

HOSTED SERVICE AGREEMENT

“HSA”

between

FACTON GmbH
Konrad-Zuse-Ring 12 b
14469 Potsdam
“FACTON”

and

.....
„Customer“

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This FACTON Hosted Service Agreement ("HSA") is between FACTON GmbH, Konrad-Zuse-Ring 12 b, 14469 Potsdam ("FACTON") and the legal entity entering into this Agreement ("Customer"). The Customer has licensed the licensed programs (including FACTON servers and clients) from FACTON for use based on a separate license agreement ("EULA").

In addition, the Customer wishes to use FACTON Hosted Services to operate the licensed programs together with storage space ("Storage Devices") for storing the generated application data. Under this agreement, FACTON therefore provides the Customer with services for the use of the licensed programs on server infrastructures, storage devices and networks over the Internet that cannot be used exclusively by the Customer.

With this contract, the parties agree that FACTON provides the Customer with the possibility of using the licensed programs for access via the Internet as well as storage devices for storing the generated application data for the runtime.

1. OBJECT OF THE AGREEMENT

1.1 The object of this Agreement is the hosting of licensed programs outlined in more detail in the proposal including their functionalities as well as the provision of storage space for the required data produced by and/or required for the use of the licensed programs produced ("**application data**") in the agreed scope in exchange for payment of the agreed remuneration. Use of and access to certain licensed programs (FACTON EPC Server) takes place on the basis of a client-server infrastructure.

1.2 The service description for FACTON Hosted Services attached to this Agreement as **Annex 2** is finally decisive in determining the specific nature of the Hosted Services provided by FACTON. Access to licensed programs hosted by FACTON may require local installation of access software ("**client**") on the Customer's local IT system. FACTON is not responsible for providing any services beyond this scope.

1.3 Any guarantees made by FACTON before conclusion of the Agreement are only effective if made in writing by a legal representative of FACTON.

2. RIGHTS OF USE/ACCESS SOFTWARE

2.1 The Customer has licensed the hosted licensed programs from FACTON under this Agreement on the basis of an EULA designed to cover use of said programs at the Customer's location. The Customer will provide the licenses to the licensed programs to FACTON for the purposes and duration of this Agreement. If the Customer has not licensed from FACTON all of the requisite rights to operate and/or use the licensed programs as hosted services, then, as the licensor, FACTON will supplement or guarantee the necessary scope of the rights of use for the purposes of this Agreement.

2.2 FACTON grants the Customer the simple, non-transferable right to use the Hosted Service and the Hosted Service documentation for the duration of the Agreement solely for the handling of internal business transactions of the Customer and its affiliates in accordance with the

conditions of the Agreement, in particular the service description in **Annex 2** and the Hosted Service documentation.

2.3 The Customer may grant authorized users permission to use the Hosted Service in the contractually agreed scope. Access data for the Hosted Service may not be used multiple times or by multiple persons concurrently. However, this data may be transferred from one person to another if the original user is no longer authorized to use the Hosted Service. The Customer is responsible for actions and omissions of its authorized users and affiliated companies as well as for its own actions and omissions and agrees to use the Hosted Service in the contractually agreed manner. For the remainder, the Customer is prohibited from sub-licensing, licensing, selling, leasing or renting the Hosted Service and the Hosted Service documentation or otherwise making it available to third parties.

2.4 The Customer is prohibited from using the Hosted Service in the following ways: (a) copying, translating, disassembling, decompiling, reverse engineering or otherwise modifying the Hosted Service or the Hosted Service documentation in whole or part (provided this is not permitted by mandatory law); (b) using the Hosted Service in a manner that violates applicable law, in particular transferring information and data that is illegal or violates third-party property rights; and (c) endangering or circumventing the operation or security of the Hosted Service.

2.5 The Customer is responsible for monitoring and using the Hosted Service and will report to FACTON immediately in writing any forms of use that exceed the contractual agreements, in particular the usage metrics and volumes outlined in **Annex 2** as applicable. In this case, the Customer is obliged to sign an agreement governing additional use and remuneration. The corresponding remuneration is owed from the first day on which the forms of use are exceeded. FACTON is entitled to verify whether the use of the Hosted Service is in conformance with the Agreement.

