DEVELOPMENT AGREEMENT

Between:

The Document Foundation, having registered offices in Winterfeldtstraße 52, 10781 Berlin, Germany, tax code 27/641/01975, VAT no. DE295589870, represented by [Add correct name of our_representative] ([Chair of the Board | Vice Chair of the Board]), (hereinafter "**The Document Foundation**"),

and

[TBC] having registered offices inTBC, tax code TBC, VAT no. TBC, represented by TBC (TBC), (hereinafter "**Developer**")

which parties are referred to in this agreement (hereinafter "**Agreement**") individually as "Party" and collectively as "Parties"

1.   Whereas

- The Document Foundation is a German non profit foundation (Stiftung) dedicated promotion and development of office software available for use by anyone free of charge, namely of LibreOffice, a suite of office applications distributed under Free and Open Source Software conditions.

- The Document Foundation, for the purposes state here above, engages in the development of certain missing features or the improvement of existing features of LibreOffice that are not contributed by the community and that are necessary to the success and viability of LibreOffice.

- For the said purposes, The Document Foundation from time to time publishes public bids by which they contract certain developments to external firms in an open and competitive fashion.

- Developer is the winner of such a tender and has committed to enter into this Agreement at the offered conditions.

- The Document Foundation is bound to an internal conflict of interest avoidance policy and a procurement policy that have been published in the set of documents in the context of the Tender and it is of utmost importance and a substantial condition precedent that said documents are fully complied with by Developer, including Developer's employees, directors, consultants and subcontractors, where subcontracting is permitted.

2.   Definitions

2.1.   *Affiliate.* Means any entity that controls, is controlled by, or is under common control with a Party, and "control" means (a) an ownership interest, directly or indirectly held, of more than 50% in such entity or Party, or the maximum percentage permitted under local laws or regulations in those countries where more than 50% ownership by a foreign entity is not permitted, or (b) the ability to direct the management or policies of such entity or Party, whether through ownership, contract, board control, or otherwise.

2.2.   *Developer Indemnified Persons.* Means Developer and its Affiliates and their respective directors, officers, employees, and agents.

2.3.   *Applicable Law.* The law of the Federal Republic of Germany.

2.4.   *Background Intellectual Property.* Means Intellectual Property that is now or hereafter owned by a Party or to which a Party now or hereafter holds rights and that covers Background Technology.

2.5.   *Background Technology.* Means (i) all Technology owned or developed prior to, or outside the Development Work performed under this Agreement, and (ii) any Technology developed without

reference to the other Party's Confidential Information, even if within the scope of the Program Description. For avoidance of doubt, Background Technology does not include Program Technology.

2.6.   *Bid.* Means the application by Developer to participate in the Tender, offering to conclude this Agreement at certain conditions.

2.7.   *Bid Rigging.* Any practice that, under the Applicable Law and international practices on private and public corruption avoidance, results in or has the scope of obtaining an undue advantage in the selection process, including but not limited to exerting any power or influence – including by offering monetary and non monetary advantages, career promotions or demotion, by threatening unjust consequences – over the officers of the TDF that have the task of creating, assigning, overseeing the Tender and ensuring that the Agreement is complied with and its obligations duly performed, as well as any other attempt to influencing the Tender or to ensure a [Bidder] an undue advantage through knowledge that is not made available to all potential tender in an impartial way, as well as colluding to alter the competition in the Tender for instance by agreeing not to participate in certain Tenders or to place non-competitive bids, to exchange privileged information as to the technical or economic bids they are going to place or any information, including whether they intend or do not intend to place a bid, with an intent or the effect to alter the competition in the Tender, and in general any other anti-competitive practices aimed at manipulating the bidding process.

2.8.   *Business Day.* Means any day that is not a Saturday, a Sunday, a legal holiday, or a day on which banking institutions or trust companies in Germany are authorized or obligated by law to close.

2.9.   *The Document Foundation Data.* Means all data and information about The Document Foundation's businesses, customers (current, former or prospective), employees, operations, facilities, products, markets, assets or finances that Developer obtains, creates, generates, collects or processes in connection with this Agreement.

2.10. *The Document Foundation Indemnified Persons.* Means The Document Foundation and its Affiliates, and their respective directors, officers, employees, and agents.

2.11. *Merger.* Of a Party means the consummation of any merger, consolidation, reorganization, recapitalization, transfer, or other transaction pursuant to which any Person (a) acquires, directly or indirectly, beneficially or of record, shares or options or other rights to purchase shares of capital stock (including securities that are convertible into such shares) of such Party (or any Person that controls such Party) representing more than 50% of the voting power represented by the issued and outstanding capital stock of such Party (or any Person that controls such Party), or (b) obtains the power to elect a majority of the directors of such Party (or any Person that controls such Party). "Change in Control" does not include a merger for the sole purpose of reincorporating a Party into a different jurisdiction.

2.12. *Claim.* Means actions, suits, proceedings, hearings, investigations, charges, complaints, demands, injunctions, orders, decrees, and rulings.

2.13. *Confidential Information.* Means: (a) any and all technical or business information, including but not limited to any design, specification, idea, concept, plan, copy, formula, drawing, procedure, business process, organizational data, The Document Foundation Data, Program Technology, customer, supplier, or vendor lists, or other information, that is disclosed (whether oral, written, electronic or viewed by inspection) to Developer or an Affiliate thereof by or on behalf of The Document Foundation or an Affiliate thereof, in connection with or related to Development Work performed by Developer for The Document Foundation under the Agreement; (b) information relating to customers, suppliers, vendors, dealers, employees, agency workers, officers, directors, or Personnel of The Document Foundation and/or its Affiliates; and (c) any and all other information identified in this Agreement as "Confidential Information." "Confidential Information" does not include General Information or information that (i) was already in the possession of Developer without restriction on its use or disclosure prior to the receipt of the information from The Document Foundation; (ii) is or becomes available to the general public through no act or fault of Developer; (iii) is rightfully disclosed to Developer by a third party without restriction on its use or disclosure; or (iv) is independently developed by Affiliates, agents and/or employees of Developer who have not had access to Confidential Information.

