor may also terminate any Agreement with immediate effect (i) if the Contracted Party commits a breach of any legislation in force applicable to it that may affect or relate to (a) the activities of any TA Counterparty and/or to (b) the reputation of such TA Counterparty; or (ii) if the Contracted Party is prevented from providing the Services due to the absence and/or cancelling of any business license, permit or administrative authorization that the latter is legally required to hold for the performance of the Services; or (iii) any government authority having authority over either Party requires any

provision of any Agreement to be revised in such a way as to cause significant adverse consequences to the TA Counterparty.

**3.2.4** Without prejudice to any other rights it may have by law or herein, the Sponsor may also, upon written notice, terminate any Agreement for a material breach by the Contracted Party of a term or condition thereof. Such notice shall identify specifically the basis for such notice and termination shall automatically take effect within 15 calendar days as from the receipt by the Contracted Party of such notice or such other period mentioned in the Specific Conditions (the "Cure Period") if the breach identified in the notice is not cured within such Cure Period.

**3.2.5** To the extent permissible under applicable law, the TA Counterparty may terminate any Agreement immediately in the event that any assignment is made by the Contracted Party for the benefit of creditors, or if a receiver, trustee in bankruptcy or similar officer shall be appointed to take charge of any or all of the Contracted Party's property, or if the Contracted Party files a voluntary petition under any bankruptcy laws or similar state statutes or such a petition is filed against the Contracted Party and is not dismissed within ninety (90) days; or if any event analogous to any of the foregoing occurs under the law of any jurisdiction in respect of the Contracted Party.

**3.2.6** If a Sanctions Event occurs, the Sponsor may immediately terminate any Agreement and require the Contracted Party to immediately repay all amounts which have been disbursed under any Agreement but which the Contracted Party has not yet committed or transferred to a legitimate recipient in a legally binding manner.

### 3.3 Early Termination by the Contracted Party

The Contracted Party shall be entitled to terminate any Agreement immediately, i.e. without notice period in case of non-payment of monies due as set out in the Specific Conditions **provided that** (i) a formal written notice to pay the monies that have fallen due has been first notified to the TA Counterparty by the Contracted Party, (ii) no payment of these monies have been made within the Payment Failure Notice Period and (iii) the TA Counterparty has not notified the Contracted Party in writing during such Payment Failure Notice Period of the reasons for which this payment has not been made.

### 3.4 Form and Consequences of termination

**3.4.1** Termination notices sent under Clauses 3.2 and 3.3 shall be sent by either Party by registered letters with acknowledgement of receipt or by electronic mail, provided the Parties have individually accepted such way of communication.

**3.4.2** Upon termination, the Contracted Party shall promptly and immediately bring the Project to a close and shall deliver to the TA Counterparty all documentation prepared up to that date. In case of a termination by the Contracted Party, such Contracted Party shall be entitled to the remuneration accrued until the date of termination, without prejudice for the TA Counterparty to claim damages for any losses resulting from the termination and from any breach and/or fault committed by the Contracted Party.

**3.4.3** Upon termination of this Agreement pursuant to Clauses 3.2.5 to 3.2.6, the Sponsor may demand the immediate repayment of all amounts paid by it under this Agreement and/or in connection with the Project, without prejudice for either TA Counterparty to claim damages for any losses resulting from the termination and from any breach and/or fault committed by the Contracted Party. The Contracted Party will have no claim for damages or any other remedy against the TA Counterparty if the Agreement is terminated for any of the reasons set out therein.

### 3.5 Surviving clauses

For the avoidance of doubt, Clauses 3.2.2, 6 to 8, 11 to 17, 20, and 22 to 24 (inclusive) of the General Conditions, shall survive

the expiry or any termination of any Agreement, including in case of termination based on Clause 9 (*Force Majeure*).

