

### 1. Scope of application

1.1 These Standard Terms and Conditions for Maintenance and Support Contract ("STC Maintenance and Support") form an integral part of each Maintenance and Support Contract ("Contract") concerning the maintenance of hardware and support of software ("Service" or "Services").

1.2 The SIX Code for Suppliers ([https://www.six-group.com/dam/about/downloads/responsibility/supplier\\_code\\_en.pdf](https://www.six-group.com/dam/about/downloads/responsibility/supplier_code_en.pdf)) forms an integral part of these STC Maintenance and Support. Supplier shall be obliged to act in full compliance with this code.

### 2. Scope of Services

2.1 Hardware Services shall include but not be limited to maintenance (particularly preventive maintenance for purposes of perpetuation of functionality) and corrective maintenance involving either the repair or replacement of any defective component (eliminating malfunctions and errors to restore functionality). Any component that is replaced shall become property and ownership of SIX upon delivery.

2.2 Software Service shall include but not be limited to the elimination of any malfunction and the correction of any error. The contractual price shall include new functionalities and licenses therefore.

2.3 On request of SIX and subject to an additional charge, the following shall apply:

a) The Service shall also include but not be limited to all software customization that is needed to make the software compatible with any changes in SIX's operating, database and/or data carrier systems.

b) Supplier shall also eliminate malfunctions arising from circumstances that are attributable to SIX or any third party.

2.4 Insofar as Supplier agrees to maintain the hardware and/or support the software as detailed in the Contract, Supplier agrees to perform these Services throughout the entire period during which SIX intend to use these Services. Said period shall amount to at least six years.

2.5 Supplier shall provide SIX with information regarding technical optimizations and improvements in the software that are relevant to maintenance processes and outcomes on a regular basis. Supplier shall in particular draw SIX's attention to the consequences of optimized software for the hardware affected. Any implementation of technical optimizations or delivery/installation of any updated/upgraded software done by Supplier shall be subject to SIX's prior approval.

### 3. Realization

3.1 Supplier shall report to SIX in good time any fact or circumstance that could substantially streamline, reduce the cost of, complicate or preclude any intervention.

3.2 SIX shall grant Supplier access to SIX's premises insofar as such access is reasonably required for intervention purposes, and shall supply, in accordance with Supplier's specifications, the requisite power outlets and network connections, as well as storage space for any work materials that may be needed.

3.3 SIX shall provide Supplier with any reasonably necessary System documentation that SIX holds and that Supplier reasonably requires in connection with an Intervention.

### 4. Deployment of staff

4.1 The Supplier shall ensure that the personnel used by Supplier for Service shall possess the required skills and are appropriately qualified.

4.2 Each party shall provide the other party with the names and positions of essential supervisory and/or managerial personnel, who shall be deployed (at the Supplier's own cost) as stipulated in the Contract (maintenance schedule). Any replacement of such personnel shall be subject to prior written authorization of SIX.

4.3 Supplier shall only deploy staff with the authorizations required. Insofar as personnel of the Supplier have access to the IT systems of SIX (IT user account), Supplier shall, prior to the relevant personnel accessing such systems, provision of that personnel's criminal records. In addition, Supplier shall inform the SIX procurement specialist involved with the Contract in writing immediately upon becoming aware of any entries in any of the Supplier personnel's respective criminal records and about any pending criminal proceedings of such personnel.

4.4 Nothing in the Contract will be treated as creating or establishing the relationship of employer or employee between SIX and Supplier or between SIX and any employee or other member of staff provided by Supplier or a third party appointed by Supplier pursuant to the terms of the Contract (an "Assigned Worker"). Supplier will be solely liable for the conduct of Assigned Worker and his or her compliance with the relevant provisions of the Contract. Supplier shall, or shall procure that a third party shall in respect of third party employees, effect and maintain in force for the benefit of SIX and itself full employers' liability insurance in respect of all such Assigned Workers.

### 5. Engagement of third parties

5.1 Any engagement of third parties (subcontractor) shall be subject to prior approval by SIX and shall be without prejudice to Supplier's obligation to assume full responsibility for supplying SIX with the Service in a contractually compliant manner.