2.14. *Data Protection Laws.* Means all federal, state, provincial, regional, territorial and local, laws regulations, rules, executive orders, supervisory requirements, directives, circulars, opinions, interpretive letters and official releases of or by any government, or any authority, department or agency thereof or self-

regulatory organization that relate to the Processing of Personal Data or the confidentiality, security or protection of Personal Data, including but not limited to the GDPR.

2.15. *Deliverable.* Means items required to be delivered by one Party to the other Party under the Program Description.

2.16. *Developed Product.* Means new, improved, or changed products, components, materials, devices, systems, or processes developed under a Program Description.

2.17. *Development Work.* Means any design, engineering, tooling, manufacture, assembly, installation, testing, training, or other function required to be performed under the Program Description.

2.18. *Indemnified Person.* Means the Person entitled to indemnification under this Agreement.

2.19. *Liabilities.* Means liabilities, losses, obligations, assessments, imposts, damages, fines, penalties, and expenses (including reasonable professional, expert witness, and attorneys' fees and expenses).

2.20. *Object Code.* Means code that has been compiled or otherwise transformed to be read by a machine, including via middleware or a runtime. All forms of code which is not Source Code. If not otherwise specified in the Tender, Object Code must be provided for all the supported platform by The Document Foundation.

2.21. *Open Source Software.* Means any software distributed as Free Software, Open Source software under a license listed by the Open Source Initiative at https://www.opensource.org or anyhow complying with the Open Source Definition.

2.22. *Outbound License.* The license or licenses under which LibreOffice or any part thereof or the Deliverable is or is intended to be licensed. The License of Libreoffice is mainly Mozilla Public License 2.0 (SPDX: MPL-2.0), but contains parts of other [Open Source] licenses, and if not otherwise specified it means the license of the modified artifact AND the MPL-2.0.

2.23. *Party.* Means The Document Foundation or Developer, as applicable. "Parties" means both The Document Foundation and Developer.

2.24. *Person.* Means an individual, corporation, limited liability company, partnership (whether general or limited), joint venture, trust (including a business trust or real estate investment trust), unincorporated organization, joint stock company, association, or other entity, or any government or any agency or subdivision of any government.

2.25. *Personal Data.* Means all information made available or provided to Developer under this Agreement relating to an identified or identifiable person; 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 physical, physiological, mental, economic, cultural or social identity.

2.26. *Personnel.* means the employees, agents, contractors, and representatives of the applicable Party and, in the case of Developer, its subcontractors, whether or not Affiliates of such Party. For the avoidance of doubt, subcontractors of Developer include any freelance consultant who would perform Development Work for The Document Foundation under this Agreement. Developer shall execute a written subcontract with such freelance consultant on terms no less stringent to those contained in this Agreement.

2.27. *Procurement Policy.* Means the aggregate of the Procurement Policy, the Conflict of Interest Policy and any other policy document expressly referenced to by the Tender.

2.28. *Program Description.* The description of the development work to undertake as published in the Tender, including specifications, functional and non functional requirements.

2.29. *Program Intellectual Property.* Means Intellectual Property covering Program Technology. For the avoidance of doubt, the term "Program Intellectual Property" does not include Background Intellectual Property.

2.30. *Program Technology.* Means Technology that is not Background Technology and that is first conceived, reduced to practice, or created, or developed, either singly or jointly by the Parties, or by Persons retained by a Party or both Parties, under the Program Description.

2.31. *Security Breach.* Means any actual, probable, or reasonably suspected misuse, compromise, or unauthorized access or disclosure of any Personal Data including, but not limited to: (i) physical trespass on a secure facility; (ii) electronic systems intrusion or hacking; (iii) loss or theft of a notebook, desktop, or other electronic or mobile device, hard drive, or information storage device; (iv) loss or theft of printed materials; (v) intentional or unintentional disclosure of any Personal Data; (vi) loss, theft or compromise of any access control methodology or device that could result in the disclosure of any Personal Data (e.g., disclosure of a password or encryption key); (vi) receipt of a complaint in relation to the privacy practices of Developer or subcontractor, or (viii) a violation or alleged violation of any Data Protection Laws or privacy or data protection policies of Developer that involves any Personal Data.

2.32. *Source Code.* Means the preferred form of code by a developer to develop an application, including all comments and other artifacts which are customarily included in the source code at developing time. Source code includes notes, configuration files, licensing and other attribution files, headers, header file if appropriate, IDL files and all files and instructions which are necessary to compile the object code.

2.33. *Technology.* Means source code of software and any and all works of authorship and/or technical information related to, resulting from, derived from, and/or utilized to develop source code of software, provided that it is (a) protected or protectable by Intellectual Property, and/or (b) Confidential Information or derived from Confidential Information. For the sake of clarity, unless otherwise expressly set forth in the Program Description, "Technology" does not include General Information.

2.34. *Tender.* The competitive procedure issued by The Document Foundation according to which the Development Work has been assigned to Developer.

2.35. *Third Party Open Source Software.* Open Source Software which was developed and distributed by a Person which is neither Developer nor an Affiliate and whose copyright is not controlled by Developer.

3. Development Work; Deliverables

3.1. *Scope.* The scope of this Agreement is limited to Development Work described in and/or performed under the Program Descriptions that expressly refer to this Agreement after the awarding of the Tender. Except as otherwise provided in the Program Description, Developer will be the Party responsible for performing all Development Work. Developer will not subcontract any Development Work to any Person without the prior written consent of The Document Foundation, which consent may be withheld in The Document Foundation's sole discretion. The Parties will work together toward completion of the Development Work as set forth in the Program Description, and agree to participate as necessary in scheduled design review meetings.