## 4. SET-OFF, NO DISBURSEMENT, REPAYMENT

**4.1** The Sponsor shall be entitled to set off amounts that might be due by the Contracted Party under any Agreement at any time against sums payable to the Contracted Party under such Agreement or any other agreement as permitted by law. The Contracted Party shall not be entitled to exercise rights of retention, set-off or counterclaim against its payment obligations under any Agreement.

**4.2** Without prejudice to Clause 3.4.2 and any other terms under these General Conditions, the Sponsor may suspend disbursements if:

- (a) the Contracted Party and/or the Company fail to perform its respective obligations under the Agreement;
- (b) obligations under this Agreement have been violated by the Contracted Party and/or the Company;
- (c) the Contracted Party and/or the Company are unable to prove that funds made available from, by and/or in connection with the Agreement have been used for the purpose stipulated in the Agreement and/or the Project;
- (d) the fulfilment of the Sponsor's obligations under the Agreement violates applicable law;
- (e) extraordinary circumstances arise that preclude or seriously jeopardize the implementation, the operation, or the purpose of the Agreement and/or the Project;
- (f) for whatever reason, the Funder suspends disbursements, fully or partly, or requests the Sponsor to suspend disbursements of funds made or to be made available to fund the Project,
- (g) the Funder renders a recovery order with respect to the funds made available from, by and/or in connection with the Project or the documentation (or any part of it) pursuant to which the Sponsor (directly or indirectly) received the funds ceases to be valid, effective, enforceable or is terminated;
- (h) a beneficiary that directly benefits from the Project, received or will receive funds by, from and/or in connection with the Project,
  - (A) or persons having powers of representation, decision making or control over them, have been the subject of a final judgement or of a Final Administrative Decision for fraud, corruption, involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings;
  - (B) or persons having powers of representation, decision making or control over them have been the subject of a final judgement or of a Final Administrative Decision for an irregularity affecting the EU's financial interest;
  - (C) is guilty of misrepresentation in supplying the information required as a condition of participation in the procedure or if they fail to supply this information;
  - (D) has been the subject of a final judgement or of a Final Administrative Decision establishing that the beneficiary has created an entity under a different jurisdiction with the intention to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of its registered office, central administration or principal place of business; or

(E) has been created with the intention described in point (D) above as established by a final judgement or a Final Administrative Decision;

- (i) a Sanctions Event occurs; or
- (j) the Contracted Party does not comply with the Policy Requirements,

where, for the purpose of this Clause 4.2 "**Final Administrative Decision**" means a decision of an administrative authority having final and binding effect in accordance with the applicable law.

**4.3** If any of the situations specified in Clauses 4.2(b), 4.2(c), 4.2(d), 4.2(g), and/or 4.2(h) has occurred and has not been remedied within a period determined by the Sponsor, the Sponsor may:

- (a) in the case specified in Clauses 4.2(a) 4.2(b), 4.2(d) and/or 4.2(h), demand the immediate repayment of all of part of the disbursed amounts;
- (b) in the case specified in Clauses 4.2(c) or 4.2(j), demand the immediate repayment of such amounts, and in particular any amount paid for the remuneration of the Consultant, as the Consultant and/or the Company are unable to prove to have been used for the purpose stipulated in the Agreement and/or the Project;
- (c) in the case of Clause 4.2(g), demand the immediate repayment of all disbursed amounts, which the Contracted Party and the Company have not yet bona fide committed or transferred to a legitimate recipient in a legally binding manner.

## 5. NO INTERFERENCE

During the term of any Agreement, the Contracted Party shall not interfere in the political or religious affairs of the country where the Project is located or the Project takes place.

## 6. BOOKS AND RECORDS

The Contracted Party shall keep accurate and systematic books and records of its services in such form and detail as is customary in its profession and business.

The books and records as well as other information relating to the Project and the Agreement shall be retained at least for such period as required pursuant to applicable laws.

The Contracted Party shall promptly furnish to the TA Counterparty or to any other person the Sponsor may lawfully direct any and all such information and reports related to the Services or in connection with matters relating to the provision of the Services and/or the Agreements as the TA Counterparty may reasonably request.