5.2 Insofar as the agreed maintenance and support services include data processing on behalf of SIX, as of May 2018 Supplier shall prove beforehand that the subcontractor has implemented the required technical and organizational measures and has the necessary know-how in order to be able to fully adhere to the EU General Data Protection Regulation (EU-GDPR). In addition, Supplier shall contractually oblige the subcontractor and any involved employees of the subcontractor to strict confidentiality as well as to fulfil any other obligations arising from the EU-GDPR or any other applicable data protection legislation.

5.3 It is expressly declared that no rights shall be conferred under the Contract on any person other than SIX and Supplier, and no person other than SIX and Supplier shall have any right to enforce any term of the Contract.

### 6. Change requests

6.1 SIX shall be entitled to submit written change requests concerning the Services at any time. Within ten days following receipt of any such Change Request, Supplier shall submit to SIX a written notification indicating whether the requested change is realizable; and any effect such change may have on any future Services, as well as the price and delivery dates thereof. Within ten days following receipt of said notification, SIX shall determine whether or not the Change in question will be implemented. Unless otherwise agreed, Supplier shall continue carrying out its Services according to the required plan set out in the Contract or otherwise agreed between the parties during the period in which any Change Request is being evaluated.

6.2 Supplier shall be prohibited from rejecting any Change Request insofar as the change in question is practicable and does not alter the overall nature or characteristics of the Services.

6.3 Any Change Request of Supplier shall indicate in writing the reasons for said change.

6.4 Any change in any Services, price, delivery date, or contractual provision shall be subject to realization of an amendment to the Contract, agreed in writing between the parties. Any change in the price of the Services shall be calculated on the basis of the original price.

## 7. Documentation

Supplier shall regularly document and update all relevant and necessary hardware and software related matters, and shall submit the entirety of such market-compliant documentation to SIX, either on paper or in a write-enabled electronic format, at SIX's discretion.

## 8. Import requirements / Export restrictions

Supplier guarantees compliance with any applicable export restrictions and import regulations from the place of origin to the place of delivery according to the Contract. Supplier shall inform SIX in writing about any export restrictions of the country of origin.

## 9. On-call, response, intervention and malfunction elimination times

9.1 On-call times: Supplier shall provide its Services during the contractually defined on-call times as set out in the Contract. Supplier shall maintain continuous availability of sufficient amounts of defect-free spare parts, tools, and measuring devices as required to provide the Services.

Supplier shall provide Services outside of the defined maintenance times, insofar as requested by SIX and at an additional charge.

9.2 Response time: The maximum amount of time that elapses between receipt of SIX's initial report of a problem and the initial response of a Supplier's system specialist via phone, email or fax shall be as provided in the Contract.

9.3 Intervention time: The maximum amount of time that elapses before a Supplier's system specialist undertakes an initial intervention with a view to correcting a specific problem that has been reported shall be as provided in the Contract.

9.4 Malfunction correction time: The maximum amount of time that elapses until a reported problem has been eliminated and the system is fully operational as provided in the Contract.

## 10. Default

10.1 Insofar as Supplier fails to meet any contractual on-call time, response time, intervention time, malfunction correction time or delivery deadline, Supplier shall automatically be deemed to have defaulted on Supplier's contractual obligations ("Default").

10.2 If Supplier defaults on the malfunction correction time of a "critical" malfunction, Supplier shall pay SIX a service credit of DKK 6000.- for each started hour of Default, subject to a per Contract maximum amounting to the total fees payable over the course of the applicable year. For the purposes of the Contract, a critical malfunction is a System problem that completely disables the hardware/software or for which no workaround solution is currently available other than reinstalling the previous release or providing a new patch or release. A critical malfunction affects system functionality and availability in a manner that necessitates immediate action. Application of the foregoing shall be excluded insofar as Supplier can prove that said default is not attributable to Supplier or any other party under the Supplier's power or control.

10.3 Payment of any service credits pursuant to clause 10.2 shall be deducted from any damages Supplier is required to pay, but shall be without prejudice to any of SIX's other rights and remedies and shall not relieve Supplier of any of its obligations under this Contract whatsoever. Services credits payable pursuant to the Contract shall be applied as a reduction of future fees.