2.6 FACTON may temporarily suspend the Customer's access (in particular user names and passwords) to the Hosted Service to avert damage if and to the extent that the likelihood exists that continued use of the Hosted Service in violation of the Agreement by the Customer, authorized users or a third party using the Customer's access information could negatively impact the Hosted Service or the rights of third parties in a manner that makes it necessary to take immediate action to avert damage. FACTON will notify the Customer immediately of any such suspensions. FACTON will restrict the time and scope of the suspension in a reasonable manner based on the circumstances of the individual case.

2.7 The Hosted Service may contain links to web services offered by FACTON partners and third parties on external websites accessible via the Hosted Service and subject to the terms of use of these third parties. FACTON only provides technical access to the content of these integrated websites. The third parties are solely responsible for the content of these sites.

2.8 The server infrastructure may only be accessed using the clients provided by FACTON; any technical or contextual details regarding access using clients is agreed in **Annex 2**.

2.9 To the extent that in the scope of use of the licensed programs the Customer uses FACTON content of the Customer and collects, updates, reviews or prepares analyses of Customer data related hereto, this Customer data may be suitable for reviewing and improving the data quality and integrity of the FACTON content and for the purposes of anonymous benchmarking. The Customer grants FACTON simple, permanent, free rights to make these Customer data anonymous and to use them in anonymized form for the purposes of improving the data quality of FACTON content as benchmark data. The transfer of Customer data to FACTON content requires consent via confirmation of an electronic system message by the Customer. The Customer will not refuse consent on unreasonable grounds.

2.10 The Customer grants FACTON the right to anonymise data on user behaviour when using Licensed Programs and application data from the use of Licensed Programs. While maintaining anonymity, FACTON may process and use any data thus generated for its own purposes such as product optimization, improvement, further and new development of FACTON products and software, as well as other comparable purposes.

3. FACTON HOSTED SERVICE SCOPE OF SERVICES AND RESPONSIBILITIES

3.1 FACTON will provide the Hosted Service described in the proposal for the licensed programs from the agreed date on virtualized IT systems ("**server infrastructure**"). FACTON will also perform the agreed hosting support services. The characteristics and functionality of the services owed by FACTON is conclusively agreed in the proposal, the service description (**Annex 2**) and the documents referenced therein. FACTON does not owe any additional services or performance characteristics.

3.2 FACTON will maintain storage space on the server infrastructure in the capacity outlined in the proposal from the arranged time of operational deployment for the data generated and/or required to use the licensed programs by the Customer ("**application data**").

3.3 The licensed programs and the application data will be backed up on the server infrastructure on a regular basis, at least once per calendar day. The Customer is responsible for compliance with retention periods set out in the applicable trade and tax laws.

3.4 FACTON uses adequate security technology in the provision of the Hosted Service.

3.5 FACTON may further adapt and enhance performance characteristics of the Hosted Service to maintain pace with technical progress or ensure continued compliance with applicable mandatory law ("**continuous development**"). FACTON will inform the Customer of continuous development activities within a reasonable notice period (generally three (3) months before taking effect), in particular via email, release notes or within the Hosted Service itself. If continuous development efforts could have a negative impact the Customer's interests, making it unreasonable to expect the Customer to continue to comply with the agreements made, then the Customer may terminate the Hosted Service in writing with advance notice of one (1) month prior to the announced change taking effect.

3.6 Agreements regarding system requirements on the part of the Customer are outlined in **Annex 2**. FACTON is not responsible for the characteristics of the required hardware and software to be supplied by the Customer, nor is it responsible for telecommunications links between the Customer and FACTON to the service transfer point.

4. TECHNICAL AVAILABILITY/SERVICE LEVEL AGREEMENT

4.1 The Parties understand that availability means the technical usability of the licensed programs and the application data at the service transfer point for use by the Customer using the clients. All details regarding availability, in particular with respect to technical parameters and procedures for measuring and determining availability, are outlined in **Annex 2**.