The Contracted Party shall remain available for and respond to any follow-up questions by the TA Counterparty regarding the outcome and the results of the Project for a reasonable period, such period to be not less than any Follow-Up Period.

## 7. INSPECTIONS

The Contracted Party shall permit the TA Counterparty or its designated representative(s), upon reasonable notice, to inspect the Contracted Party's accounts, books and records relating to the performance of any Agreement and the Project and make copies thereof and to have them audited by auditors appointed by the TA Counterparty, if so required by the TA Counterparty.

The Contracted Party and the Company (if any) undertake to allow, to the extent permissible by applicable law, the European Commission, officials of the European Union, the European Anti-Fraud Office (OLAF), the Court of Auditors of the European Union, the EPPO, any other competent European body, the

German Federal Ministry for Economic Cooperation and Development (BMZ), KfW and the German Federal Court of Auditors and the Funder(s) and any other their respective representatives or agents, in coordination with the Sponsor and any other entities of its choice, in relation to the Project and the Agreement (i) to conduct documentary and on-the-spot checks, (ii) to have access to and inspect premises, sites, plants, equipment, facilities, assets, books, accounts, records and any other relevant documentation, (iii) to participate in any monitoring or evaluation mission or coordination meeting, (iv) to take copies and (v) to inform the relevant person requesting the document of the exact location at which they are kept. Documents concerning the technical and financial management of the Project must be accessible and filed in a manner permitting checks.

The inspection rights set out herein shall survive the Term of the Agreement.

## 8. DISCLOSURE

The Sponsor and the Fund might be required to disclose, including to the Funder and the persons mentioned in Clause 7 (*Inspections*), and/or publish, including by publication on its website, certain information regarding the Project, including the title of the Project, the nature and purpose of the Project, the name and locality of the Contracted Party and the Company and the amount of the Project. When disclosing/publishing information, the Sponsor and the Fund will take into account the legitimate interest of the other Parties. The Contracted Party and, where relevant, the Company hereby agree to the disclosure/publication pursuant to this Clause 8.

## 9. FORCE MAJEURE

**9.1** In the event of force majeure – i.e. unforeseeable events beyond the control of the Parties, which prevent either Party from meeting its obligations under any Agreement – the contractual obligations as far as affected by such event shall be suspended for as long as the impossibility of performance due to this situation continues, unless it appears that the obligations under any such Agreement may no longer be performed, in which case such Agreement shall be considered terminated.

**9.2** The Party that is aware of a situation of force majeure shall notify the other Parties thereof as soon as it can.

**9.3** In the event of force majeure that would suspend the contractual obligations of one of the Parties, the Contracted Party shall be entitled to a prolongation of the Agreement equal to the delay caused by such force majeure, **provided that** it has notified the other Parties of this situation of force majeure in due time.

**9.4** Without prejudice to Clause 18.3, if the suspension of the obligations of one of the Parties lasts for more than 30 days or such other period mentioned in the Specific Conditions, either Party may terminate this Agreement immediately by giving written notice to the other Parties.

## 10. STATUS

The Agreement constitutes a contract for the provision of the Services. In performing the Services, the Contracted Party and the Designated Staff, as the case may be, shall not be employees, agents or officers of the TA Counterparty or Finance in Motion or any of their service providers and will have no authority to commit the TA Counterparty or any of their service providers without their prior respective consent. The Contracted Party and the Designated Staff, as the case may be, shall at all times act in the name and for the account of the Contracted Party, unless otherwise expressly authorised in writing by the TA Counterparty.

## 11. TAX AND SOCIAL SECURITY REQUIREMENTS

The Contracted Party shall be personally and fully responsible for meeting all taxes, national insurances and social security contributions applicable to it and its staff and, where applicable,

the Designated Staff and/or its service providers in connection with the performance of any Agreement.

