Contract on the processing of personal data on behalf pursuant to Art. 28 para. 3 GDPR

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between

the customer

- hereinafter referred to as the "**Client**" -

and

Timly Software AG, Andreasstrasse 5, 8050 Zurich, Switzerland

- hereinafter referred to as "**Processor**" -

together also referred to as the "**parties**".

1. Object of the order

1.1 As part of the performance of the service contract, it is necessary for the processor to handle personal data for which the client acts as the controller within the meaning of Art. 4 (7) GDPR (hereinafter referred to as "client data"). This contract contains the provisions, in particular the rights and obligations of the parties under data protection law, regarding the processor's handling of client data for the performance of the service contract. The order includes the services described in the service contract.

1.2 Notwithstanding paragraph 3, the processor shall process the personal data exclusively in a member state of the European Union or in a state party to the Agreement on the European Economic Area.

1.3 If the processor processes personal data in a third country (i.e. outside the European Union/a signatory state to the Agreement on the European Economic Area), it requires the prior written consent of the client and only takes place if and insofar as the special requirements of Art. 44 ff GDPR are met.

2. Information on the content of the order

2.1 The processor processes the client data exclusively on behalf of the client (§ 1 para. 1 of this contract) and in accordance with documented instructions from the client within the meaning of Art. 28 para. 3 lit. a GDPR.

2.2 The processor shall process the client data exclusively in the manner, to the extent and for the purposes that are conclusively necessary for the provision of services in accordance with the service contract. Any processing that deviates from or goes beyond this

The processor is prohibited from processing client data, in particular from using client data for its own purposes.

2.3 The processor also processes the following sensitive data such as communication data (e.g. telephone, e-mail), contract master data (contractual relationship, product or contractual interest), customer history, contract billing and payment data, planning and control data, information data (from third parties, e.g. credit agencies, or from public directories) as well as surnames, first names and e-mail addresses insofar as these are stored by the customer.

2.4 The categories of data subjects affected by the processing on the part of the client include customers, interested parties, subscribers, employees, suppliers, sales representatives, contact persons.

3. Authority of the client to issue instructions, processing subject to instructions

3.1 The client shall issue all instructions and orders in writing or in a documented electronic format. If the Client issues an instruction verbally, this must be confirmed immediately by the Client in writing or in a documented electronic format. The Client shall have a general right to issue instructions to the Processor regarding the type, scope and method of data processing used.

3.2 The data may only be processed in accordance with the provisions of this agreement and the instructions of the client. The processor is prohibited from using the data for other purposes and, in particular, from disclosing the data to third parties. No copies or duplicates may be made without the Client's knowledge. Excluded from this are backup copies, insofar as these are necessary to ensure proper data processing, as well as all data required to comply with statutory retention obligations.

3.3 All changes to the subject matter and procedure of the processing shall be jointly agreed and documented. The Processor may only disclose the personal data processed under this Agreement to third parties or the data subject with the prior written consent of the Client.

3.4 If the processor is of the opinion that an instruction from the client violates statutory data protection provisions, it must inform the client of this immediately. The processor may then suspend the execution of the instruction in question until it has been confirmed or amended by the client's representative.

4. Rights and obligations of the client

4.1 The Client is solely responsible externally, in particular vis-à-vis third parties and data subjects, for assessing the permissibility of the processing of personal data in accordance with Art. 6 para. 1 GDPR and for safeguarding the rights of data subjects in accordance with Art. 12-22 GDPR. The processor is nevertheless obliged, to the extent permitted by law, to respond to all requests from data subjects,

if they are recognizably addressed to the Client, to the Client. The Processor shall support the Client to a reasonable extent in responding to requests from data subjects (e.g. rectification, erasure and blocking of data).

4.2 The client is the owner of the client data and, in the relationship between the parties, the owner of all possible rights to the client data.

4.3 The client is responsible for providing the processor with the client data in good time for the provision of services in accordance with the service contract. Furthermore, the Client shall be responsible for the quality and lawful collection of the Client Data. The Client must inform the Processor immediately and in full if it discovers errors or irregularities with regard to data protection regulations or its instructions when checking the Processor's order results.

4.4 In the event that a third party or a data subject asserts a claim directly against the Processor due to violations of data subject rights and/or related claims, the Principal undertakes to indemnify the Processor for all damages, costs/fees, including attorney's fees, or other expenses or losses arising from the claim, if and to the extent that the Processor has informed the Principal of the claim and this violation has not arisen as a result of processing contrary to the Principal's instructions and the Principal has not been informed of this violation, arising from the claim, if and to the extent that the Processor has informed the Controller of the assertion of the claim and this infringement has not been caused by processing contrary to the instructions of the Controller and has given the Controller the opportunity to cooperate with the Processor in the defense of the claim.

5. Obligations of the processor

5.1 The processor is obliged to process personal data exclusively within the framework of the agreements made and in accordance with the instructions of the client. This shall not apply if the Processor is obliged by the law of the Union or the Member States to which the Processor is subject to carry out other processing (e.g. investigations by state authorities, law enforcement authorities). In this case, the processor shall inform the client of these legal requirements prior to processing, unless the law in question prohibits such notification due to an important public interest (cf. Art. 28 para. 3 sentence 2 lit. a GDPR).