4.2 Unless otherwise agreed, FACTON will maintain an average monthly system availability for the Hosted Service production system, which is governed under the service level agreement ("SLA") in **Annex 2** (service description).

4.3 If FACTON does not comply with the SLA, the Customer is entitled to a service level credit in the form of a contractual penalty (Section 339 of the German Civil Code (BGB)) as further outlined in the SLA. When FACTON confirms the validity of the service level credit in writing or via email, the claim will be honored as a credit to a subsequent invoice amount for the Hosted Service or – if no future invoices are due – refunded to the Customer. Paid contractual penalties will be offset against any claims for damages by the Customer. If FACTON (i) does not meet the SLA in four consecutive calendar months or (ii) in five or more calendar months in a period of twelve months or (iii) does not achieve system availability of at least 95% for one (1) calendar month, then the Customer may terminate the affected Hosted Service giving notice of thirty (30) days to FACTON in writing following the first instance of non-compliance. The termination takes effect at the end of the calendar month in which FACTON receives it.

5. GUARANTEES MADE BY FACTON

5.1 FACTON guarantees that the Hosted Service will meet the specifications agreed on in the proposal, the Service Agreement and the Hosted Service documentation and that – when used in accordance with the Agreement – it will not violate any rights of third parties during the term of the Agreement. FACTON will remedy any material or legal defects in the service in accordance with Numeral 5.2.

5.2 If FACTON has not remedied the defect even after a reasonable expiration of an extension period set by the Customer in writing and if the performance capability of the service is therefore impacted in a significant way, then the Customer has the right to issue a written termination. If the performance capability of the service is impacted in a significant way, the Customer has the right to a reasonable reduction in remuneration. Service level credits will be credited towards any claims for reductions made by the Customer. Numeral 10 applies for claims for compensation due to defects. Absolute liability is excluded for defects that already existed at the time the Agreement was concluded in accordance with Section 536a para. 1 alt. 1 BGB.

5.3 The Customer is required to notify FACTON of any breaches of duty immediately in writing, describing the reasons in detail.

5.4 The limitation period for warranty rights arising from material and legal defects following the acceptance of accessible services expires one year following acceptance. Warranties for the Hosted Service apply mutatis mutandis for support.

6. PRICES AND TERMS OF PAYMENT

6.1 The Customer is obliged to pay the contractually agreed amount for the Hosted Service to FACTON.

6.2 Remuneration for the Hosted Service is due and payable upon invoicing.

6.3 The Customer may add additional Hosted Services during the term of the Agreement by agreeing on a supplement to the respective proposal ("**supplementary agreement**"). Irrespective of the date that any such supplementary agreement takes effect, the term of every supplementary agreement is the remainder of the current term of the proposal and remuneration will be calculated on a pro rata basis accordingly.

6.4 The recurring remuneration agreed on in the proposal applies for the minimum term agreed therein. The applicable remuneration for an extension period corresponds to the remuneration of the respective prior minimum/extension period, to the extent that FACTON does not increase remuneration as follows:

- (a) FACTON may change the recurring remuneration respectively with a notice period of two (2) months with effect at the beginning of an extension period by means of a written customization declaration vis-à-vis the Customer at its own discretion while complying with the following principles:
- (b) FACTON may only change the amount of the remuneration based on how much the index named in the following under paragraph (c) changes (scope of change). If this is the first adjustment in remuneration, then the index status published between the time the Agreement is concluded and the last index published at the time the customization declaration applies for the scope of change. If there has already been an adjustment in remuneration, then the scope of change will be defined by the index growth between the time of the previous customization declaration and the most recently published index status and the index status most recently published at the time of the new customization declaration.
- (c) The index of the average gross monthly earnings of full-time workers in Germany for the information technology service provider branch of the economy is to be used as the basis for determining the scope of change. If this index is no longer published, then the index published by the German Federal Bureau of Statistics that most closely approximates the average gross monthly earnings in the branch of the economy outlined above is to be used to determine the scope of change.