The Contracted Party shall, if need be, indemnify and hold the TA Counterparty harmless against the aforementioned taxes and contributions and against any other taxes and contributions, costs (including legal costs), penalties, fines, interests, expenses incurred or payable by the TA Counterparty, or proceedings arising out of, under or in connection with any Agreement.

## **12. LICENSES, PERMITS, ADMINISTRATIVE AUTHORISATIONS**

The Contracted Party undertakes and represents that it and its service providers or subcontractors hold all the licenses, permits and any other administrative authorizations that are required by the applicable legislations to perform the Services. The Contracted Party shall therefore indemnify and hold the TA Counterparty harmless against any liability, costs (including legal costs), penalties, fines, interests and expenses incurred by the latter as a result of absence or cancelling of the aforementioned licenses, permits and/or other administrative authorizations.

## **13. CONFIDENTIAL TREATMENT AND DATA PROTECTION**

**13.1** The Contracted Party shall not (other than in the proper performance of any relevant Agreement or with the prior written consent of the TA Counterparty or where required by law or unless ordered by a court of competent jurisdiction) at any time, whether before or after termination of any relevant Agreement, disclose or communicate to any person or use for its own benefit or the benefit of any person (other than the TA Counterparty and the Fund) any proprietary or confidential information which may come to its knowledge in the course of its function and the Contracted Party shall use its best endeavours to prevent the unauthorised publication or misuse of any confidential information.

**13.2** All documents and other things (in whatever form or media) concerning the business of the TA Counterparty and or any of their clients, customers, shareholders, employees, officers, suppliers, distributors and agents or others which shall have been acquired, received or made by the Contracted Party in connection with the provision of the Services shall be the property of the TA Counterparty.

**13.3** Upon the termination of any relevant Agreement (for whatever reason and howsoever arising) the Contracted Party shall not take away or conceal but shall immediately deliver to the relevant TA Counterparty or permanently erase (to the extent technically practicable) all documents (which expression shall include, but without limitation, notes, memoranda, correspondence, drawings, sketches, plans, designs and any other material upon which data or information is recorded or stored) relating to the activities of the relevant TA Counterparty or any of their clients, customers, shareholders, employees, officers, suppliers, distributors and agents and the Contracted Party shall not be entitled to retain any copies or reproductions of any such documents together with any other property belonging to the relevant TA Counterparty which may then be in its possession or under its control.

**13.4** The Contracted Party shall comply at all times with all applicable data protection laws and regulations.

## **14. ANTI MONEY-LAUNDERING, SANCTIONS AND MINIMUM STANDARDS**

**14.1** The Contracted Party shall comply with all applicable local, international and EU laws, regulations and standards regarding anti money-laundering, combating the financing of terrorism, prevention of Prohibited Conduct and the Financial Action Task Force (FATF) standards and recommendations.

**14.2** The Contracted Party shall not: (i) enter into nor continue any business relationship with a Sanctioned Person; nor (ii) directly or indirectly, engage in any other activity that

would constitute a breach of, or cause the Sponsor to be in violation of, any Sanction; nor (iii) repay any amounts due under the Agreement using funds sourced from the proceeds of any activity involving a Sanctioned Person.

**14.3** The Contracted Party and each of its representatives, employees, and agents shall comply with any law, regulation, order, decree or directive having the force of law and relating to bribery, kickbacks or similar business practices which is applicable to the Contracted Party.

**14.4** The Contracted Party undertakes not to (i) deliberately destroy, falsify, alter or conceal evidence material to the investigation or the making of false statements to investigators in order to materially impede an official investigation into allegations of Prohibited Conduct, or threaten, harass or intimidate any person to prevent it from disclosing its knowledge of matters relevant to such investigation or from pursuing such investigation.

**14.5** In relation to the implementation of a Project, the Contracted Party and, where applicable, the Company, shall (i) promote the respect of human rights and respect applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards, and (ii) refrain from any action which may give rise to any conflict of interest. There is a conflict of interest where the impartial and objective exercise of the functions of any person implementing this Agreement is compromised.

