



Terms and Conditions for Value Added Numbers and IVR Services of Daotec Ltd

1. General

1.1 This Agreement shall apply to and form an integral part of all contracts for the provision of the Services by the Company and to all quotations and negotiations in connection with such contracts.

1.2 In this Agreement the following expressions shall have the following meanings:

“Agreement”	These Terms and Conditions and the Order Form;
“Callers”	Persons who dial the Numbers to access the Content;
“Commissioned Data Processing”	Shall mean any collecting, processing or use of Personal data by Data Processor on behalf of Data Controller.
“Company”	Daotec Ltd, 145-157 St. John Street, London, EC1V 4PY, United Kingdom, company number 04296038;
“Content”	Content and/or services which are to be made available by the Customer by using the Service;
“Content Provider”	Customer or a third party permitted by the Customer to use and market a Number for the purposes of providing Content;
“Customer”	The party defined in the Service Number Order Form, to which the Company provides the Service;
“Data Controller”	Means in this Agreement Customer, which determines the purposes and means of the Processing of Personal Data;
“Data Processor”	Means in this Agreement Company, which processes Personal Data on behalf of the Data Controller;
“IVR Services”	Interactive Voice Response Services which may include (a) Play/Record and Disconnect Services, and (b) Call Transfer Services;
“Network Providers”	Operator(s) providing the PSTN connectivity between Callers and the Company’s System;
“Numbers”	Telephone numbers from within a range used by the Company and allocated to it by regulatory authorities, as may be designated by the Company for use in connection with this Agreement and specified in the Service Number Order Form;
“Personal Data”	Means any information relating to an identified or identifiable natural person (“data subject”); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, mental, genetic, economic, cultural or social identity of that natural person.



“Processing”	Means to perform an operation or set of operations, whether or not by automatic means, such as accessing, collecting, recording, registering, organizing, storing, adapting or altering, deleting, retrieving. Consulting, using, disclosing (or otherwise making available) by transmission, dissemination or otherwise, aligning or combining, blocking or destruction of Personal data.
“Scheme Rules”	Means usage conditions and instructions imposed by the Network Providers with respect to the use of the service of Daotec Ltd;
“Service(s)”	The services provided under this Agreement, as specified in the Order Form, together with such other services as may be agreed in writing by the parties from time to time; they may include premium rate services, the allocation of numbers, SMS services and other telecommunication services;
“Order Form”	Service Number Order Form of the Company by which the Customer requests to be provided with one or more Numbers;
“Party”	Company or Customer;
“Phone-paid Services Authority”	Phone-paid Services Authority or any equivalent or similar body which may be appointed, whether or not in addition to or in substitution for the Phone-paid Services Authority, by any competent authority, in any jurisdiction;
“System”	Any systems operated by the Company, as they may be configured from time to time.

- 1.3 Use of the singular includes the plural and vice versa.
- 1.4 Any reference to “persons” includes natural persons, firms, partnerships, companies, corporations, associations, organizations, governments, states, foundations and trusts (in each case whether or not having separate legal personality).
- 1.5 Where there is a conflict between the Order Form and these Terms and Conditions, the Order Form shall take precedence.
- 1.6 Any reference to a Clause is to the relevant Clause of this Agreement and any reference to a sub-clause or paragraph is to the relevant sub-clause or paragraph of the Clause in which it appears.
- 1.7 Clause headings are inserted for ease of reference only and shall not affect the construction or interpretation of this Agreement.
- 1.8 Any reference to a statute, statutory provision or subordinate legislation (“legislation”) shall (except where the context otherwise requires) be construed as referring to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.9 Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legislation, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to what most nearly approximates in that jurisdiction to the English legal term.
- 1.10 Any reference to a sum expressed in Pounds Sterling or Euro shall, in respect of any jurisdiction other than England, be deemed to include a reference to an equivalent sum in the currency of that jurisdiction at rates of exchange prevailing from time to time.
- 1.11 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. The Company’s Obligations

- 2.1 The Company shall provide the Services and in particular allocate the Number(s) to the Customer in accordance with the terms of this Agreement once the Company has accepted in writing the Order Form filled out by the Customer. The Company shall make its best efforts to provide the Services with minimum disruptions. The Company does not guarantee that the Services will always function without disruptions, delay or other imperfections.