- (d) If the Customer does not dispute the adjustment in remuneration at the latest one (1) month before expiry of the preceding contract period, thereby rejecting an extension at this increased rate of remuneration, then the modified remuneration is considered to be agreed upon automatic extension of the service for the extension period. FACTON hereby refers to the customization declaration.

6.5 Unless otherwise agreed, the Customer is required to pay all invoices within fourteen (14) days of the invoice date via bank transfer.

6.6 All prices exclude the legally applicable sales tax.

7. DATA SECURITY, DATA PROTECTION

7.1 The parties shall observe the applicable data protection regulations, in particular those valid in Germany, and inform their employees employed in connection with the contract and its implementation of their data protection obligations, insofar as these are not already generally obligated accordingly.

7.2 If the Customer collects, processes or uses personal data, then it agrees to ensure that it is authorized to do so in accordance with applicable legal provisions (in particular data protection laws) and will indemnify FACTON from claims by third parties in the event of a violation. If processed data includes personal data, the Customer will inform FACTON of this in writing in advance. This would be an example of order data processing and FACTON will comply with the legal requirements related to order data processing along with the instructions of the Customer (e.g. for complying with the obligation to delete or block information). The instructions must be provided in due time and in writing. In this event, the Parties will conclude a separate Agreement regarding order data processing.

7.3 FACTON will protect services and systems it has access to along with the application data and, if applicable, other data of the Customer or related to the Customer saved on the server infrastructure against unauthorized knowledge, storage, modification or any other form of unauthorized access or attacks – whether through technical measures, viruses or other damaging programs or data or physical access – by employees of FACTON or third parties, regardless of the manner in which these may occur. To this end, FACTON will take all appropriate and standard measures in line with the current state of the art, in particular virus protection and protection against similar, damaging programs along with additionally securing its facility including protection against break-ins.

7.4 The obligations outlined under Numerals 7.1 – 7.3 remain in effect even after the Agreement has ended as long as application data remains within FACTON's sphere of influence.

8. PROTECTION OF THE OBJECTS OF THE CONTRACT, EXCEEDING THE RIGHT OF USE, RIGHTS TO DATABASES

8.1 The Customer may only use the Hosted Service and the Hosted Service documentation within the contractually agreed scope. Unless the Customer has not been expressly granted rights hereto, all rights to these belong to FACTON or its licensors in relation to the Customer.

8.2 Unless otherwise agreed, the Customer has all rights to and related to the Customer data in relation to FACTON.

8.3 FACTON is not liable for any use of the Hosted Service for illegal purposes or that violates public regulations or ordinances or corresponding data, in particular application data created and/or saved on the server infrastructure.

9. DUTIES AND OBLIGATIONS OF THE CUSTOMER

9.1 The Customer is responsible for the content of the Customer data and its collection in the Hosted Service.

9.2 The Customer will maintain appropriate security standards for use of the Hosted Service by authorized users. The Customer is solely responsible for determining the suitability of the Hosted Service for its business processes and all applicable legal provisions regarding the Customer data and the use of the Hosted Service. The Customer is obliged to assist FACTON in performing the Hosted Service and support in the required scope free of charge by making available its infrastructure and telecommunications equipment for access to the Hosted Service. FACTON points out that cooperation on the part of the Customer is a prerequisite for proper service performance by FACTON. The Customer will bear any disadvantages and additional costs arising from a breach of its obligations.

10. LIABILITY

10.1 In all cases of contractual and non-contractual liability FACTON is liable for claims for damages or compensation for futile expenditures solely in accordance with the following limits:

- a) the full amount in cases of intent and in the event that a characteristic is missing for which FACTON provided a guarantee;
- b) only the amount of the foreseeable damage that should have been avoided by the breached obligation in cases of gross negligence;
- c) in other cases: only if a material obligation (cardinal obligation) is breached and up to the liability limits outlined in the following subparagraph. Breach of a cardinal obligation occurs when an obligation is breached whose fulfillment would have made the proper execution of the Agreement possible in the first place or whose violation endangers the achievement of the purpose of the Agreement and the Customer can readily rely on FACTON to comply with.