10.4 If Supplier defaults on a correction of a critical malfunction of twice within a month or three times within a year, SIX shall be entitled to terminate the Contract in whole or in part.

## 11. Reports

Immediately following the completion of any intervention, Supplier shall provide a report which shall be reviewed and signed by both parties. The Report shall indicate the exact time at which an intervention of the hardware or software began, the hardware or software element that was serviced, any component or other element that was replaced, the corrective measures that were taken, and the amount of time needed for the intervention. The report shall also indicate the date and time of any error messages, the time at which system functionality was restored, the cause of the malfunction, and a description of any documentation and/or source code updating necessitated by the Intervention.

## 12. Warranty

Supplier warrants and represents that he is able to enter into and perform the agreement and will continue to be able to perform the agreement, that there are no outstanding actions which might affect Supplier's ability to provide the services and that the services will be carried out in accordance with best industry practice. All implied warranties, conditions and other implied terms are excluded.

## 13. Intellectual property rights

13.1 Any intellectual property rights (intangible property and related rights; "Rights") produced by Supplier pertaining to the Services (including in respect of the source code and documentation), belong to SIX immediately upon creation of said rights.

13.2 Any pre-existing Rights shall remain in force. Supplier shall inform SIX about any of its pre-existing Rights relevant to the Services.

13.3 Payment by SIX shall constitute compensation for said Rights being assigned to SIX.

13.4 Both parties retain the right to use and dispose of ideas, processes and methods that are not legally protected as well as jointly developed know-how.

13.5 The Supplier shall at its expense execute all documents and do all such acts as SIX may require to perfect such assignment of intellectual property rights.

## 14. Breach of intellectual property rights

14.1 Supplier warrants and represents that performance of the Service does not infringe the Rights of any third parties.

14.2 Supplier shall, at its own expense, risk and without delay, defend SIX against claims by third parties concerning infringement of Rights. Should a third party initiate proceedings against Supplier, Supplier shall without delay inform SIX in writing. If the third party asserts claims directly against SIX, SIX shall notify Supplier promptly in writing and Supplier shall, upon first request of SIX and to the extent possible under the relevant code of procedure, participate in the lawsuit. If possible, SIX shall

give Supplier sole control over the defense thereof, and of any process related to reaching an out of court settlement of such claim. Supplier shall indemnify and hold harmless SIX for any costs and damages (including compensation for damages) incurred by SIX in connection with any such claim.

14.3 If, pursuant to the Rights asserted, SIX is unable to use the contractually owed Service in whole or in part, Supplier has the option of changing its Service in such a way that they do not infringe the Rights of third parties but nonetheless comply with the contractually owed Service. If Supplier fails to change the Service within a reasonable period, SIX may terminate the Contract with immediate effect and, without prejudice to its other rights under the Contract or under applicable law, obtain a full refund of any fees paid in respect of the relevant Service.

## 15. Source code

Insofar as Supplier is unable to provide any Service for any reason whatsoever, SIX shall be entitled to obtain the Service by a third party. In any such case, SIX shall be entitled to access the relevant source code of Supplier. In the interest of ensuring that the relevant source code issuance obligations are fulfilled, SIX shall be entitled to require at any time during the term of the Contract that the source code be safeguarded either by being deposited with a trustworthy company, or via realization of the relevant technical measures on a SIX's system of SIX's choosing; and that the source code be kept updated. The cost and expense of all such measures shall be assumed by Supplier.

## 16. Security regulations

16.1 Insofar as Supplier accesses the premises of SIX and/or any SIX data and information systems, Supplier shall comply with all applicable SIX access or security regulations.

16.2 Supplier shall procure that all Supplier personnel and third parties involved in performing the Contract abide by the access and security regulations. In particular, Supplier shall procure that all personnel of Supplier, and all personnel of third parties appointed by Supplier pursuant to the terms of this Contract, and in each case who spend time in the premises of SIX and who handle business information and data as well as computer equipment and documentation shall sign the form "Rules of behavior for external personnel" (to be found on [http://www.six-group.com/dam/about/downloads/terms-conditions/rules\\_external\\_personnel\\_en.pdf](http://www.six-group.com/dam/about/downloads/terms-conditions/rules_external_personnel_en.pdf)). Supplier shall keep the signed forms on file and hand over to SIX on first request.