- 2.2 Clause 2.1 constitutes the whole of the Company's obligations with respect to the description, quality and fitness for purpose of the Services.
- 2.3 At any time either Party may suggest changes to the Services. The Company will be entitled to charge the Customer at the Company's standard rates from time to time for implementing any such suggestion made by the Customer.
- 2.4 Neither the Company nor the Customer will be obliged to agree to any suggested change to the Services and, until any change to the Services (together with any consequential changes to the Agreement) has been mutually agreed and recorded in writing, the Company and the Customer will continue to perform the Agreement without taking account of the suggested change.

3. The Customer's Obligations

- 3.1 The Customer will provide the Company, free of charge, with all information, materials, documentation, resources and facilities reasonably requested by the Company to allow the Company to provide the Services. The Customer will ensure that its staff and contractors co-operate fully with the Company and cause no delay.
- 3.2 Where the Company needs the Customer to provide information or to take a decision, the Customer will do so promptly and so as not to delay the Company.
- 3.3 Customer agrees and undertakes on its own behalf and shall procure that any third party it shall contract with, in particular Content Providers, shall agree and undertake:
 - 3.3.1 to ensure that all intellectual property rights relating to any aspect of the Content are licensed correctly and do not infringe any intellectual property rights of any third party;
 - 3.3.2 to ensure that all information collated by either the Content Provider or the Customer in connection with the use of the Services is collected, compiled, processed and stored in accordance with relevant legislation and codes of practice and, in particular, that it complies with and is correctly registered under applicable data protection legislation and related legislation or statutory instruments;
 - 3.3.3 to supply detailed traffic forecasts on a rolling six month basis;
 - 3.3.4 to suspend or reduce marketing activity if so reasonably requested by the Company;
 - 3.3.5 to comply with the codes of practice of all regulatory authorities where applicable;
 - 3.3.6 to observe the provisions contained in the Telecommunications Act 1984 and any other relevant legislation or statutory instruments and to comply at all times with any codes of practice, directions or requests made by the Secretary of State or any other person or body with competent jurisdiction or persons authorised on his behalf;
 - 3.3.7 to procure at its own expense all necessary licenses, permits, consents and authorisations required for the provision of the information including those required by Phone-paid Services Authority;
 - 3.3.8 to refrain from all and any acts or omissions which may injure or damage the reputation or property of the Company or cause the quality of the Services or the Content to be prejudiced or impaired; and
 - 3.3.9 to indemnify the Company against all liabilities, losses and costs incurred by the Company in connection with the Content, the Services or otherwise.
- 3.4 In the event of any fines or penalties relating directly or indirectly to the Content and/or its marketing or provision or purported provision by the Customer or the Content Provider being imposed upon the Customer or the Content Provider or the Company by Phone-Paid Services Authority or any other regulatory body, the Customer shall pay or shall procure that the Content Provider shall pay such fine or penalty within 7 (seven) days, failing which the Company shall be entitled to deduct the amounts of the fines and/or penalties from any monies owed by the Company to the Customer. In the event that there are insufficient monies available to meet the said fines or penalties, the Company shall be entitled to seek recompense in full directly from the Customer.

4. Charges and Payments

- 4.1 The Charges for the Services are as agreed between the Company and the Customer in the Order Form.
- 4.2 The Customer must pay all Charges for the Services within 14 (fourteen) days of the date of the Company's invoice, without any set-off, counterclaim or deduction.
- 4.3 The Charges and all other amounts payable to the Company are exclusive of Value Added Tax, any similar tax and other applicable taxes which will be paid by the Customer at the rate and in the manner from time to time prescribed by law, and without deduction or set-off, by return of post or in any case within 7 (seven) days after the date of the Company's invoice.
- 4.4 If any amount payable to the Company by the Customer is not paid by the due date, the Company may, without