10.2 The liability in Numeral 10.1 c.) is limited to €25,000 per case of damage; in total and in total per year of the Agreement on the remuneration paid for the affected Hosted Service, at a minimum however of €75,000.

10.3 The liability limits in accordance with Numeral 10.2 do not apply to liability to personal injury or liability under product liability law.

10.4 FACTON reserves the right of defense of contributory negligence.

10.5 A limitation period of one (1) year applies to all claims against FACTON for damages or compensation for futile expenses for contractual and non-contractual liability. The limitation period begins with the time specified in Section 199 para. 1 BGB. It enters into effect at the latest after a period of five (5) years expires from the emergence of the claim. The provisions in sentences 1 through 3 of this Numeral 10.5 do not apply to liability in cases of intent or gross negligence or to personal injury or in accordance with product liability law. The alternative limitation period for claims arising from material and legal defects (Numeral 5) remains unaffected by the provisions of this paragraph.

11. TERM, TERMINATION

11.1 The term of the Hosted Service is specified in the proposal. Every proposal for Hosted Service provision will last for the minimum term agreed on therein ("**minimum term**"). When the minimum term expires it extends automatically by the agreed extension periods (one "**extension period**" each), provided the Hosted Service is not terminated by one of the Parties in accordance with Numeral 11.2.

11.2 Ordinary (partial) termination of the Hosted Service is prohibited during the minimum term/extension period. The Parties may terminate the Hosted Service with advance notice of at least three (3) months to the end of the respectively current minimum term or extension period.

11.3 Extraordinary termination rights and terminations for cause remain reserved. Terminations must be made in writing in order to be effective. FACTON reserves the right to terminate the Agreement for cause, in particular in the event of multiple breaches or gross breaches of contractual obligations. Extraordinary termination due to or in connection with a breach of duty is only possible following an advance written warning with an appropriate deadline of not less than ten (10) days.

11.4 In the event of termination on the part of the Customer, the Customer is entitled to a partial refund of advance payment for the original term of the respective Hosted Service following the termination date.

11.5 The end of the Agreement (i) ends the Customer's ability to access the Hosted Service; (ii) ends the Customer's right to use the Hosted Service and confidential information from FACTON; and (iii) results in the contractually agreed return or deletion of any confidential information to the respective Party disclosing this information. Termination of individual proposals for Hosted Services does not affect other contracts.

12. OBLIGATIONS DURING AND FOLLOWING TERMINATION OF THE AGREEMENT

12.1 Communication between the Customer and FACTON regarding the operation of the Hosted Services (e.g. information about maintenance windows, sending of availability reports, renewal of certificates) shall be by e-mail. The necessary contact data are stored in Appendix 3 - Contact data

Malfunctions of the Hosted Services are reported to FACTON support. The support services website can be found at the following address: www.facton.com/service-and-support.

12.2 At the arranged time, at the latest however upon termination of the contractual relationship, FACTON is obliged to provide the Customer's application data and any other saved data to the Customer on data storage media.

12.3 The Customer is obliged to remunerate FACTON based on expenditure for the necessary and proven costs incurred in connection with the services in accordance with Numeral 12.1. Remuneration shall be paid at FACTON's general list prices valid at the time the Agreement is terminated.

13. MISCELLANEOUS

13.1 The Customer's general terms and conditions of business do not apply.

13.2 The Customer may only offset undisputed or adjudged claims.

13.3 Neither Party is liable for failure to perform its contractual obligations if the Party is prevented from doing so on grounds beyond its reasonable control (force majeure, e.g. terrorist acts, fire, explosion, strikes, labor disputes, delays due to suppliers or manufacturers, government activities or similar circumstances).

13.4 If any provision of this Agreement is invalid, this shall not affect the validity of the remaining provisions. The Parties to the Agreement will make every effort to find a valid provision that most closely approximates the intended economic meaning of the invalid provision.

13.5 The Customer is not entitled to assign rights or obligations arising from this Agreement or transfer them in any other way (including without restriction in the form of a merger or participation). FACTON is permitted to assign rights or obligations arising from this Agreement or transfer them in any other way to companies in the FACTON Group and/or a third party without the Customer's consent.