16.3 Insofar as Supplier or a third party appointed by Supplier accesses the information systems of SIX, SIX shall have the right to monitor, record and evaluate Supplier's or such third party's activities in the information systems.

## 17. Compensation and terms of payment

17.1 Supplier shall provide its Services based on fixed standard prices or on a cost per service basis ("Prices") as set out in the Contract.

17.2 SIX assumes 8 working hours per working day. However, SIX expects a commitment to work that is in line with professional business standards and if required to work more than 8 working hours per day. Additional working hours may not be charged. If Supplier works less than 8 hours per day, only the actual working hours are to be charged. Travel time is not considered as working hours.

17.3 The Prices shall include all elements that are needed for the Intervention concerned, and in particular the following: spare part installation, testing and documentation costs; optimization and customization costs; remote software support; packaging, shipping, transport, travel and insurance costs; out of pocket expenses; any government charge such as customs charges and

taxes. All prices shall be stated exclusive of VAT. Fees and VAT shall be itemized on all invoices that are issued to SIX.

17.4 Any statements in timesheets deviating from rules agreed upon in the Contract or these STC Maintenance and Support shall only be valid if they have been approved by the SIX procurement team in writing.

17.5 The remuneration for stand-by services shall be agreed upon separately.

17.6 Supplier shall be entitled to raise its prices, subject to three months notice prior to the beginning of the subsequent calendar year but limited to the increase of the Consumer Price Index for the then current calendar year.

17.7 SIX shall make payment of any amount owed within thirty (30) days following receipt of the invoice.

17.8 In the event of non-payment in whole or in part of any sum due by SIX under the Contract within 30 (thirty) days of the due date for payment thereof, Supplier shall be entitled to charge interest on the outstanding sum unpaid from the due date until the actual date of payment (as well after as before decree or judgment) at a rate of 5% per annum.

## 18. Term

18.1 The Contract shall continue for the term detailed in the Contract. If the Contract is concluded for an indeterminate period of time, it shall be subject to termination by Supplier with 12 months' notice and by SIX with one month's notice, as from the end of any calendar month. SIX shall have the right to terminate the Contract in whole or in part.

18.2 The Contract may be terminated by either party with immediate effect in the event of any material breach of the Contract by the other party. In such a case, the remuneration for any Services that have been provided shall be pro rated, subject to the right of either party to bring a claim for damages.

18.3 On termination or expiration of the Contract, Supplier undertakes to promptly return to SIX all paper and electronic documentation and data in relation to the Contract. Supplier shall do so at no charge and shall not retain a copy of such documentation and/or data. Supplier furthermore undertakes to return all technical equipment received.

## 19. Nondisclosure

19.1 Supplier shall keep confidential all information, documentation and data that are acquired by Supplier in connection with the process of provisioning the contractual Services, and shall in particular be prohibited from making confidential information available or accessible to any third party or otherwise disclosing Confidential Information. The foregoing shall also apply to any information that falls within the scope of banking secrets.

19.2 Supplier shall advise all personnel involved in performing the Contract (including personnel of third parties appointed by Supplier pursuant to the terms of this Contract) of said personnel's obligation to keep business, banking and exchange secrets confidential, and shall procure that said personnel abide by this covenant. Supplier shall in particular procure that all such personnel sign the non-disclosure declaration of SIX (declaration to be found on [http://www.six-group.com/dam/about/downloads/terms-conditions/confidentiality\\_statement\\_en.pdf](http://www.six-group.com/dam/about/downloads/terms-conditions/confidentiality_statement_en.pdf)), which shall form an integral part of the Contract. All such signed documents shall be kept on file by Supplier and be submitted to SIX on first request.

19.3 The confidentiality obligations predate conclusion of the Contract and persist after termination of the contractual relationship.