- prejudice to its other rights and remedies:
- 4.4.1 suspend or terminate the provision of any or all of the Services; and/or
 - 4.4.2 deduct the overdue amount from payments due to the Customer; and /or
 - 4.4.3 charge interest on the overdue amount (both before and after any court decision) on a daily basis from the due date to the date of actual payment (both dates inclusive) at the rate of 4% above the base rate of Barclays Bank PLC (or any other London Clearing bank which the Company may nominate) from time to time in force compounded quarterly; and/or
 - 4.4.4 charge all its collection costs to the Company.
- 4.5 No refunds will be given for any partially used contractual periods of service or periods of service that have been paid for and subsequently cancelled by the Customer.
 - 4.6 All payments to the Customer shall be calculated by reference to data recorded, collated and/or compiled by the Company. This data is the decisive and binding proof for the determination of the amounts owed by the Customer, unless Customer proves the data to be incorrect.
 - 4.7 The Customer must inform the Company of any disputed invoice (including relating to fraud), together with all relevant information and explanation of the disputed amount, in writing within 14 (fourteen) days of the date of the relevant invoice from the Company. The Customer must pay all undisputed amounts in accordance with Clause 4.2 unless the disputed amount is less than 10% of the total invoice amount in which case the total invoice amount shall be due and payable by the due date.
 - 4.8 Costs for wire transfers, checks or other bank charges are deducted from the payment to the Customer.
 - 4.9 The Company is entitled from time to time to change any Charge and/or other rates by giving to the Customer not less than 30 (thirty) days' notice in advance, provided that such change is due to increases in the underlying costs of the Company, including due to mandatory regulatory changes. Unless the Customer rejects the increase and terminates this Agreement in writing within 14 (fourteen) days upon receipt of the above notice, the Charge as increased is deemed to be agreed upon between the Parties.
 - 4.10 The Company shall pay the payments to the Customer for the Numbers according to the Order Form.
 - 4.11 The Company reserves the right to delay or withhold in part or in full payments to the Customer if and to the extent:
 - 4.11.1 a Network Provider delays or withholds payments due to the Company in respect of the Service or a Number;
 - 4.11.2 a Network Provider seeks to recover payments made to the Company in respect of the Service or a Number;
 - 4.11.3 by reason of the volume, origin or quality of the traffic generated in respect of a Number, or otherwise, the Company reasonably suspects that the Service or the Number may be being used for unauthorised or fraudulent purposes; and/or
 - 4.11.4 the monthly payment due to the Customer is less than EUR 50 (fifty).

5. Ownership of Numbers, Content and Technology

- 5.1 The Numbers shall during the term of this Agreement and at all times thereafter, unless otherwise agreed in writing (subject to any porting rights of the Customer), remain the property of the Company and neither the Customer nor the Content Provider shall have any title to or any right or interest in the Numbers.
- 5.2 The Company reserves the right with immediate effect and without payment of compensation to withdraw and/or re-allocate to itself or to a third party any Number allocated to the Customer if it is reasonable to do so, including the following cases:
 - 5.2.1 the Number concerned achieves less than 500 (five hundred) call minutes in a particular calendar month, within 30 (thirty) days of such shortfall becoming known to the Company;
 - 5.2.2 any applicable regulatory numbering plan requires the withdrawal and/or re-allocation;
 - 5.2.3 the respective carrier or other supplier of the Company withdraws and/or reallocates the Number;
 - 5.2.4 the cases described in Clause 8.
- 5.3 The Company shall have the right to monitor any calls made to any Number for the purposes of ensuring compliance with any applicable legislation.
- 5.4 The Technology shall during the term of this Agreement, and at all times thereafter unless otherwise agreed in writing, remain the property of the Company and neither the Customer nor the Content Provider shall have any title to or any right or interest in the Technology.
- 5.5 If the Content is provided by the Company, it shall during the term of this Agreement, and at all times thereafter unless otherwise agreed in writing, remain the property of the Company and neither the Customer nor the Content Provider shall have any title to or any right or interest in the Content.



6. Provisions in respect of IVR Services

- 6.1 The Customer will ensure that in respect of the IVR Service, IVR Call Transfer calls diverted to a terminating number will be answered within 30 (thirty) seconds of the call being diverted.
- 6.2 Where in respect of any calendar month 10 (ten) % or more IVR Call Transfer calls are not answered within 30 (thirty) seconds, the Company shall be entitled to charge the Customer a fee of EUR 500 (five hundred) + VAT in respect of the revenue shortfall (in respect of which the Company is unable to invoice) for the calendar month caused by the delay in answering the calls. The parties agree that this fee represents a fair and reasonable pre-estimate of the average loss to the Company arising from such shortfall.
- 6.3 Where either (a) in respect of any calendar month 25 (twenty five) % or more IVR Call Transfer calls are not answered within 30 (thirty) seconds, or (b) there are three or more calendar months in any consecutive period of 12 (twelve) months in which 10 (ten) % or more IVR Call Transfer calls are not answered within 30 (thirty) seconds, the Company may terminate the IVR Call Transfer Service with immediate effect by written notice to the Customer.
- 6.4 The calculation of whether a call was answered within 30 (thirty) seconds shall (in the absence of manifest error) be conclusively determined by the Company's equipment.