5.2 The Processor shall not use the personal data provided by the Client for processing for any other purposes, in particular not for its own purposes. The Processor may not make any copies or duplicates of the Client Data without the prior written consent of the Client, unless and for as long as they are necessary to ensure proper data processing, the proper provision of services in accordance with the service agreement (including data backup) or compliance with statutory retention obligations.

5.3 The processor may not hand over client data to third parties or other recipients without the prior written consent of the client.

This does not apply to the transfer of data to sub-processors whose commissioning has been approved by the client.

5.4 The Processor shall only provide third parties or authorities with information about personal data from this contractual relationship, insofar as legally permissible, following prior written or electronically documented instructions or consent from the Client.

5.5 If the Client is obliged to provide information about the Client Data or its processing to a government agency, a data subject or another person, the Processor shall be obliged to support the Client in providing such information upon first request, in particular by immediately providing all information and documents about the contractual processing of Client Data, including the technical and organizational measures taken by the Processor, about the technical process of using Client Data, the places where Client Data is used and about the employees involved in the processing.

5.6 The processor undertakes to cooperate to the extent necessary in the fulfillment of the rights of the data subjects pursuant to Art. 12-22 GDPR, in the preparation of the records of processing activities, in necessary data protection impact assessments of the client, as well as in compliance with the obligations of the client with regard to the security of the processing and, as far as possible, to provide appropriate support to the client (cf. Art. 28 para. 3 sentence 2 lit. e, f GDPR).

5.7 The processor is obliged to correct, delete or restrict the processing of personal data from this contractual relationship if the client requests this by means of a written or electronically documented instruction and the legitimate interests of the processor, in particular compliance with legal regulations, do not conflict with this.

5.8 The client and the processor shall agree on a change to the processing object or a change to the process. The change shall be recorded in writing or in a documented electronic format.

5.9 After completion of the contractually agreed work or earlier at the request of the Client - at the latest upon termination of the service agreement - the Contractor shall, at the Client's discretion, hand over to the Client all documents, processing and usage results and data pertaining to the contractual relationship that have come into its possession, or destroy them in accordance with data protection regulations with the Client's prior consent. The same applies to test and scrap material. The deletion log must be submitted on request. Documentation that serves as proof of proper data processing in accordance with the order shall be retained by the Contractor beyond the end of the contract in accordance with the respective retention periods. The Contractor may hand them over to the Client at the end of the contract in order to discharge the Client.

6. Technical and organizational measures

6.1 The processor is obliged to take and maintain during the term of the contract the technical and organizational measures necessary to ensure a level of protection appropriate to the risk to the rights and freedoms of natural persons affected by the processing for the specific order processing. The protection objectives of Art. 32 para. 1 GDPR such as confidentiality, integrity and availability of the systems and services as well as their resilience with regard to the type, scope, circumstances and purpose of the processing are taken into account in order to minimize the risk during the term of the contract.

6.2 The data protection concept of the processor (technical and organizational measures (TOM)) of Timly Software AG describes in detail the selection of measures appropriate to the identified risk, taking into account the protection objectives according to the state of the art and with special consideration of the IT systems and processing procedures used by the processor. The Client confirms that the technical and organizational measures offer an appropriate level of protection for the Client Data, taking into account the risks of processing the Client Data.

6.3 The technical and organizational measures are subject to technical progress and further development. In this respect, the processor is permitted to implement alternative adequate measures. In doing so, the security level of the defined measures must not be undercut. Significant changes must be documented.

7. Correction, deletion and blocking of data

7.1 The processor may only correct, delete or block the data processed on behalf of the client in accordance with the client's instructions.

7.2 If a data subject contacts the Processor directly to correct or delete their personal data, the Processor will forward this request to the Client.

8. Controls and other obligations of the processor

The processor will fulfill the following requirements:

a) Where required by law, the processor shall appoint a data protection officer in writing, who shall carry out his activities in accordance with the statutory provisions. The processor is not obliged to provide a data protection officer. Mr. Fitim Mehmeti (fitim.mehmeti@timly.com, Co-Founder Timly.com) is designated as the contact person at the Processor. If the contact person changes or a data protection officer is appointed, the Client must be informed immediately.

b) The Processor and any person under the Processor's authority who has access to the Principal's personal data may only process such data in accordance with the Principal's instructions under Clause 9 of this Agreement, including the powers granted in this Agreement, unless they are required to do so by the law of the European Union or the Member States to which the Processor is subject. In such a case, the Processor shall notify the Controller of these legal requirements, unless the law in question prohibits such notification due to an important public interest.

c) When carrying out the work, the processor shall only deploy persons who are bound to confidentiality and who have previously been familiarized with the data protection provisions relevant to them.

d) Clients and processors shall cooperate with the supervisory authority in the performance of their tasks upon request.

e) The Processor shall inform the Controller without undue delay of any inspections and measures taken by the supervisory authority insofar as they relate to this order. This shall also apply if a competent authority investigates the Processor in the context of administrative offense or criminal proceedings relating to the processing of personal data during commissioned processing.

f) The Processor shall support the Controller if the Controller is subject to an inspection by the supervisory authority, misdemeanor or criminal proceedings, a liability claim by a data subject or a third party or any other claim in connection with the commissioned processing at the Processor.

g) The processor regularly checks its internal processes as well as the technical and organizational measures to ensure that the processing in its area of responsibility complies with the requirements of the applicable data protection law and that the rights of the data subject are protected.

h) The Processor shall provide evidence of the technical and organizational measures taken to the Client within the scope of its control powers pursuant to Section 7 of this Agreement.