3.2. *Safety And Worker's Security.* Developer will provide and maintain the necessary precautions, supervision, and safeguards for the safety of all persons performing any Development Work and will not cause or permit to exist an unlawful, hazardous, unsafe, unhealthy, or environmentally unsound condition over which Developer has control.

3.3. *Audit And Inspection.* The Document Foundation may inspect, at any reasonable times and at The Document Foundation's expense, any materials, work in process, prototypes, Developed Products, Deliverables and records relating to any of the foregoing including, with reasonable notice, at any Developer facility at which any of the foregoing is located. Prior to any such facility visit, the Parties will discuss whether a nondisclosure agreement governing such visit is appropriate and will, as appropriate, cooperate in good faith to draft and negotiate such an agreement.

3.4. *Formats.* Developer will prepare all Developed Products, Deliverables and in formats required by The Document Foundation and as provided for and offered in the Tender.

3.5. *Other Parts Of Deliverables.* Except as otherwise provided in the Program Description, for any software constituting a Deliverable or incorporated into one or more Developed Products, Developer will provide The Document Foundation with (a) the Object Code version of such software, (b) the Source Code version of such software, (c) full documentation and comments associated with such software, and (d) all programmer notes, documentation, and software tools **i**.) that are helpful or necessary to maintain, debug, modify, alter, or otherwise build, decompile, use, and support such software; and **ii**.) that has been used in the course of development of such software.

4. Timely Performance of the Agreement

4.1.   *Time for Development.* Developer will perform the Development Work within the timeframe offered in the Tender. If not otherwise provided for in the Tender or in the [Product Description], if there are more than one timeframe expressed in days or months, it is provided that the Development Work shall be performed in parallel.

4.2.   *Delay.* In case of delay in delivering the [Deliverables] which is not due to a cause attributable to The Document Foundation, The Document Foundation will be entitled to receive a penalty for the delay equal to:

- [penalty percentage 1] of the total price of the Deliverable for delay between 1 day and one calendar month;
- [penalty percentage 2] of the total price of the Deliverable for each calendar month after the first, util the expiration of the third;
- [penalty percentage 3] of the total price of the Deliverable for each calendar month after the third.

   In case the Deliverable is delivered in a day within a calendar month, the penalty for that calendar month will be proportionally reduced.

4.3.   *Acceptance.* A Deliverable will be considered delivered if it passes the Acceptance Test and it is therefore accepted by The Document Foundation. In case of non acceptance, the delay as provided for by sec. 4.2 will start again three business days after the reception of the Rejection notice. Developer shall have the obligation to assist The Document Foundation in the performance of the Acceptance Test.

5. Acceptance Test

The Deliverables shall undergo an acceptance testing phase to ensure that the software meets the requirements and specifications. The acceptance testing process shall be conducted in accordance with the following provisions

5.1.   *Acceptance Criteria.* The acceptance criteria for the Deliverable shall be mutually agreed upon by The Document Foundation and Developer prior to the commencement of the acceptance testing phase, if not already specified in the Tender. The acceptance criteria shall define the specific functionalities, performance benchmarks, and other measurable attributes that the software must meet to be considered acceptable.

5.2.   *Acceptance Testing Procedure:.* The acceptance testing procedure shall be as follows:

   a.   Developer shall provide The Document Foundation with a test plan outlining the test scenarios, test cases, and test data to be used during the acceptance testing phase.

   b.   The Document Foundation shall execute the acceptance tests based on the provided test plan and promptly report any issues or deviations from the agreed-upon acceptance criteria to Developer.

   c.   Developer shall collaborate with The Document Foundation to investigate and address any reported issues, and shall make reasonable efforts to resolve them within a mutually agreed timeframe.

   d.   Once the acceptance tests have been executed and any identified issues have been resolved, The Document Foundation shall conduct a final acceptance review.

5.3.   *Acceptance Review.* The Document Foundation shall review the software to determine whether it meets the acceptance criteria and is fit for the intended purpose. The Document Foundation shall notify Developer in writing of the acceptance or rejection of the software within a specified period after the completion of the acceptance testing phase. If the software is accepted, the acceptance shall be deemed to have occurred upon The Document Foundation's written notification.

5.4.   *Acceptance Test Failures.* If the software fails to meet the acceptance criteria, The Document Foundation shall provide Developer with a written notice specifying the reasons for rejection and the identified

deficiencies ("**Rejection Notice**"). Developer shall rectify the identified deficiencies and resubmit the software for acceptance testing as soon as practical. If Developer intends to challenge the Acceptance Test Failure, they shall use the Technical Dispute Resolution Procedure provided in sec. 16.8

5.5. *Acceptance Period.* The acceptance period shall be a specified period following the date of delivery of the software, during which the acceptance testing and review shall take place. If not otherwise provided for in the Tender, the Acceptance Period shall be […] days. If The Document Foundation fails to provide written notice of acceptance or rejection within the specified acceptance period, the software shall be deemed accepted.

6. Payment Obligations

6.1. *Payment.* All payments shall be made via bank transfer, preferably to a SEPA bank account.

6.2. *Costs.* Except as otherwise provided in the Program Description, each Party will bear its own costs for performing the tasks associated with such Program Description. In particular all bank wiring costs are to borne by Developer. Developer is advised that in the Euro area and in certain banks outside the Euro area, SEPA bank transfer are free of costs and shall accrue the next business day. The Document Foundation will be not responsible nor will it be required to take any further steps in case Developer indicates a non-SEPA bank account as the payment account.

6.3. *Currency.* All payments required under this Agreement will be made in Euros. Any conversion cost or overhead costs or similar costs are to be borne by Developer.

6.4. *Expenses.* For any part of Program Description under which The Document Foundation is obligated to reimburse Developer for any portion of its expenses, if any, Developer will keep accurate, verifiable records of such expenses, which records Developer will make available to The Document Foundation for inspection upon request. Developer will maintain such records for seven years following the calendar year to which they pertain. Developer will limit any such expenses to reasonable and direct expenses, will record such expenses on an actual internal cost basis, and will not adjust such expenses for other business expenses, profits, or mark-ups.