7. Interruption

- 7.1 The Company shall not be liable to the Customer for any suspension, deterioration or interruption of the Service howsoever caused.
- 7.2 The Company shall be entitled at any time to improve, modify, suspend, change, test, maintain or repair the System or any part thereof without incurring any liability or obligation to the Customer. The Company will endeavour to give to the Customer as much notification of any interruption or material change to the System as is practicable in the circumstances and will use all reasonable endeavours to ensure that disruption to the Service is minimised.

8. Suspension and Termination

- 8.1 The Company may suspend or terminate the Service with immediate effect upon written notice to the Customer and without becoming liable for any kind of damage which the Customer may suffer as a consequence of such suspension or termination if:
- 8.1.1 the Customer is in breach of any of its obligations (including its payment obligations) and such breach, if capable of remedy, is not remedied within 7 (seven) days after the Company provides written notice of such breach to the Customer;
 - 8.1.2 the Company, in its reasonable opinion, is required to suspend or terminate in order to comply with any legislation, license, order, instruction or request from any authorised body, including any government or regulatory body of applicable authority;
 - 8.1.3 the Company reasonably suspects that the Service may be being misused or used improperly, including artificially inflated traffic and usage for unauthorised, defamatory, obscene and/or fraudulent purposes;
 - 8.1.4 the Customer fails to comply or delays in complying with the reasonable instructions of the Company to implement appropriate maintenance measures;
 - 8.1.5 suspension or termination is necessary for the purpose of safeguarding the security or integrity of the Company's System;
 - 8.1.6 the Customer ceases or threatens to cease to carry on all or any substantial part of its business; or
 - 8.1.7 in the Company's reasonable opinion the Content may adversely affect the Company's reputation or relationship with one or more customers.
- 8.2 Without prejudice to the above, either party may terminate this Agreement forthwith upon written notice to the other party if:
- 8.2.1 the other party commits a material breach of any provision hereof and, if capable of remedy, fails to remedy such breach within 30 (thirty) days of receipt of written notice specifying the breach and the steps required to remedy it; or
 - 8.2.2 insolvency proceedings are brought against the other party, or if any payment under a judgment of a Court is not paid on time, or an arrangement is made with a receiver or an administrator over any of the other party's assets or the other party goes into liquidation.
- 8.3 Either Party may terminate any or all individual Services or this Agreement for convenience, without cause, at or



after the end of its Minimum Term upon not less than 3 (three) calendar months' prior written notice to the other Party, such notice to expire at the end of a calendar month. Lacking any other agreement, the Minimum Term shall be 9 (nine) calendar months.

- 8.4 For the avoidance of doubt, the notice period shall commence on the first day of the calendar month following receipt of the written notice by the other Party, unless the notice is received on the first day of a calendar month, in which case the notice period shall commence on that day.
- 8.5 During the notice period, this Agreement shall remain in full force and effect and both Parties shall continue to perform their respective obligations under this Agreement.
- 8.6 Such termination shall be without prejudice to any rights, obligations or liabilities accrued prior to the effective date of termination, including, without limitation, any outstanding Charges, payment obligations, indemnities, confidentiality obligations, and any provisions which are expressly or by implication intended to survive termination. This right to terminate is subject to payment by the Customer to the Company of any outstanding Charges for the Service(s) so terminated.

9. Effects of Termination

- 9.1 Termination of this Agreement shall not affect the rights and obligations of the parties accruing prior to the date of termination.
- 9.2 Upon termination of the Agreement for whatever reason:
 - 9.2.1 the Service shall be terminated;
 - 9.2.2 the Customer shall cease to use and/or market the Services;
 - 9.2.3 all properly due outstanding indebtedness of the Customer to the Company, including any damages payable for breach of the Agreement, shall become immediately due and payable;
 - 9.2.4 any payments due to the Customer, subject to a deduction of any money owed by the Customer, shall be paid within 30 (thirty) days of the date of termination, unless the Company exercises its right to pursue the Customer in accordance with Clause 9.4; and
 - 9.2.5 unless otherwise agreed, each party shall return to the other any confidential information and any other material in its possession supplied by the other party.
- 9.3 In the event of termination of this Agreement no Customer or third party shall have any right or entitlement to any revenue generated after the date of such termination.
- 9.4 The Company reserves the right, notwithstanding the termination of the Agreement for whatever reason, to seek compensation from the Customer if the termination has caused the Company to suffer any loss or damage whether as a result of any breach by the Customer or otherwise or in respect to any prior obligations of the Customer pursuant to the Agreement.
- 9.5 Provisions that are destined by their nature to survive termination of this Agreement shall remain in full force after termination of this Agreement. The obligations of confidentiality set out in Clause 11 shall continue notwithstanding the termination of this Agreement for any reason for a period of 2 (two) years from the date of any such termination.