13.6 The Hosted Service and Hosted Service documentation are subject to the export control laws of various countries, in particular the laws of the Federal Republic of Germany. The Customer agrees not to hand over the Hosted Service and the Hosted Service documentation to a government authority for consideration of the possible granting of rights of use or other regulatory approval without prior written consent from FACTON and not to export the Hosted Service and the Hosted Service documentation to countries or natural persons or legal entities under

export bans in accordance with applicable export laws. Moreover, the Customer is responsible for compliance with all applicable legal provisions in the country in which the Customer's headquarters is located and other countries with respect to the use of the Hosted Service by the Customer and its authorized users. FACTON hereby expressly points out that FACTON may be required, in accordance with export laws of various countries, in particular the laws of Germany and due to trade sanctions and embargoes that apply to FACTON, to limit, temporarily suspend or terminate the Customer's access to the Hosted Service and Hosted Service material.

13.7 System notifications and information from FACTON related to operation, Hosting or Hosted Service support may also be made available within the Hosted Service, transmitted to the designated contact in electronic form or made available via a FACTON support portal.

13.8 Regarding Hosted Service performance and support, the provisions of these terms and conditions may be modified in line with the following sentences, provided that this would not change Agreement content that is material in maintaining the equivalence between the Parties and provided it can be considered reasonable for the Customer to accept the change. FACTON will notify the Customer of the changes to the terms and conditions in writing. If the Customer does not object to the change in writing within a period of four (4) weeks, then the change is regarded as approved and from this point the modified version of the terms and conditions for the existing Agreement between FACTON and the Customer is binding. FACTON will expressly inform the Customer of this consequence in its notification of the change.

13.9 This Agreement is subject to and was drafted in accordance with, and the legal relationships between the Parties are determined in line with the laws of the Federal Republic of Germany excluding the consideration of the principles of conflict of law and the United Nations Convention for the International Sale of Goods. The sole venue of jurisdiction is Munich.

13.10 All annexes named in this Agreement including the glossary (**Annex 1**) are mandatory parts of the Agreement.

FACTON GMBH

CUSTOMER

(Place, Date)

(Place, Date)

(Stamp, Signature)

(Stamp, Signature)

14. ANNEXES

Annex 1 Glossary

Proposal means the quotation created by FACTON for the Customer for the use of the licensed programs as a Hosted Service.

Customer data means all contents, materials, data, personal data and information collected by users in the production system of a Hosted Service or derived from its use and saved in the Hosted Service (e.g. specific reports of the Customer).

Authorized user (or “named user”) means a person at the Customer or one of its affiliated companies whom FACTON has granted access permission for the licensed programs under the EULA and thus also for the Hosted Service.

FACTON Content means a compilation of benchmark data for product cost estimates whose scope is outlined in the service description under www.facton.com/en/facton-content and that may be modified from time to time.

Hosted Service means any specific on-demand hosting solution (including support) for the licensed programs provided by FACTON on the basis of a proposal.