6.5. *Withholding Tax.* To the extent applicable law requires The Document Foundation to withhold a tax from any amounts payable under this Agreement to Developer, Developer shall provide The Document Foundation with valid documentation in order for Developer to claim an exemption from, or reduced rate of withholding for, such tax prior to any payments due under this Agreement. If applicable, The Document Foundation shall promptly provide a valid tax receipt to Developer for all income taxes withheld from any payments made under this Agreement. Each party shall cooperate with the other Party with respect to tax matters and provide and make available to the other Party tax-related information reasonably requested by the other Party (such as resale or exemption certificates).

6.6. *Interest.* All delayed payments will accrue a simple interest equal to the EURIBOR plus 2% per annum until the effective date of payment.

6.7. *Cost of Life increase of prices.* The contractual prices stated in this Agreement shall be subject to adjustment based on the changes in the German cost of living index between the bid submission date and the date when the works are scheduled to be completed. The adjustment shall reflect the percentage change in the cost of living official as published by a reputable German economic authority or government agency. The adjustment calculation shall be made at the completion of the project and shall be calculated starting from the date of deadline for placing a Bid in the Tender and the date of actual payment, detracting any Delay.

7. Confidentiality

7.1. *Scope Of Confidentiality.* Developer may receive Confidential Information from The Document Foundation or create Confidential Information as a result of performing Development Work, and any such Confidential Information is and shall be owned by The Document Foundation. Except as required for the performance of Development Work hereunder, Developer shall not use or disclose to any third party, any such Confidential Information. Developer agrees to take all necessary steps to protect any Confidential

Information with at least the same degree of care that Developer uses to protect its own confidential and proprietary information of like kind, but not less than reasonable care. Developer shall not use Confidential Information other than to perform Development Work in accordance with the Agreement and for the creation and tendering of Deliverables in accordance with the Agreement. The obligation of confidentiality hereunder shall not apply to information that is required to be disclosed pursuant to judicial or governmental decree or order, provided that The Document Foundation is given prompt notice of and the opportunity to defend against disclosure pursuant to such decree or order. Notwithstanding anything to the contrary, if The Document Foundation provides Developer with Confidential Information of, related to, or regarding an Affiliate of The Document Foundation during the course of receiving the Development Work, Developer is obligated to protect such information in the same manner as it protects Confidential Information of The Document Foundation.

7.2. *Forced Disclosure.* If Developer receives a subpoena or otherwise becomes aware of events that may legally require it to disclose Confidential Information of The Document Foundation, Developer will promptly notify The Document Foundation and cooperate with The Document Foundation to obtain an order quashing or otherwise modifying the scope of such subpoena or legal requirement, in an effort to prevent the disclosure of such Confidential Information.

7.3. *Obligations.* Developer agrees to not: (a) disclose to The Document Foundation, or third parties acting as consultants for The Document Foundation, any Confidential Information belonging to Developer or a third party; or (b) produce or deliver to The Document Foundation anything which Developer knew or should have known: (i) contains information under confidential restriction by any party; or (ii) is, or will be when made, used or sold by The Document Foundation, covered by a patent, patent application, copyright, trade secret, or other intellectual property right owned by any person or entity other than The Document Foundation and whose rights Developer is not in a position to assign or license to The Document Foundation in a way that is compatible with the outbound licensing of LibreOffice or parts thereof.

7.4. *Survival Of Confidentiality.* The rights and obligations under this sec. 7 with respect to any Confidential Information will survive for a period of five years from conclusion of the Development Work in connection with which such Confidential Information was received by Developer, provided, however, that for Confidential Information that is Technology, the terms and obligations of this Section 5 will survive perpetually, unless a shorter period is prescribed by applicable law, in which case such shorter period will apply.

7.5. *Destruction Or Return of Documents.* Upon the request of The Document Foundation following the termination or expiration of this Agreement, and in accordance with The Document Foundation's written instructions, Developer will promptly return or destroy all of The Document Foundation's Confidential Information in Developer's possession or control; *provided*, that Developer may retain a legal file copy and will not be required to destroy electronic back-up copies made in the ordinary course of business, so long as Developer does not use such copies following termination or expiration of this Agreement or any applicable Program Description. Notwithstanding the foregoing, Developer will not be required to return or destroy any Confidential Information that relates to any Program Description that remains in effect.

8. Title In The Development Work

8.1. *Assignment.* The Document Foundation will own, and hereby does own, all Program Technology, Program Intellectual Property, and Developer will assign, and hereby does assign, all right, title, and interest in and to the Program Intellectual Property, Program Technology to The Document Foundation.

8.2. *Perpetual License On Non Assignable Items.* Developer will grant and hereby grants to The Document Foundation a perpetual, worldwide, royalty-free, irrevocable, transferable, nonexclusive license, with the right to sublicense, under Developer's Background Intellectual Property and Background Technology or derivatives thereof (a) to make, have made, use, offer to sell, sell, and import Developed Products, Deliverables, and (b) to use, reproduce, distribute, make derivative works of, publicly perform, and publicly display any of such Background Intellectual Property and Background Technology constituting works of authorship for the purpose of making, having made, using, offering to sell, selling, and importing Developed Products, Deliverables.

8.3. *Residuals.* Nothing contained herein shall prohibit Developer from using any of Developer's general knowledge or knowledge acquired under this Agreement to perform similar services for others; provided,

however, that in providing services to others, Developer shall not use any of The Document Foundation's Confidential Information or any other The Document Foundation information obtained under this Agreement.

8.4. *Trademarks Of The Other Party.* Neither Party will use any trademarks or the corporate identity of the other Party in any manner without the prior written consent of such other Party.

8.5. *Work For Hire.* Developer expressly acknowledges that each work of authorship created by or for Developer shall constitute a "work made for hire". Except as expressly set forth in this Agreement, The Document Foundation shall own all right, title and interest in every such work. For any such work that does not qualify as a "work made for hire," Developer hereby irrevocably assigns to The Document Foundation all right, title and interest in such works (except as expressly set forth in this Agreement), in whatever stage of completion, and warrants waiver of all moral rights therein.