10. Warranties and Liability

- 10.1 To the maximum extent permitted by law, all warranties, conditions and non-fraudulent representations express or implied (by statute, common law or otherwise) including those relating to the performance, quality or fitness for purpose of the Service are hereby excluded.
- 10.2 To the maximum extent permitted by law, all liability for any special, indirect, incidental or consequential loss or damage (including loss of profit, revenue or goodwill) suffered by the Customer howsoever caused is hereby excluded.
- 10.3 The Company shall have no liability to the Customer in the event of a breakdown in the Services.
- 10.4 The Company shall have no liability to the Customer in respect of any fraud perpetrated by the Customer or any third party howsoever occurring and the Customer shall be liable for all usage of the Services whether authorised or unauthorised.
- 10.5 The Company restricts and/or excludes its liability to the Customer in any event of slight negligence by the Company.
- 10.6 The Company restricts and/or excludes its liability to the Customer in relation to services purchased by the Company from third parties (including Network Providers and other telecom service providers) to the same extent as said third parties limit and/or exclude their liability to the Company.
- 10.7 The Customer shall fully indemnify and hold the Company harmless for any loss or damage caused by the Customer



or any contractor engaged by the Customer.

- 10.8 Without prejudice to the above provisions of this Clause 10, the Customer hereby indemnifies and holds the Company harmless for any and all claims by any third party arising directly or indirectly out of the performance, mis-performance or non-performance of this Agreement.
- 10.9 Nothing in this Agreement shall be construed to exclude or limit either party's liability in respect of personal injury or death resulting from that party's wilful act or gross negligence.

11. Confidentiality

- 11.1 All business, commercial and technical information disclosed by the Company to the Customer shall be regarded as being confidential unless expressly stated otherwise in writing. The Customer shall not disclose any confidential information to any person (other than its own or its affiliate's employees and professional advisors on a need to know basis) without the prior written consent of the Company.
- 11.2 Information shall not be regarded as confidential if it is or becomes publicly known through no fault of the Customer or its agents or is required to be disclosed by a Court or another authority of competent jurisdiction or for the purposes of obtaining any listing or the maintenance of any listing at any stock exchange.
- 11.3 The Customer shall impose its obligations arising out of this clause 11 on its employees and any third parties.
- 11.4 It is acknowledged by the Parties that a violation of this Clause 11 would cause irreparable harm to the disclosing Party, for which monetary damages would be inadequate and injunctive relief may be available for a breach of this Clause.

12. Assignment and Subcontracting

- 12.1 The Company shall have the right to assign and/or transfer this Agreement and its rights and obligations hereunder to any third party.
- 12.2 The Customer shall not assign or transfer its rights or sub-contract or delegate the performance of any of its obligations under this Agreement without the prior written consent of the Company which consent shall not unreasonably be withheld.

13. Variations

The Company shall be entitled to amend the terms of this Agreement on one month's written notice to the Customer with the Customer's consent. In the event that the Customer does not accept the amendments, it may terminate this Agreement with immediate effect by written notice before the entry into force of the amendment.