## **15. NOTICES**

All notices to the Parties shall be directed to the addresses provided in the Specific Conditions for notices (or any substitute address, fax number, e-mail or department or officer as the relevant Party may notify to the other Party by not less than 5 calendar days' notice).

## **16. SETTLEMENT OF DISPUTES AND CHOICE OF LAW**

Unless provided differently in the Specific Conditions any dispute arising in connection with the Agreement including, without limitation, a dispute or a claim regarding the application, interpretation or breach of the Agreement, which cannot be amicably resolved, shall be submitted to the jurisdiction of the courts of Luxembourg-City, or to any other competent court or arbitrator at the choice of the Sponsor.

The competent court shall in any case apply the laws of the Grand Duchy of Luxembourg.

## **17. MISCELLANEOUS**

**17.1** Unless expressly provided differently in the Specific Conditions, the Agreement contains the entire understanding between the Parties and supersedes all (if any) previous and subsisting agreements, arrangements and understandings (written or oral) relating to the provision of the Services and all such arrangements, agreements and understandings shall be deemed to have been terminated by mutual consent.

**17.2** The Specific Conditions as well as the "Whereas" section contained thereto form part of the Agreement and will have the same force and effect as if expressly set out in the body of such Agreement.

**17.3** The Agreement is prepared in English which shall be considered the contractual language. All correspondence between the Parties and all reports, studies, technical data, certificates and documents pertaining to the Project shall be in the English language except as otherwise stated in the Specific Conditions.

**17.4** The Contracted Party and, where applicable, the Company shall not have the right to assign or transfer any rights or obligations arising from any Agreement in full or in part without the prior consent of the Sponsor.

**17.5** The Contracted Party and, where applicable, the Company warrant that by virtue of entering into any Agreement

it will not be in breach of any express or implied terms of any contract, court order or of any other obligation legally binding upon it.

**17.6** Should any of the provisions of the Agreement, be or become invalid or unenforceable, the validity of the remaining provisions shall not be affected. The Parties agree that the invalid or unenforceable provision shall be replaced by a legal, valid or enforceable provision that comes as closest to the will expressed by the Parties in the Agreement.

**17.7** No failure to exercise, nor any delay in exercising, on the part of the Sponsor, any right or remedy under the Agreement shall operate as a waiver of any such right or remedy. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Agreement are cumulative and not exclusive of any rights or remedies provided by law.

**17.8** Modifications and amendments to the Agreement, including to this provision, must be made in writing.

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### **PART III – PROVISIONS APPLICABLE TO SPONSORSHIP AGREEMENTS AND CONSULTANCY AGREEMENTS**

#### **18. SERVICES**

##### **18.1 Scope of the services**

The scope and timeline of the Project are set out in the Specific Conditions. The Contracted Party agrees to deliver the Services in relation to the Project and to perform its undertakings, in each case as set out in the Specific Conditions and in accordance with the Terms of Reference.

The Services may be amended, modified, extended or limited at any time with the written consent of all Parties according to the needs of the Sponsor and the Project.

The Services of the Contracted Party shall be made in accordance with and subject to the investment objectives and restrictions contained in the investment strategy defined by the Fund. The Fund (via the Sponsor) engages an external consultant having as a commercial rationale the making of the advice available to the TA Counterparty in order to achieve the optimal level of risk mitigation as well as an optimal return on its investment. The Fund obtains a service for its business in return for the payment (partial payment) of the Contracted Party's fees. The Fund obtains the contractual right to have the TA Counterparty being served in line with the objectives and policies of the relevant Fund.

##### **18.2 Standard of services**

In addition and without prejudice to any other standard of service required under any relevant Agreement, the Project shall be implemented and the Services related thereto rendered by the Contracted Party in a professional and efficient manner, applying all professional skill, reasonable care and diligence in the discharge of the duties and in conformity with common professional practices and with the state of the art standards for the same kind of services.

The Contracted Party shall in all professional matters provide the Services to the Sponsor and, whenever applicable, to the Company.