19.4 This non-disclosure obligations shall prevail over pre-existing obligations of non-disclosure.

## 20. Data protection and data security

20.1 If Supplier Processes Personal Data in the course of performing the Contract, it shall be responsible for compliance with all applicable data protection law, in particular the Data Protection Act 1998 prior to 25 May 2018 and, thereafter, the EU General Data Protection Regulation (EU-GDPR) and all related applicable protection laws (together the "Data Protection Laws"). In the Contract, the terms "Personal Data", "Data Processor", "Data Subject", "Process" and "Data Controller" are as defined in the Data Protection Laws.

20.2 SIX shall be entitled to transfer Personal Data SIX has received from Supplier in connection with the performance of the Contract to other SIX Group companies in Switzerland and abroad for further Processing.

20.3 Insofar as the agreed services include data Processing by Supplier on behalf of SIX, SIX shall be the Data Controller and Supplier shall be the Data Processor and the following clauses shall apply:

20.4 SIX shall be solely responsible for determining the purposes for, and the manner in, which Personal Data are, or are to be, Processed. Supplier shall Process Personal Data only to the extent reasonably necessary to perform its obligations under the Contract and in compliance with SIX's written instructions and shall comply promptly with all such instructions and directions received from SIX from time to time.

20.5 Supplier shall immediately notify SIX if, in Supplier's reasonable opinion, any instruction or direction from SIX infringes the Data Protection Laws.

20.6 Supplier shall not disclose Personal Data to any employee, director, agent, contractor or affiliate of Supplier or any third party except as necessary for the performance of the Contract, to comply with applicable law or with SIX's prior written consent

20.7 Supplier shall undertake to implement all necessary or appropriate technical and organizational measures as required under the Data Protection Laws to ensure Personal Data of SIX are effectively protected against accidental or unlawful loss, damage, alteration and unauthorized disclosure, access or Processing. In particular, as of May 2018 Supplier shall ensure compliance with all data security requirements according to Art. 32 of the EU-GDPR.

20.8 Insofar as Supplier transmits Personal Data to a subcontractor located in a country without equivalent data protection level, Supplier shall conclude an agreement incorporating the EU standard clauses with this subcontractor.

20.9. Supplier shall be obliged to implement economically reasonable technical and organizational measures to enable SIX to answer requests from Data Subjects for the protection of their rights. This includes in particular the right of disclosure as well as correction, deletion and portability of data of persons concerned. Supplier shall notify SIX of any request made by a Data Subject under Data Protection Laws in relation to or in connection with Personal Data Processed by Supplier on behalf of SIX and, if required by SIX, permit SIX to handle such request and at all times cooperate with and assist SIX to execute its obligations under the Data Protection Laws in relation to such Data Subject requests. If SIX elects not to handle any Data Subject request received by Supplier, Supplier shall comply with such request. In all cases, Supplier shall provide a copy to SIX of all Personal Data which it does so disclose.

20.10 As of May 2018 Supplier shall be obliged to support SIX in fulfilling its obligations to ensure data security according to Art. 32 EU-GDPR; obligations to report data protection breaches according to Art. 33 und 34 EU-GDPR; and obligations in connection with privacy impact assessments according to Art 35 and 36 EU-GDPR. Supplier shall be obliged to inform SIX immediately about any breach of data protection (e.g. loss of SIX

data or unauthorized access to SIX data).

20.11 Upon termination of the agreed data Processing Supplier shall be obliged, at the option of SIX, to either delete or return the data, provided there is no legal obligation to store or archive the respective data.

20.12 Supplier shall be obliged to provide SIX upon request any information and cooperation necessary to prove fulfilment of the obligations according to this clause 20. Such cooperation may include helping SIX to carry out risk assessments of Supplier's data Processing operations, in particular, providing information about, and permitting SIX to inspect, those operations.

20.13 Supplier shall Process the Personal Data in accordance with the specified duration, purpose, type and categories of Data Subjects as set out in the Contract.

20.14 Supplier shall cooperate and provide SIX with such reasonable assistance as SIX requires in relation to any complaints made by Data Subjects or investigations or enquiries made by any regulator relating to SIX's or Supplier's obligations under the Data Protection Laws.