14. Force Majeure

- 14.1 In this Agreement, "force majeure" shall mean any cause preventing either party from performing any or all of its obligations which arises from or is attributable to unpredictable acts, events, omissions or accidents beyond the reasonable control of the party so prevented including act of God, acts or omissions of Network Providers or other telecommunications operators, strikes, lock-outs or other industrial disputes (whether involving the workforce of the party so prevented or of any other party), war, riot, civil commotion, malicious damage, compliance with any law or governmental or regulatory order, rule, regulation or direction, accident, breakdown of plant, machinery, electricity or internet, fire, flood, earthquake or storm.
- 14.2 If either party is prevented or delayed in the performance of any of its obligations under this Agreement by force majeure, that party shall forthwith serve notice in writing on the other party specifying the nature and extent of the circumstances giving rise to force majeure, and shall subject to service of such notice have no liability in respect of the performance of such of its obligations as are prevented by the force majeure events during the continuation of such events, and for such time after they cease as is necessary for that party, using all reasonable endeavours, to recommence its affected operations in order for it to perform its obligations.
- 14.3 If either party is prevented from performance of its obligations for a continuous period in excess of one month, the other party may terminate this Agreement forthwith on service of written notice upon the party so prevented, in which case neither party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.
- 14.4 The party claiming to be prevented or delayed in the performance of any of its obligations under this Agreement by



reason of force majeure shall take all steps as are necessary without hereby being obliged to incur any expenditure or cost to bring the force majeure event to a close or to find a solution by which the Agreement may be performed despite the continuance of the force majeure event.

15. Notices

- 15.1 Any notice or demand given or made under the provisions of this Agreement shall be in writing and may be delivered to the relevant party or sent by recorded or registered first class post, facsimile or email to the address specified in this Agreement, or such other address or number as may be agreed between the parties.
- 15.2 Any notices or demands hereunder shall be deemed to have been received if delivered by hand, upon such delivery, or if sent by facsimile, when the transmission of the facsimile is complete, or if sent by post upon 5 (five) business days after posting, or if sent by email, immediately if no failure notice is received.

16. Data Protection

16.1 Scope of Processing

- 16.1.1 Data Processor shall collect, use and process Personal data provided by Data Controller to Data Processor in the context of this Agreement in accordance with applicable laws and comply with the Scheme Rules imposed by the relevant Network Providers.
- 16.1.2 Data Controller shall be regarded as the “responsible body” or “controller” for Personal data under applicable data protection laws, including, but not limited to the European Directive 95/46/EC and – as from 26 May 2018 – the General Data Protection Regulation 2016/679 (“GDPR”) and their successors and implementations into local applicable laws (the “Data Protection Laws”). Each Party has to comply with its obligations as Data Controller and Data Processor under the applicable Data Protection Law.
- 16.1.3 Each Party shall inform the other Party about any faults or irregularities in the Commissioned Data Processing by one Party discovered by another Party.
- 16.1.4 Data Processor shall not acquire any title or rights to Personal data of Data Controller unless required by applicable laws and other regulations.

16.2 Data Categories

- 16.2.1 contact information (employees of Data Controller and Data Processor, invoicing recipients, support employees, account managers)
- 16.2.2 transaction data provided by the Data Controller (email-addresses, telephone numbers, user-identifier)
- 16.2.3 transaction related data provided by the callers for the sole reason of making the transaction (phone-number, credit-card-numbers, bank account information, name, address).

16.3 Categories of data subjects

- 16.3.1 merchants, suppliers
- 16.3.2 contact persons
- 16.3.3 employees
- 16.3.4 callers.

16.4 Security Obligations

- 16.4.1 Data Processor shall implement and maintain for the duration of the Agreement appropriate technical and organizational measures according to Schedule 1, including but not limited to physical and IT measures, and organizational measures to protect the Personal data of Data Controller against accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access. Data Processor shall implement and maintain all appropriate traceability measures in particular to monitor and verify the identity of persons who accessed and processed the Personal data of Data Controller and to implement all necessary security access controls in order to comply with its obligations as set out in Agreement according to internal risk assessments, current technology and financial possibilities.
- 16.4.2 Data Processor shall maintain an inventory of processing activities under its responsibility in compliance with Data Protection Laws.
- 16.4.3 Data Processor shall take all steps to ensure its personnel, representative and authorizes subcontractors



and any person acting under their authority who shall process the Personal data of Data Controller have committed themselves to confidentiality or are under appropriate statutory obligation of confidentiality and are reliable and have undergone appropriate training on data protection, security and confidentiality.

16.4.4 Data Processor shall inform the Data Controller without undue delay in case that any instruction or directive of data Controller is not compliant with Data Protection Laws of the Union or any member states.

16.4.5 Data Controller shall be solely liable for the material legality of data Processing and safeguarding the rights of data subjects.