8.6. *Preliminary Works.* All rights of ownership, including, but not limited to, the ownership of all copyrights, granted to The Document Foundation in this sec. 8 shall include not only the final version of any and all Developed Products, Deliverables, but shall also include all drafts, notes and other preparatory documents, whether or not such drafts, notes and other preparatory documents have actually been physically delivered to The Document Foundation.

8.7. *Compliance With Regulations And Laws.* Notwithstanding any other provision of this Agreement, Developer shall during the term of this Agreement, and during any period pending which Developer may have access to Personal Data, comply with the following provisions:

a. Developer shall comply with all applicable Data Protection Laws and shall not do, or cause, or permit to be done, anything which may cause or otherwise result in a breach by The Document Foundation of the same. In addition, as requested by The Document Foundation, Developer shall provide assistance to The Document Foundation to enable The Document Foundation to comply with all applicable Data Protection Laws, including, without limitation, entering into any required agreements with The Document Foundation or The Document Foundation's Affiliates. In the event that the Parties disagree on the interpretation of a Data Protection Law, Developer shall follow The Document Foundation's interpretation with regard to the Personal Data.

b. Developer understands and acknowledges that Developer shall Process Personal Data only for the sole purpose of fulfilling its explicit obligations under this Agreement, and furthermore, Developer shall act only on instructions and directions from The Document Foundation regarding the Processing of Personal Data. Developer shall comply promptly with all such instructions and directions received by Developer from The Document Foundation from time to time. Developer shall not undertake or engage in any activity with respect to any Personal Data that would constitute Developer functioning in the capacity of a "controller" as such capacity may be identified or defined in the applicable Data Protection Laws and Developer shall notify The Document Foundation if it believes that any use of the Personal Data contemplated by this Agreement or The Document Foundation's instructions would constitute Developer so functioning in the capacity of a "controller."

c. Developer shall implement and maintain a comprehensive written data security program that shall comply with all applicable Data Protection Laws.

d. Developer shall not subcontract any of its responsibilities with regard to any Personal Data or otherwise allow a subcontractor access to any Personal Data unless and to the extent that The Document Foundation has approved such subcontract and subcontractor in writing, provided that The Document Foundation shall not unreasonably refuse such approval. The Document Foundation may revoke such authorization, provided that such a revocation is not unreasonable, at which point Developer shall immediately remove such subcontractor's access to Personal Data. Developer is fully responsible and liable for all acts, omissions, and work performed by any of its representatives, including any subcontractor (of any tier), and shall require all subcontractors (of any tier) engaged under this Agreement to comply with the terms and conditions of this Agreement and to require those individuals to cooperate with Developer and The Document Foundation in connection with Developer's obligations herein.

e. Immediately upon request by The Document Foundation, or at the termination of this Agreement, Developer shall return or destroy all Personal Data received from The Document Foundation or

created or received by Developer. Developer shall retain no copies of the Personal Data. Furthermore, after such request or termination of this Agreement and until such time the Personal Data is returned or destroyed, Developer shall not Process Personal Data that Developer obtained during the course of this Agreement for any purpose whatsoever. This provision shall apply to Personal Data that is in the possession of subcontractors and agents of Developer.

f.   Developer shall be liable for and shall indemnify, defend, and hold harmless The Document Foundation, its Affiliates, and its and their directors, officers, and Personnel from and against any and all suits, claims, actions, Liabilities, demands, losses, damages, costs and expenses, including without limitation, legal expenses, incurred by The Document Foundation which arise directly or indirectly out of or in connection with Developer's Personal Data Processing, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, willful misconduct, breach of statutory duty, Security Breach or non-compliance with any part of the Data Protection Laws of or by Developer or its Personnel.

g.   Developer shall notify The Document Foundation of each Security Breach or attempted Security Breach within twenty four (24) hours after it becomes aware of such Security Breach or attempted Security Breach.

8.8.   *Product Security Legislation.* shall in particular comply and make the Development Work be compliant with the relevant legislation in EU and in other major jurisdiction mandating certain requirements for digital products containing software, in particular those provisions that require that the software be accompanied with a Software Bill of Material (such as the one provided in sec. 9.7) and that must be verified to be immune from publicly available vulnerabilities. will also comply with those provisions that are reasonably required to be complied with at the time of delivery, regardless whether they were foreseeable at the time when the tender was published and regardless whether they are included in the Program Description

9.   Representations And Warranties

9.1.   *Duly Incorporated And Represented.* Each Party represents and warrants that (a) it is a legal entity duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization; (b) it has the power and authority to enter into and perform its obligations under this Agreement; and (c) entering into this Agreement does not violate any agreement or obligation existing between such Party and any other Person.

9.2.   *Non Infringements.* Developer represents and warrants that in performing the Development Work it will not disclose or use any confidential information of any third party or produce any Developed Products, Deliverables the use, manufacture, publication or distribution of which Developer knows or should have known would infringe or otherwise violate the rights of any Person. Developer further represents and warrants that all Developed Products, Deliverables, Program Technology, Program Intellectual Property, will be free and clear of all liens, security interests, and other encumbrances.