9. Subcontracting relationships

9.1 Subcontracting relationships within the meaning of this regulation are those services that are directly related to the provision of the main service. This does not include ancillary services that the processor uses, e.g. in the form of telecommunications services, postal/transport services or the disposal of data carriers. However, the processor is obliged to ensure the data protection and data security of the client's data.

to take appropriate and legally compliant contractual agreements and control measures, even for outsourced ancillary services.

9.2 The Processor shall be entitled to use the sub-processors listed in Annex 3 to process personal data in order to execute the order. The commissioning of further or other sub-processors to process the Client's personal data shall only be permitted after the Client has been informed in writing in advance of the identity of the sub-processor and the subject matter of the subcontract, unless the Client objects to this change within a reasonable period of at least 10 working days. Otherwise, the following shall apply:

a) The transfer of personal data of the client to the subprocessor and the subprocessor's initial activities are only permitted once all requirements for subcontracting have been met.

b) If the sub-processor provides the agreed service outside the EU/EEA with the consent of the client in accordance with section 2.1, the processor shall ensure that the service is admissible under data protection law in accordance with the data protection regulations applicable to the execution of the order.

c) The sub-processor shall be subject to the same data protection obligations set out in this contract by means of a contract, in particular providing sufficient guarantees that the appropriate technical and organizational measures are implemented in such a way that the processing is carried out in accordance with the legal requirements.

10. Control rights of the client

10.1 The Client shall have the right, in consultation with the Processor, to carry out inspections or to have them carried out by auditors to be appointed in individual cases who are bound to professional secrecy. It shall have the right to satisfy itself of the Processor's compliance with this Agreement in its business operations by means of spot checks, which must be notified in good time.

10.2 The Processor shall ensure that the Client can satisfy itself that the Processor is complying with its statutory and contractual obligations. The Processor undertakes to provide the Client with the necessary information upon request and, in particular, to provide evidence of the implementation of the technical and organizational measures.

10.3 Proof of such measures, which do not only concern the specific order, can be provided by current certificates, reports or report extracts from independent bodies (e.g. auditors, internal audit, data protection officer, IT security department, data protection auditors, quality auditors), suitable certifications (IT security or data protection audit, e.g. according to BSI basic protection) or other measures provided for by law.

11.   Support of the client, notification of breaches by the processor

The Processor shall support the Client in complying with its statutory obligations regarding the protection and security of personal data and shall document this in an appropriate manner. This includes

a)   ensuring an adequate level of protection through technical and organizational measures that take into account the circumstances and purposes of the processing as well as the predicted probability and severity of a possible breach of rights through security gaps and enable the immediate detection of relevant breach events,

b)   the obligation to document personal data breaches and report them to the Client without delay. The processor shall, in agreement with the client, take appropriate measures to secure the data and to minimize any potential adverse effects on the data subjects,

c)   the obligation to support the client by taking appropriate measures, insofar as the client has to notify the competent supervisory authority or the data subject of the personal data breach,

d)   the obligation to support the client in the context of its duty to inform the data subject and to provide the client with all relevant information immediately upon request.

12.   Miscellaneous and final provisions

12.1   The term of this agreement corresponds to the term of the service agreement. The provisions on ordinary termination of the service contract apply accordingly. Termination of the service contract shall automatically result in termination of this contract. Isolated termination of this contract is excluded.

12.2   Should a current or future provision of the agreement be or become invalid or unenforceable in whole or in part, or should there be a loophole in this agreement, this shall not affect the validity of the remaining provisions. In place of the invalid or unenforceable provision, the valid provision that comes closest to the economic sense and purpose of the invalid or unenforceable provision shall be deemed to have been agreed. In the event of a loophole, the provision that corresponds to what would have been agreed in accordance with the economic sense and purpose of this agreement if the parties had considered the loophole from the outset shall be deemed to have been agreed.

12.3   The Parties undertake to amend and/or supplement this Agreement at the request of either Party if this becomes necessary due to a change in the data protection laws applicable to the Parties or because the European Commission and/or the supervisory authorities responsible for the Parties have issued general statements or publications (e.g. by providing

standard contractual clauses pursuant to Art. 28 (7), (8) GDPR) or in the form of declarations or instructions in individual cases that the present agreement in its existing form does not meet the requirements of the applicable data protection laws.

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datenschutz@timly.ch