The Contracted Party shall (i) comply with all reasonable directions from time to time given to it by the Sponsor and, where applicable, by the Company in connection with the provision of the Services and (ii) keep the TA Counterparty reasonably informed of the whereabouts, telephone numbers or other means by which the Designated Staff may be contacted most easily at the shortest possible notice.

Within the context of the Services, the Contracted Party and the Designated Staff shall work and cooperate with any personnel, service providers, consultants and/or representatives of the Sponsor and where applicable of the Company.

#### **18.3 Designated Staff**

Without prejudice to any provisions of these General Conditions:

**18.3.1** The Contracted Party shall ensure that the Services are performed by the Designated Staff. Any change in the Designated Staff shall require the prior written consent of the TA Counterparty.

**18.3.2** The TA Counterparty reserve(s) the right to require the Contracted Party to withdraw or replace any member of the Designated Staff who fails to meet the necessary or desirable requirements in relation to the performance of the Services.

**18.3.3** If any member of the Designated Staff becomes unable to provide the Services (i) due to illness or injury for a continuous period exceeding the Permitted Absence Period mentioned in the Specific Conditions or agreed by the TA Counterparty in writing or (ii) it cannot provide the Services for any other reason, the Contracted Party shall replace such member with another person with at least equal qualifications, subject to the prior written consent of the TA Counterparty. If no adequate replacement is possible within the Replacement Period mentioned in the Specific Conditions or agreed by the TA Counterparty in writing, the TA Counterparty will be entitled to terminate any Agreement in accordance with Clause 3.2.3 of these General Conditions.

**18.3.4** If the Contracted Party has to withdraw or replace any member of the Designated Staff, any cost that may result from this withdrawal or replacement shall be borne by the Contracted Party.

**18.3.5** If the Contracted Party becomes unable to provide the Services (i) due to illness or injury for a continuous period exceeding the Permitted Absence Period mentioned in the Specific Conditions or agreed by the TA Counterparty in writing or (ii) it cannot provide the Services for any other reason, the Sponsor will be entitled to terminate any Agreement in accordance with Clause 3.2.3 of these General Conditions. In case of Tripartite Consultancy Agreement, the Sponsor may at its sole discretion, but is not required to, consult with the Company first before deciding to terminate the Agreement. The Specific Conditions may also provide for a termination with immediate effect.

#### **19. ASSISTANCE AND SUB-CONTRACTS**

The Contracted Party may, at its own expense, receive assistance from and/or conclude sub-contracts with other duly qualified consultants, experts, specialists or other persons of its choice **provided that** the Sponsor has given prior written consent and, in case of a Tri-partite Consultancy Agreement and provided that the sub-contracting concerns material parts of the Services, after consultation with the Company. For the avoidance of doubt, the Contracted Party shall at any time remain responsible for the output/quality of the Services and as the case may be, the achievement of the Project, as well as for any harm that might be caused by the involvement of the above-mentioned persons.

#### **20. REPORTS AND INFORMATION**

During the Term of the Agreement, the Contracted Party shall submit to the TA Counterparty a series of analyses, studies, plans and/or reports within specific timeframes, set out in the Specific Conditions. At Project completion the Contracted Party shall submit a final report to the TA Counterparty, according to the requirements set out in the Terms of Reference included in the Specific Conditions, as well as any other information that might be reasonably requested by the Sponsor.

The Contracted Party shall inform the TA Counterparty without undue delay of all extraordinary circumstances that arise during

the performance of the Services and of all matters requiring the relevant TA Counterparty's consent.

## 21. REMUNERATION, TERMS AND METHOD OF PAYMENT

The Contracted Party shall be paid for the provision of the Services according to the terms set out in the Specific Conditions.

## 22. LIABILITY

**22.1** The Contracted Party shall perform the Services in full, in due time and in accordance with the acknowledged standards of quality. The Contracted Party shall apply transparent and good practices of procurement of services and goods, which are funded by the Sponsor within the Project. The Contracted Party shall be liable for any and all breaches of any Agreement by it or, as the case may be, the Designated Staff or any of its subcontractors.