9.3.   *Duty To Inform Of Potential Infringement.* If Developer discovers that the use, manufacture, or sale of any Developed Product, Deliverable is likely to infringe the rights of any Person, Developer will promptly inform The Document Foundation of such fact. If any such infringement is deemed reasonably likely by The Document Foundation, Developer will, at The Document Foundation's election, (a) obtain for The Document Foundation the right to continue using, manufacturing, and selling such Developed Product, Deliverable, Improvement, or (b) replace or modify such Developed Product, Deliverable, Improvement so that the use, manufacture, and sale of such Developed Product, Deliverable, Improvement, becomes non-infringing; *provided*, *however*, that such replacement or modified Developed Product, Deliverable, Improvement must be a reasonably suitable replacement, as determined by The Document Foundation, for the original Developed Product, Deliverable, Improvement, as applicable. If Developer cannot obtain either of the above two results within a reasonable time and the infringement results from a breach by Developer of Section sec. 9.2 Developer will return all amounts paid by The Document Foundation under this Agreement relating to the applicable Developed Product, Deliverable, Improvement, and, if applicable, all fees associated with maintenance and support of any infringing software Developed Product, Deliverable, Improvement. In addition to the rights under this Section, The Document Foundation will have all rights to indemnification under sec. 10

9.4. *Labor Law Compliance.* Developer represents and warrants that it has valid agreements in place with all employees and any third parties who will have access to, or participate in the development of, any Confidential Information, Program Technology Technology, or Developed Products to ensure that all rights in Intellectual Property and Technology are automatically and irrevocably assigned to The Document Foundation as required under this Agreement.

9.5. *Quality Of Development.* Developer represents and warrants that, in connection with any Development Work performed under the Program Description, Developer (a) will perform such Development Work in a good and workmanlike manner, (b) will not use equipment in performance of such Development Work that is unsuitable for such use, in particular, no generative AI will be used to produce code and other artifacts (c) will perform such Development Work in full compliance with all applicable laws, regulations, orders, and other governmental requirements, (d) possesses the technical skills required to perform such Development Work, and (e) will dedicate such time, personnel, and other resources as are reasonably necessary to perform the Development Work in accordance with the applicable Program Description.

9.6. *Working As Intended.* Developer represents and warrants that any Deliverable, Developed Product, will perform in accordance with all documentation from Developer specifying the performance and functionality of such Deliverable, Developed Product, Improvement.

9.7. *Third Party Open Source License Compliance.* To the extent that Third Party Open Source Software is included in Developed Products and/or used to perform Development Work, Developer represents and warrants that Developer and its subcontractors (a) have not used any such Open Source Software in such a way that would be incompatible with the Outbound License. Developer will provide a complete Software Bill of Material (SBOM) of Third Party Open Source Software in a widely used format for such SBOM, which shall include complete information as to the provenance, including canonical URL for the project, all the applied patches shall be clearly separate from the upstream code and the security patches shall include information as to the vulnerability that they close, as well the license (including at least the SPDX identifier) applied at file level – provided that no license shall be applicable to only a part of the file – as well as the complete authorship and ownership information of that file.

9.8. *No Malicious Code.* Developer represents and warrants that any software Deliverable (a) will be delivered free of viruses or other intentionally disabling or malicious code.

9.9. *No Participation In The Decision And Bid Rigging.* Developer represents and warrants that Developer and all its Personnel and Affiliates have not taken part into any decision within The Document Foundation concerning the subject matter of this Agreement and that have not committed any act of Bid Rigging.

9.10. *Compliance With Procurement Policy.* Developer represents and warrants that by participating to the Tender and by executing this Agreement, Developer has accepted and is fully bound by the Procurement Policy and than none of Developer, Developer Personnel and Affiliates has violated it.

9.11. *Beneficial Owners.* Developer represents and warrants that it has fully disclosed in the bidding process of the Tender all of its beneficial owners and that no changes have occurred since the bid in the Tender has been submitted, and that no understanding, pledge, binding offer, contract, LOI, MoU or any similar instrument has been entered into to the effect of inducing, inviting, promising or soliciting, negotiating with, a third party to become a beneficial owner of Developer before or after the bid in the Tender, to date. Or that, in case any of such instruments were initiated after the bid in the Tender, Developer has promptly notified The Document Foundation and The Document Foundation has declared that it will not terminate this Agreement.

10. Indemnification

10.1. *Obligation to Indemnify.* Developer will indemnify and defend the The Document Foundation Indemnified Persons against all Claims and Liabilities attributable to any Deliverable to the extent that such Claims and Liabilities are caused by any negligent act or omission, or willful misconduct, of Developer or its agents or employees. Developer will indemnify and defend the The Document Foundation Indemnified Persons against all Claims and Liabilities incurred in connection with any breach by Developer of any provision of this Agreement.

11. Term And Termination

11.1. *Duration.* This Agreement shall be valid for the entire duration of the Program Description, including the support and maintenances services associated to it, if any.

11.2. *Early Termination.* This Agreement may be terminated at the option of The Document Foundation upon written notice to the Developer given within 60 calendar days following The Document Foundation becoming aware that Developer is in material breach of any material provision of this Agreement, if such breach has not been cured within 60 calendar days following such written notice; provided, however, that if such breach is not capable of being cured within such 60-day period, The Document Foundation may terminate immediately upon written notice without a cure period.

11.3. *Consequences of Termination.* Upon termination of this Agreement, The Document Foundation will be entitled to all materials, tooling, work in process, and completed work. No objection in that case shall be opposable by Developer to refrain from delivering such materials, including breach of contract ("*solve et repete*").

11.4. *Express Termination Clause.* The Breach of any obligations or warranties under the following sections: [@vex] will, by simple operation of this Section, justify the immediate termination of this Agreement under Section 314 BGB [German Civil Code] at the sole option of The Document Foundation, without prejudice of all other remedies provided by the Applicable Law or by this Agreement. Developer shall compensate FhG for all damages that result directly or indirectly from the termination of the agreement. As far as Developer has incurred a contractual penalty in accordance with this Agreement, this penalty is to be chargeable additionally to the damage compensation.

12. Insurance

12.1. *Keeping Adequately Insured.* Developer and its subcontractors, if any, at their sole costs, shall maintain insurance coverage throughout the entire term of the Agreement as described in the attached Exhibit B with insurance companies acceptable to The Document Foundation. The limits set forth in Exhibit B are minimum limits and shall not be construed to limit the liability of Developer. All cost and deductible amounts shall be for the sole account of Developer or its subcontractors. All policies required by The Document Foundation pursuant to the Agreement (or otherwise) shall name The Document Foundation as an additional insured and waive subrogation rights in favor of The Document Foundation, except policies providing Statutory Worker's Compensation. All policies required shall also be designated as primary coverage as to any similar coverage carried by The Document Foundation. Upon request, certified copies of such insurance policies or certificates of insurance shall be submitted for acceptance to The Document Foundation or its designee (if instructed).