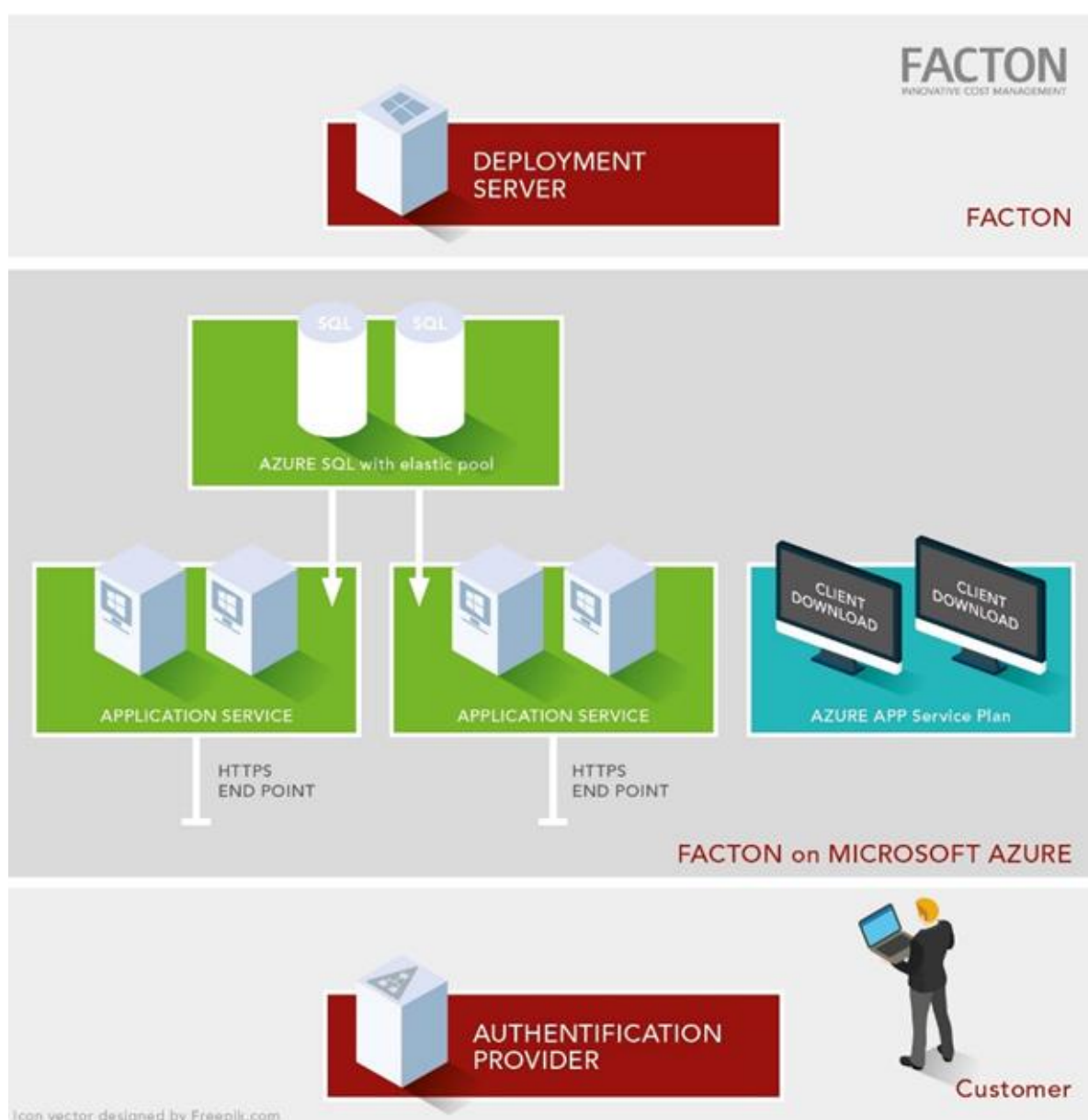
Hosted Service documentation means all materials supplied to the Customer by FACTON before or in the scope of the contractual performance, including the materials created through the performance of support or consulting services for the licensees. The Hosted Service documentation includes materials created in collaboration with FACTON, but not Customer data, confidential Customer information or the Hosted Service itself.

Affiliated companies are companies that are connected with the Customer in the sense of Section 15 et seq. of the German Stock Corporation Act (AktG).

Annex 2 FACTON Hosted Service Description (including SLA)

1. Service description

FACTON will provide the Customer with the licensed programs (FACTON EPC) via a server infrastructure on the Microsoft Azure platform, specifically using dedicated, integrated Microsoft Azure partial services (e.g. Azure SQL Database, Elastic Pools and Azure App Services).



2. Customer system requirements

A Microsoft-based infrastructure for user administration and for the local installation of the client is a system requirement for the Customer.

The Customer must operate the clients in its network and on its IT systems.

Further details and specifics on Customer system requirements are outlined in the Hosted Services documentation.