16.4.6 Data Processor shall, upon termination of this Agreement delete the stored Personal data on Data Controller's written request. Data Processor will not be required to delete Personal data where retention by Data Processor is obligatory to comply with applicable legal requirements, deletion is not practically possible due to technical limitations and/or where retention obligations imposed by the Network Operators apply for (enabling compliance audits, financial audits, fraud prevention and fraud investigations). Data Processor will in such case block the Personal data for further use, ensure the secured storing of such Personal data and not use such Personal data for any other purpose than such compliance purposes.

16.5 Subcontracting

16.5.1 Data Controller hereby provides Data Processor with a general written authorization to engage sub-processors under this Agreement.

16.5.2 Where Data Processor subcontracts its obligation under the Agreement, Data Processor shall ensure that the subcontract imposes substantially the same obligations on the subcontractor as are imposed on Data Processor under this Agreement.

16.5.3 Data Processor shall supervise prior to term of the subcontract the technical and organizational measures, which are necessary to protect Personal data and were implemented by subcontractor.

17. Severability

If any one or more of the provisions of this Agreement are found to be invalid, illegal or unenforceable, in any event the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired and shall be valid and enforceable to the fullest extent permitted by law. The parties shall promptly negotiate and replace the provision found to be invalid, illegal or unenforceable by an appropriate provision that in relation to its impact agrees as far as possible with the original intention of the parties.

18. Partnership

Nothing in this Agreement shall constitute any partnership, agency or joint venture between the Company and the Customer.

19. Non Exclusive

The Customer shall not have an exclusive right to use the Service and the Company is entitled to make similar agreements directly or indirectly with other parties.

20. Waiver

No failure, delay or indulgence by either party in enforcing any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise or waiver of any right, power or privilege preclude or restrict any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights and remedies provided by law.

21. Entire Agreement

This Agreement constitutes the entire agreement of the parties and supersedes and cancels any other agreements, arrangements, statements, warranties, undertakings and representations whether written or otherwise made



between the Company and the Customer in respect of its subject matter. No addition to or modification of any provision of this Agreement will be binding on the Company or the Customer unless recorded in writing and signed by their respective authorised representatives.

22. Rights of Third Parties

No term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.

23. Governing Law and Disputes

This Agreement shall be governed, construed and shall take effect in accordance with the substantive laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts over any claim or matter arising under or in connection with this Agreement or the legal rights established by this Agreement.



SCHEDULE 1

Technical and organizational security measures

This Schedule forms an integral part of the Addendum concluded between the Parties.

Access control

- **Physical access to data processing facilities:** Definition of restricted areas, key management (physical keys, access cards, access based on biometric information) for restricted areas, having a security officers, alarm systems and video recording.
- **Access to data processing systems:** Protection against unauthorized system access – this includes: password policies, automatic blocking procedures, two-factor-authentication, encryption of all external hard-drives or mobile computers.
- **Access control to data:** No unauthorized read, copy, editing or deletion within the system, role based privileges system, access granted only on a „need to know“ principle, process for access rights management, logging of access, periodic review of access rights.
- **Pseudo-anonymously:** If possible, the primary identifiers of personal data should not be shown and/or stored in a separate system with higher access rights required.
- **Data classification schema:** According to regulatory requirements or self assessment data should be classified (highly confidential, confidential, internal use, public).

Integrity

- **Passing on information:** No unauthorized read, copy, change or deletion of data during transmission or transport, this includes: encryption, VPNs, electronic signatures.
- **Data entry controls:** Audit trails on who changed (entry, edited, deleted) what. For example: logging systems, document management.

Business continuity

- **Availability:** Protection against unintended or intentional deletion or loss of data. This includes: Backup Strategies (online/offline, onsite/offsite), uninterrupted power supply, virus protection, firewalls, incident and problem management, security audits on infrastructure and application level, clustering, stand by systems, redundant IP connectivity, processes for new employees and employees leaving the company.
- **Timely recovery:** Defined Recovery time objectives (RTO) and Recovery point objectives (RPO).
- **Retention periods:** Defined retention times for all kinds of personal data.

Processes for periodic review, assessment and evaluation

- **data protection management:** defining responsibilities, processes and raising employee awareness (through special training for example).
- **Incident and Problem management process**
- **data protection friendly default settings**



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- **order management:** No data processing (according to article 28 DSGVO) without consent of the data controller, this includes: clear and well defined contracts, formalized order management, strict requirements to select data processors (certifications, ISMS), audit of measures/process of data processors.

Effective as of 25 May 2018