**22.2** Notwithstanding any other provision of this Agreement, the TA Counterparty shall not be liable to the Contracted Party under or in connection with any Agreement and/or the Services for any loss or damage (including special, punitive, consequential or indirect loss or damage, such as loss of property, profit, business revenue, goodwill, reputation or business opportunity) whether or not caused by the negligent act or omission of the Sponsor or, where applicable, the Company, except in case of fraud or wilful misconduct or to the extent prohibited by applicable laws. The Contracted Party (and any other person) may not recover from the Sponsor and, where applicable from, the Company, in contract or tort, under statute or otherwise, aggregate loss or damages in excess of the Contract Value and the Parties hereto agree that any recovery may only be made against the Fiduciary Assets but neither against the Fund nor Finance in Motion or the Company. The Contracted Party shall in addition mitigate its damages and shall inform the TA Counterparty of any event or information likely to result in the Sponsor's and where applicable the Company's liability being incurred, in order to allow same to take steps to limit or avoid the damage.

**22.3** The Contracted Party and, where applicable, the Company may not make a claim or bring proceedings relating to the Services or otherwise under any Agreement against the Fund, Finance in Motion, or the Sponsor or any of their respective subcontractors, members, service providers, shareholders, directors, officers, partners, principals or employees. To the fullest extent permitted by law, the Contracted Party shall indemnify the Sponsor against any cost, loss, liability, damage or expense incurred by the Sponsor (otherwise than by reason of the Sponsor's fraud or wilful misconduct) arising in connection with the implementation of any Agreement or otherwise relating to the Services rendered by the Contracted Party.

## 23. INSURANCE

The Contracted Party is responsible for all matters relating to its own personal safety and that of its possessions and consequently undertakes to take out and maintain adequate insurance against any loss or damages which it or its property may suffer in relation to the performance of the Services under the Agreement.

The Contracted Party furthermore undertakes to take out and maintain adequate professional indemnity insurance in terms satisfactory to the TA Counterparty, a copy of which shall be provided to the Sponsor and whenever applicable the Company upon the Sponsor's request.

## 24. INTELLECTUAL PROPERTY RIGHTS

**24.1** The Contracted Party hereby agrees and acknowledges, on its own behalf, and, insofar as may be necessary, on behalf of the Designated Staff and any sub-contractor, that any title, copyright and other intellectual property (the "IPR") in all letters, books of account, drawings, designs, plans, documents, memoranda and other media

(i) prepared by it and/or by the Designated Staff and/or by any sub-contractor in connection with any Agreement and/or the Services, or (ii) in its possession by virtue of its engagement under any Agreement, shall at all times be and remain vested in the Sponsor. Insofar as may be necessary the Contracted Party hereby expressly and unconditionally assigns to the Sponsor any future IPR which may be created or subsist in all or any such documents or other media produced by it and/or the Designated Staff and/or any sub-contractor in the performances of Services under any Agreement (the "Assigned Material"). This assignment is valid for the legal duration of such IPR protection, for the entire world and the Sponsor is allowed:

- (a) to reproduce the Assigned Material, and allow it to be reproduced by any person, in any number of copies, on any medium, on any existing or future medium;
- (b) to publicly represent, distribute or broadcast, edit or communicate the Assigned Material and to do so by any existing or future means, medium or channel, and to allow same by any person, by any existing or future means, medium or channel;
- (c) to modify, translate into any language, adapt the Assigned Material and to allow said Assigned Material to be modified, translated into any language and adapted by any person;
- (d) to distribute and commercialize the Assigned Material, and to allow any person to commercialize it; and
- (e) to license all or part of the Assigned Material to any third party.

The Sponsor is expressly authorized to use any confidential information provided by the Contracted Party on such Assigned Material, and to file for any IPR protection related to such Assigned Material.