20.15 In no event may Supplier subcontract the Processing of any Personal Data which Supplier Processes on SIX's behalf without the prior written consent of SIX. Where that consent is given it will be conditional upon Supplier having executed a written contract with the third party which contains terms for the protection of Personal Data which are no less protective than the terms set out in this clause 20.

20.16 Supplier undertakes to provide training as necessary from time to time to Supplier personnel with respect to Supplier's obligations in this clause 20 to ensure that Supplier personnel are aware of and comply with such obligations.

20.17 Supplier shall ensure that any Supplier personnel with access to Personal Data is bound by confidentiality obligations in respect of access, use or Processing of such Personal Data.

## 21. Liability

21.1 The parties are liable to each other for any damage, loss or injury caused to the other party by breach of contract unless they are able to prove that no fault can be attributed to them. In case of ordinary negligence the liability shall be capped at the double amount of the contract value.

21.2 The Parties and/or its engaged third parties shall under no circumstances be liable for any damage, loss or injury caused by any force majeure (e.g. war, civil unrest, terrorist attacks, flooding, strikes, forces of nature). If Supplier is prevented from performing the Contract for more than thirty (30) days, SIX shall have the right to withdraw from the Contract.

21.3 The rules in this section shall be subject to clause 14.2.

## 22. Supplier's status as an independent contractor

22.1 In its capacity as an independent contractor, Supplier shall assume sole responsibility for payment of all taxes, social security benefits, and the like that are payable by Supplier, and shall obtain any insurance coverage desired by Supplier in Supplier's own name.

22.2 If Supplier is classified as a non-independent contractor rather than an independent contractor, Supplier shall indemnify SIX to the extent any taxes, social security charges, insurance premiums or the like that SIX incurs (directly or indirectly) and that are attributable to said classification of Supplier as a non-independent contractor. SIX shall be entitled to off set such expenditures from any relevant Supplier invoice.

### **23. Liability insurance**

23.1 Supplier shall obtain liability insurance that covers any damages that may be attributable to Supplier or the personnel thereof, whereby the amount of the coverage obtained shall be consistent with the value of the Services.

23.2 At the request of SIX, Supplier shall allow SIX to examine Supplier's liability insurance policy.

### **24. Assignment**

24.1 Any assignment of the Contract by both parties to any third party shall be subject to prior written authorization of the other party.

24.2 Notwithstanding the foregoing, SIX shall be entitled to assign the Contract to any affiliate or group company of SIX without Supplier's authorization.

### **25. Written form**

Changes and amendments to the Contract as well as termination of the Contract shall be in writing.

### **26. Severability**

Should any provision of the Contract be or become void, ineffective or unenforceable in full or in part, the validity and enforceability of all of the remaining provisions shall not be affected. The void, ineffective or unenforceable provision shall be regarded as replaced by the effective and enforceable provision that corresponds as closely as possible to the economic objective of the void, ineffective and unenforceable provision.

### **27. Use of SIX as a reference**

Any use of SIX as a reference shall be subject to SIX's prior written authorization.

### **28. Right to audit**

28.1 SIX, its external audit company and its supervisory authorities shall have a comprehensive and unrestricted right to conduct examinations and inspections at all times of Supplier.

28.2 Supplier is obliged to assist SIX and its external audit company and supervisory authorities in such examinations with the means at its disposal and to issue all relevant documents upon first request.

28.3 If Supplier uses related companies or other companies to fulfill its contractual obligations, Supplier shall make this clause 28 contractually binding on these companies, so that SIX, its external audit company and its supervisory authorities can claim this right of examination directly in respect of these companies.

28.4 The reasonable costs of such an examination shall be borne by SIX. However, if the examination finds that Supplier is in breach of contractual provisions, Supplier shall bear the costs of the examination in full.

28.5 SIX shall also have the right to inspect Supplier's own audit reports.

### **29. Applicable law; place of jurisdiction**

29.1 The construction, validity and performance of the Contract and all non-contractual obligations arising from or connected with

the Contract shall be governed by the laws of Denmark.

29.2 The parties irrevocably agree to submit to the exclusive jurisdiction of the courts of Denmark over any claim or matter arising under or in connection with the Contract.