3. Technical availability

a) Definition and determination of the technical availability of the Hosted Service

The “**service transfer point**” for the Hosted Services in terms of the agreed SLA is the availability of the server infrastructure at the Microsoft Azure HTTPS end point. The availabilities refer to this service transfer point. FACTON will measure SLAs using a corresponding monitoring system.

FACTON will provide the Customer with the licensed programs throughout the agreed term, but excluding agreed times of scheduled non-availability in accordance with Numeral 4 b.); the term minus the scheduled non-availability is the system runtime.

The system runtime, the core utilization time within the system runtime and the margin utilization time (as the time outside of the core utilization time but inside of the system utilization time) are arranged in the table below. The availability is calculated separately inside the core utilization time and inside the margin utilization time. The value of the availability is the percentage rate of the incidence of availability inside the reference period. The reference period is shown in the table below:

Service Levels (SLA)	Period	SLA
System runtime	7 x 24 hours, 365 days a year	-
Reference period for measuring availability	Month	-
Core utilization time “operations standard”	9 am–5 pm, Monday–Friday	97.5%
Core utilization time “operations extended”	9 am–10 pm, Monday–Friday	97.5%
Core utilization time “operations premium”	5 x 24 hours, Monday–Friday	97.5%
Core utilization time “operations excellence”	7 x 24 hours	97.5%
Margin utilization time	Times inside the system utilization times and outside of the agreed core utilization times	80.0%

Available utilization (availability) also includes

- periods of interruption or due to conditions arising from parts of the required technical infrastructure to perform the Hosted Service that are not supplied by FACTON or its agents;
- disruptions in service or other events that are not (partially) attributable to FACTON or its agents;
- minor restrictions in suitability for contractually agreed utilization;

b) Times of scheduled non-availability

In times of scheduled non-availability, FACTON is entitled to repair, maintain, perform backups or any other work on the licensed programs and/or server infrastructure.

Times of scheduled non-availability must be arranged with the Customer. The Customer will not deny its consent without good reason.

The Customer already consents to scheduled non-availability during the entire term of the Agreement every Sunday from 2 to 6 am.

If and to the extent that the Customer can still use the licensed programs during times of scheduled non-availability, this does not constitute any legal claim to do so. If performance is restricted or suspended during times of scheduled non-availability, then the Customer is not entitled to claims of liability for defects or compensation for damages.

c) Measuring methods for determining availability and reporting

The Parties hereby agree to the measuring method for determining availability outlined below. Within the scope of general service monitoring, FACTON will continuously monitor the availability of the HTTPS end points and the availability of the application services at the end points. Based on these measurements, data on availability will automatically be generated, which FACTON will then provide to the Customer on the first working day of a reference period for the previous reference period, but at the latest on the first working day of a calendar quarter for the previous calendar quarter as a basic report.

d) Error messages and response times

FACTON will ensure that inside a time dependent on levels of urgency from receipt of a warning of a technical error by the Customer (e.g. error in the licensed programs) or from the time of the automatic error message generated by the server infrastructure of the monitoring system installed by FACTON itself (e.g. error in Hosted Services, server infrastructure downtime) it will undertake to remedy the defect and inform the Customer of the circumstances.

The provisions for issuing error warning messages (e.g. reporting methods, classification of the incidents by priority/level of urgency, etc.) and error recovery (including errors in Hosted Services) are outlined in detail in „Support Service Level Policies für FACTON Licensed Programs“. These provisions apply accordingly within the framework of this Agreement.

e) Service level credit

If FACTON does not achieve the SLA, then the Customer is entitled to a service level credit in accordance with the following table:

SLA	SLA violation	Service level credit
Technical availabilities	For each percentage point started below the respectively agreed availability	1% of the monthly remuneration

If more than one service level credit is earned during an event, then these will be accumulated.

Annex 3 Contact details

The Customer's e-mail address referred to in Section 12.1 of the FACTON Hosted Service Agreement is:

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The e-mail address of FACTON Operations mentioned in Section 12.1 of the FACTON Hosted Service Agreement is:

operations@facton.com

The channels for communication with FACTON Support can be found at the following address:

www.facton.com/service-and-support