**24.2** The Contracted Party grants the Sponsor, if needed, any powers for proceeding to any formality that might be necessary for the protection of the rights on the Assigned Material, and agrees to provide any documents and signatures that might be required for this purpose.

**24.3** In the event that, the IPR could not be vested or assigned by the Contracted Party to the Sponsor, the Sponsor is hereby expressly authorized and licensed by the Contracted Party, on an exclusive, perpetual, irrevocable, transferable, worldwide, royalty free, fully paid-up license basis, with the right to sublicense, to use, reproduce and distribute IPR without any restriction whatsoever and without any compensation to be paid to the Contracted Party and/or to any third party (including, for the avoidance of doubt, the Company where applicable), which the Contracted Party undertakes to guarantee.

**24.4** The Contracted Party undertakes to make the Designated Staff and any sub-contractor (if any) comply with this Clause 24.

**24.5** The rights and obligations under this Clause 24 shall continue in full force and effect after the termination of any Agreement in respect of any copyright and IPR made during the Term thereof and shall be binding to the Parties' successors. The Contracted Party therefore further agrees that it shall, at the request of any TA Counterparty, even after the termination of any relevant Agreement, enter into such documents or do any such thing as may be necessary to perfect or secure any of the Sponsor's IPR hereby vested or assigned.

**24.6** The Company (where applicable) expressly agrees with the content and effects of this Clause 24.

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**PART IV - SPECIFIC PROVISIONS APPLICABLE TO CONSULTANCY AGREEMENTS (BILATERAL AND TRI-PARTITE)****25. TIME COMMITMENT AND TIME SCHEDULE**

**25.1** During the Term of the Consultancy Agreement, the Consultant shall ensure to devote whatever time, attention and skills which are needed to perform the Services properly.

**25.2** By accepting its appointment, the Consultant confirms that the Designated Staff will be able to devote sufficient time to provide the Services. In case the Consultant is a legal entity, it undertakes to notify the TA Counterparty, from time to time of any additional commitments that might affect the time that the Designated Staff will be able to devote to the duties arising from any Agreement.

**25.3** The performance of the Services shall be made in accordance with the time schedule of the Specific Conditions (the "**Time Schedule**").

**25.4** Any modification of the Time Schedule shall be mutually agreed upon in writing by all Parties **provided, however, that** any modification of the Time Schedule may be made by electronic mail or other electronic means, if all Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication. Any electronic communication made between the Parties will be effective only when actually received in readable form.

**26. TA COUNTERPARTY COOPERATION**

The TA Counterparty shall make their best efforts in order to comply with their obligation to co-operate on all drawings, reports and studies as soon as possible after presentation and as the case may be under any applicable Specific Conditions.

The TA Counterparty shall make their best efforts in order to give their consent for any payment due by them to the Contracted Party after completion of the Services duly performed by the Contracted Party as soon as possible and as the case may be under any applicable Specific Conditions.

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**PART V - SPECIFIC PROVISIONS APPLICABLE TO TRI-PARTITE CONSULTANCY AGREEMENTS ONLY****27. INFORMATION DUE BY THE COMPANY**

During the Term of any Tri-partite Consultancy Agreement, the Company shall place all available necessary documentation and information at the free disposal of the Consultant and shall give the Consultant any and all such assistance as the Consultant shall reasonably request for the performance of the Services and of its obligations under such Tri-partite Consultancy Agreement.

**28. OFFICE AND TECHNICAL EQUIPMENT**

If required for the performance of the Services, the Company shall place at the Consultant's disposal appropriately furnished office space on its premises. The Consultant shall work with its own IT devices and telephones.

If required for the performance of the Services, the Company shall provide logistical support and facilities in delivery of the workshops, training sessions and focus groups. These facilities should include secretarial and materials production support.

If required for the performance of the Services, the Company shall provide necessary logistical, transportation support and facilities in delivery of coaching, trainings and consulting of Company's staff based outside Company's headquarters and – as far as applicable – in visits to Company's potential and current clients.

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