12.2. *Conditions Of Policy.* All policies shall provide for at least sixty (60) days prior written notice of any cancellation, non-renewal, or reduction in coverage to The Document Foundation. Developer shall deliver Certificates of Insurance (to the address listed in the preamble of this Agreement) at least seven (7) days before approval to enter The Document Foundation's premises is sought.

13. Sustainability Standards (NHS) For Suppliers

13.1. *Adherence to laws and regulations.* Developer, who is working with The Document Foundation in the context of the contractual relationship, must adhere to both Parties' national laws and regulations. Should the national laws and regulations of the relevant countries conflict with each other, primary legislation takes precedence over secondary legislation. In the event of conflicting legislation at the same level, adherence to one piece of legislation and the resulting infringement of another piece of legislation will not constitute breach of contract. By carefully selecting their direct and indirect providers and monitoring them within reason, Developer undertakes to work toward ensuring that these providers do not commit any legal violations in connection with the contractual relationship with The Document Foundation either. In particular, Developer undertakes to adhere to the following laws and regulations:

   a. Developer shall ensure that suitable corruption and bid rigging prevention measures are implemented along with measures to prevent facilitation payments domestically and abroad, and inducements for interested parties.

b. Developer also undertakes to adhere to the minimum core labor standards of the ILO (https://www.ilo.org).

13.2. *Transparency and checks.* Developer must be able to provide information about the processes, systems, regulations and measures that have been established within their enterprise in relation to human rights due diligence and ecological due diligence and must provide this information at the request of The Document Foundation.

a. The Document Foundation is entitled to carry out inspections and checks on the processes Developer has established in relation to human rights, and to carry out inspections and checks to determine whether a prevention program or a corrective measures plan has been implemented on time, or to have the aforementioned inspections and checks carried out by a third party commissioned by The Document Foundation.

b. Developer undertakes to report any failure to comply with these NHS to The Document Foundation using the The Document Foundation whistleblowing system, if active and as advertised by The Document Foundation.

c. Developer shall ensure that their employees have unfettered access to the The Document Foundation whistleblowing system. In particular, Developer shall refrain from any actions that block or hinder access to the The Document Foundation whistleblowing system.

d. Developer undertakes to inform their own business partners, providers and other parties with an interest in The Document Foundation about the possibility of reporting suspected breaches (anonymously and confidentially) via the The Document Foundation whistleblowing system.

14. Anticorruption clause and restraints of competition

14.1. *Termination for restraint of competition.* Notwithstanding other grounds for termination and cancellation, inlcuding the warranties concerning Bid Rigging The Document Foundation is authorized to terminate the agreement without notice in accordance with in the presence of the following events:

a. Wilfully and knowingly making incorrect statements with regard to reliability, technical qualification or capability;

b. Making offers based on agreements that restrict competition in the sense of Section 298 StGB;

c. Participation in improper restraints of competition in the sense of the GWB [German Act Against Restraints of Competition], particularly the agreement with third parties regarding the making or non-making of offers, regarding the prices to be demanded, regarding the payment of defrayment of costs incurred (profit sharing or other fees) as well as the setting of recommended prices;

d. Disclosure of trade and industrial secrets (Section 17 UWG [German Act Against Unfair Competition])

e. The direct or indirect announcement, offer, promise or granting of gifts, other contributions or other advantages, or any other means or pressure, including direct and indirect threat, to The Document Foundation or its employees or to third parties commissioned by the same who are entrusted with the preparation, completion or performance of the contract, or to persons related to these. Not included here is socially appropriate behaviour, such as the acceptance of insignificant gifts with a value of up to € 25.00, (e.g., promotional articles of a simple kind such as pens or calendars) or participation in hospitality events that do not exceed what is customary and appropriate or that have their grounds in the rules of commerce and courtesy and that cannot be refused without violating social forms.

f. Undue pressure on TDF representatives, first and foremost team members ("Staff")and employees, whether directly [OR] indirectly [OR] through third parties.

15. Support and Bug Fixing

Developer shall provide technical support and bug fixing services for the delivered software for a period of at least one (1) year from the date of delivery ("Support Period"). During the Support Period, Developer shall use commercially reasonable efforts to promptly address and resolve any software bugs or defects reported by The Document Foundation at the dedicated facility (currently at https://bugs.documentfoundation.org). Any updates, patches, or new versions released by Developer during the Support Period shall be made available to The Document Foundation at no additional cost.

16. Miscellaneous

16.1. *Entire Agreement.* This Agreement constitutes the entire agreement between the Parties and supersedes any other prior understandings, agreements, or representations by the Parties, written or oral, to the extent that they relate in any way to the subject matter of this Agreement. Provided however, that any declaration, offer, statement or any element that has been included to the Bid shall have material effect and shall be considered as part of the Product Description of this Agreement if so invoked by The Document Foundation at any point. In case of discrepancy, the content of the Bid prevails over this Agreement.

16.2. *Written Agreement.* This Agreement may be amended only by a writing that is signed by the Parties and that refers explicitly to this Agreement.

16.3. *Parties Of The Agreement.* This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party may assign any of its rights or obligations under this Agreement, directly or indirectly, without the prior written consent of the other Party, and any attempt to do so without the required consent will be void and of no effect. Developer will promptly notify The Document Foundation of any Change in Control of Developer.

16.4. *No Third Party Beneficiary.* This Agreement will not confer any rights or remedies upon any Person other than the Parties and, to the extent expressly set forth in this Agreement, the The Document Foundation Indemnified Persons, the Developer Indemnified Persons, and their respective successors and permitted assigns.

16.5. *Severability.* Any provision of this Agreement that is invalid or unenforceable in any situation and/or in any jurisdiction will not affect the validity or enforceability of the remaining provisions of this Agreement or the validity or enforceability of the offending provision in any other situation or in any other jurisdiction. The Parties will attempt in good faith to replace any such invalid or unenforceable provision with a valid and enforceable provision designed to achieve, to the extent possible under Applicable law, the business purpose and intent of such invalid or unenforceable provision.

16.6. *Governing Law.* This Agreement will be governed by and construed and enforced in accordance with the Applicable Law, without giving effect to any choice or conflict of law rule that would cause the application of laws of any jurisdiction other than the Applicable Law.

16.7. *Jurisdiction.* The sole and exclusive jurisdiction and venue for any action or proceeding arising out of or relating to this Agreement will be an appropriate tribunal in Berlin, Federal Republic of Germany. Each Party irrevocably waives, to the fullest extent allowed by Applicable law, the defense of an inconvenient forum and lack of personal jurisdiction in any such action or proceeding.

16.8. *Technical Dispute Resolution.* In the event of any disputes or disagreements arising during the acceptance phase, the parties shall make good faith efforts to resolve such disputes amicably through negotiations or mediation.

   a.   Either party may initiate the dispute resolution process by providing written notice to the other party.

   b.   The Parties shall appoint representatives with decision-making authority to engage in discussions and attempt to reach a mutually acceptable resolution. If the Parties are unable to resolve the dispute through negotiations within a reasonable timeframe, they shall agree to appoint an independent third party to resolve the disagreement as a matter of urgency.

c. In case the representatives of the Parties are unable to reach an agreement within 10 [Business Days] from sec. 16.8.a, an independent technical arbitrator will be appointed by

The dispute resolution process outlined above is intended to facilitate the amicable or at least temporary resolution of disputes during the acceptance phase, while preserving the parties' rights to pursue legal remedies if necessary. The parties agree to cooperate in good faith throughout the dispute resolution process and to abide by any mutually agreed resolutions reached through negotiation or mediation, without prejudice to seeking redress to a court having jurisdiction.

16.9. *Independent Contractor.* Nothing in this Agreement is to imply an agency, joint venture, partnership, or fiduciary relationship between the Parties. Neither Party is authorized to make any representations or commitments on behalf of the other Party. Developer's employees assigned to perform Development Work will remain employees of Developer whether Development Work is performed solely at Developer's facilities, and will not be considered The Document Foundation's employees for any purpose. Developer will be solely responsible for the payment of salaries and all related matters, including withholding and payment of all payroll taxes, workers' compensation, unemployment compensation, insurance related benefits, vacation pay, holiday pay, and all such additional legal requirements applicable to Developer's employees.

16.10. *Force Majeure.* No failure or delay by any Party in the performance of any of its obligations under this Agreement, other than for the payment of money, will be deemed a breach of this Agreement or create any liability, if such failure or delay arises from a general strike, labor dispute, lockout, fire, flood, severe weather, or other act of God, war, terrorism, insurrection, civil disturbance, trade embargo or sanction by any government or any other governmental action, or any other cause beyond the reasonable control of such Party, whether similar to or different from the foregoing causes, and any such cause will absolve the affected Party from liability for such failure or delay in performing such obligation or responsibility; *provided however*, that the affected Party uses commercially reasonable efforts to avoid or promptly remove such causes of nonperformance and promptly resumes performance when such causes are removed. The affected Party will provide the other Party with prompt written notice describing any failure or delay in performance that occurs by reason of force majeure and stating the estimated delay in performance due to such force majeure. The Parties will remain liable for those obligations under this Agreement that are not affected by the force majeure event.

16.11. *No Waiver.* No waiver by a Party of any provision of this Agreement or any default, misrepresentation, or breach of warranty under this Agreement, whether intentional or not, will be valid unless such waiver is in writing and signed by the Party making such waiver, nor will such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty under this Agreement or affect in any way any rights arising by virtue of any prior or subsequent such default, misrepresentation, or breach of warranty.

16.12. *Defined Terms.* Capitalized terms defined in the singular include the plural and vice versa. The words "include," "includes," and "including" mean include, includes, and including "without limitation." Unless otherwise provided in this Agreement, all references to a "Section" or an "Exhibit" are to a Section of or an Exhibit attached to this Agreement. Reference to and the definition of any document will be deemed a reference to such document, including any schedules or exhibits to such document, as it may be amended, supplemented, revised, or modified. The headings appearing in this Agreement are inserted for convenience only and in no way define, limit, construe, or describe the scope or extent of any Section or in any way affect any Section.

16.13. *Exhibits.* The exhibits identified in this Agreement are incorporated in this Agreement by reference and made a part of this Agreement.

16.14. *Notices.* Any notice, request, instruction, or other document to be given under this Agreement by a Party will be in writing and will be deemed to have been given (i) when received, if given in person or by courier or a courier service, (ii) on the date of transmission, if sent by electronic mail, or (iii) five Business Days after being deposited in the mail, certified or registered, postage prepaid:

If to The Document Foundation: With a copy to (which will not constitute notice):

Contact Person or Position	Email Address	Physical Address

If to Developer:

Contact Person or Position   Email Address   Physical Address

16.15. *Legal Assistance.* Developer acknowledge that it has been advised or had the opportunity to be advised by its own independently selected counsel and other advisors in connection with this Agreement and enters into this Agreement solely on the basis of that advice and on the basis of its own independent investigation of all of the facts, laws, and circumstances material to this Agreement, and not in any manner or to any degree based upon any statement or omission by The Document Foundation.

16.16. *Personal Contract.* This Agreement is a personal service contract, based on the selection made as a result of the Tender (*intuitus personae*).

<div align="center">***</div>

IN WITNESS WHEREOF, each Party has caused this Agreement to be signed by its duly authorized officer or representative on the dates indicated below.

By: _____   By: _____

Name: Name:

Title: Title:

Date: Date: