CONTRACT DATA PROCESSING AGREEMENT AS PER THE DEFINITION OF ART. 28 SECT. 3 GENERAL DATA PROTECTION REGULATION (GDPR)

BETWEEN	AND

_____

Name and type of company

MOBIZON GmbH

Waldstraße 32

_____

Street address, house number

60528 Frankfurt am Main

Germany

_____

ZIP code, city

-hereinafter referred to as MOBIZON GmbH-

-hereinafter referred to as Controller-

1. General Provisions, Subject Matter of the Purchase Order and Term of the Agreement

1.1 The subject matter of this Agreement is the processing of personal data by MOBIZON GmbH (Art. 28 GDPR) on behalf of another Party (Contract Processing). The Data Controller as defined in Art. 4 No. 7 GDPR is the Controller. The content and purpose of the data processing can be derived from the Agreement of DD.MM.YYYY between MOBIZON GmbH and the Controller (hereinafter referred to as the "Master Agreement"). The Master Agreement is the agreement the Controller entered into by registering an account with www.mobizon.gmbh and is in effect in combination with the GTC, which are attached to this Agreement as **Annex 3**.

1.2 In conjunction with the contract data processing, clients' contact details shall be processed, in particular:
- Mobile phone numbers of Controller's customers
- The first and last names of Controller's customers
- Addresses of Controller's customers
- E-Mail Addresses of Controller's customers
- Social Media of Controller's customers (Facebook, Instagram, Linkedin…)

1.3 Data shall be contract processed by MOBIZON GmbH exclusively within the territory of the Federal Republic of German or of a member state of the European Union or of a contracted state that is a member of the EEZ Convention. Any processing outside of these nations shall occur only subject to the provisions of Chapter 5 of the GDPR (Art. 44 et seq.) and subject to Controller's prior consent.

2. Term of the Agreement and Termination

The term of this Agreement shall be contingent upon the term of the Master Agreement. This shall be without prejudice to the right to term extraordinarily for important grounds.

3. Controller's Instructions

3.1 Controller shall have comprehensive rights to give instructions with regard to the type, scope and modalities of the data processing vis-à-vis MOBIZON GmbH. MOBIZON GmbH shall promptly notify the Controller if MOBIZON GmbH should be of the opinion that an instruction given by the Controller violates any statutory provisions. If any instruction should be given and MOBIZON GmbH should have serious doubts concerning its legitimacy, MOBIZON GmbH shall have the option to temporarily suspend its performance until the Controller has once again explicitly confirmed the instruction or changed it. If compliance with any instructions could potentially expose MOBIZON GmbH to a liability risks, the performance of the instruction may be suspended until the liability issue has been clarified.

3.2 Instructions shall Controllerly be given in writing or in an electronic format (e.g. via e-mail). Verbal instructions shall be permissible in legitimate exceptional cases and shall be promptly confirmed by the Controller in writing or in an electronic format. In this confirmation, Controller shall provide explicit grounds as to why a written instruction could not be provided. MOBIZON GmbH shall undertake to document the name of the individual giving the verbal instruction as well as the date and time it was given in an appropriate format.

3.3   Upon MOBIZON GmbH's request, the Controller shall designate one or several individuals who have the authority to give instructions. Any personnel changes shall be promptly communicated to MOBIZON GmbH.

4. Controller's Right to Audit

4.1   The Controller shall have the right to verify compliance with the statutory and contractual data protection and data security provisions prior to the start of any data processing work and during the term of the Agreement at regular intervals to the extent that this is necessary. The Controller shall ensure that the auditing activities are reasonable and do not impair MOBIZON GmbH's operations any more than absolutely necessary.

4.2   Controller shall document the results of such audits and any related instructions in an appropriate manner.

5. General Obligations of MOBIZON GMBH

5.1   MOBIZON GmbH shall process the data that are the subject matter of the Agreement exclusively on the basis of the contractual agreements in combination with any instructions given by the Controller. Any processing that deviates from the former shall be permitted only on the basis of mandatory European of EU member state legislation (for instance in the event of investigations conducted by law enforcement or national security agencies(. If processing is necessary due to mandatory provisions, MOBIZON GmbH shall notify the Controller prior to processing, if the applicable law does not prohibit such notifications because of cardinal public interests.

5.2   MOBIZON GmbH shall guarantee that the individual authorized to process the personal data have been committed to confidentiality or are subject to an adequate statutory confidentiality mandate (Art. 28 Sect. 3 lit. b GDPR). The respective individuals shall not be given access to any of the personal data provided by the Controller prior to having been subjected to such non-disclosure mandates.

6. Technical and Organizational Measures

MOBIZON GmbH has defined suitable technical and organizational measures to guarantee reasonable protection levels and has documented the former in **Annex 1** to this Agreement. The measures described therein were chosen taking into account the provisions set forth in Art. 32 GDPR. MOBIZON GmbH shall review the technical and organizational measures if necessary and shall adapt them if the occasion arises.

7. Support Obligations of MOBIZON GMBH

MOBIZON GmbH shall support the Controller in the performance of Controller's obligations to protect the rights of data subjects that arise from Chapter III, Art. 12 – 22 GDPR in compliance with Art. 28 Sect. 3 lit. e GDPR. This shall in particular apply to the provision of information and the eradication, rectification or restriction of personal data. Furthermore, MOBIZON GmbH shall support Controller in the performance of Controller's obligations pursuant to Art. 28 Sect. 3 lit. f GDPR, which are defined in Art. 32 – 36 GDPR (in particular reporting obligations). The scope of these support obligations shall be determined in each individual case by taking into account the type of processing and the information MOBIZON GmbH has at its disposal.

8. Use of Third Party Vendors (Sub-contractors)

8.1   MOBIZON GmbH shall have the right to use third party vendors (sub-contractors). A final list of all of MOBIZON GmbH's sub-contracting relationships that are already in effect at the time this Agreement is executed are disclosed in the attached **Annex 2**. Consent to use the sub-contractors listed in **Annex 2** shall be deemed to have been granted upon execution of this Agreement.

8.2   In the event that MOBIZON GmbH should plan to assign additional sub-contractors, MOBIZON GmbH shall notify the Controller in due time – and no later than two weeks prior to their assignment – in writing or in an electronic format. After receiving this notice, Controller shall have two weeks to object to the involvement of the sub-contractor(s). If an objection should not be raised during this notification period, the inclusion of the sub-contractor(s) shall be deemed approved. In the event that an objection is raised, the affected sub-contractors shall not be assigned. Objections shall be permissible only if the Controller has legitimate grounds that indicate that the assignment of the sub-contractor could impair the data security or the protection of data, the compliance with statutory or contractual provisions would be at risk and / or other justified interests of the Controller would be in conflict with the former; the respective grounds for suspicions shall be attached to the objection notice.

8.3   MOBIZON GmbH shall select its sub-contractors in compliance with the statutory and contractual provisions. Ancillary services that MOBIZON GmbH utilizes in order to exercise its business transactions shall not be considered sub-contracting relationships as defined in Art. 28 GDPR. Ancillary services by this definition shall in particular be telecommunications services that are not concretely affiliated with the primary service; postal and transportation services, maintenance and user services as well as any other activities that aim at securing the confidentiality and / or integrity of the hardware and software and that are not concretely related to the primary service. MOBIZON GMBH shall, however, also ensure compliance with the statutory data protection standards for these third party services (in particular by entering into pertinent non-disclosure agreements).

8.4   Any and all contracts between MOBIZON GMBH and its third party processor(s) (sub-contractor(s)) shall be in compliance with the statutory provisions concerning the contract processing of personal data.

8.5   The commissioning of sub-contractors in non-EU or non-EEZ countries shall be permissible only if the statutory provisions of Art. 44 et seq. GDPR are met and the Controller has consented to their assignment.

9. Notification Obligations of MOBIZON GMBH

9.1 Infractions against the provisions of this Agreement, against instructions of the Controller or any other data protection law related provisions shall be promptly communicated to the Controller; the same shall apply in the event that a legitimate suspicion of such violations exists. This obligation shall exist regards of whether the violation was committed by MOBIZON GMBH as such, by an individual employed by MOBIZON GmbH, by a third party vendor processor or any other entity MOBIZON GmbH has commissioned to fulfill its contractual obligations.

9.2 If a data subject, a government agency or any other third party should approach MOBIZON GMBH with regard to the provision of information, rectification, blockage or deletion, MOBIZON GMBH shall promptly forward the request to the Controller. Under no circumstances shall MOBIZON GMBH meet the request of the data subject in the absence of instructions from / the consent of the Controller.

9.3 MOBIZON GMBH shall promptly notify the Controller if supervisory agency acts or other government agency activities are imminent, which could also affect the processing, use or collection of the personal data provided by the Controller. Moreover, MOBIZON GMBH shall promptly notify the Controller of all incidents or third party activities that could put the data that are the subject matter of the Agreement at risk or impair them.

10. Termination of the Agreement, Eradication and Return of the Data

Upon completion of the data processing that is the subject matter of this Agreement or upon termination of this Agreement, MOBIZON GMBH shall, at Controller's discretion, either eradicate or return all personal data, provided a legal obligation to archive the affected data does not exist any longer at the time (e.g. statutory data retention periods).

11. Data Secrecy and Confidentiality

MOBIZON GMBH assumes the indefinite obligation, which shall survive the termination of this Agreement, to treat the personal data obtained in conjunction with this contractual relationship as confidential. *MOBIZON GMBH* shall undertake to familiarize its employees with the applicate data privacy provisions and the protection of confidentiality rules and to commit them to non-disclosure before they begin to work for *MOBIZON GMBH*.

12. Liability

12.1 In the direct relationship between the Parties, MOBIZON GMBH shall not assume any liability vis-à-vis the Controller if the liability triggering data processing / activity was performed as a result of instructions given by the Controller. The same shall apply to activities that were coordinated with the Controller (e.g. TOMs pursuant to Art. 32 GDPR). It shall also be considered an act of coordination if a provision in this Agreement was inserted upon Controller's request.

12.2 The Controller shall ensure that the original collection of the contract processed data is handled in a proper legitimate manner. In particular, the Controller shall obtain any required declarations of consent in full and correctly. If MOBIZON GMBH should be targeted by a third party because of a violation of this obligation, the Controller shall assume liability vis-à-vis MOBIZON GmbH in the direct relationship between the Parties and shall indemnify MOBIZON GmbH against any damages incurred.

12.3 Incidentally, the above shall be without prejudice to the statutory liability provisions (in particular Art. 82 GDPR).

13. Final Provisions

13.1 For any modifications and ancillary agreements affiliated with this Agreement to be rendered effective, they shall be made in writing or in an electronic format that clearly identifies that a change or addition was made and what type of change or addition is to be made to the existing conditions.

13.2 If the contracting Parties are merchants, legal entities under civil law or public law based special entities, the place of jurisdiction for any litigation arising from this Agreement shall be Frankfurt am Main, Germany, unless an exclusive place of jurisdiction has been established for this particular litigation.

13.3 If the GDPR or any other referenced legislation should change over the course of the term of the Agreement, the references made herein shall also apply to the respective successor provisions.

13.4 If any individual components of this Agreement should be or become ineffective, this shall not affect the effectiveness of the remaining provisions.

13.5 All Annexes to this Agreement shall be integral components of the Agreement.

_____, dated _____   _____, dated _____
Place   Date   Place   Date

_____   _____
Signature (Controller)   Signature (MOBIZON GMBH)

MOBIZON GmbH deploys the following technical and organizational measures to protect the data that are the subject matter of this Agreement. The measures were defined in compliance with Art. 32 GDPR and have been coordinated with the Controller.

I.   Purpose Confinement and Severability

The following measures were taken to ensure that data collected for different purposes are processed separately:

- Physically separate archiving on separate systems or data media
- Logical client separation (at the software end)
- Authorization concept
- Encryption of data batches that are processed for the same purpose
- Separation of the productive and test system

II.   Confidentiality and Integrity

The following measures warrant the confidentiality and integrity of MOBIZON GmbH's systems:

1. Encryption

   - Users' passwords are stored in an encrypted mode using the Blowfish algorithm
   - All user data are transmitted via a secure TLS connection

2. The following measures have been taken to prevent unauthorized parties to enter the data processing systems that are deployed or used to process personal data (**entry control**)**:**

   - Alarm system
   - Protection of building rights
   - Registration by security for access control system
   - Chip card / transponder closure system for buildings
   - Locking system with code lock for racks
   - Video surveillance of access
   - Security locksmith
   - Person control at the doorkeeper / reception
   - Logging of visitors
   - Careful selection of cleaning staff
   - Careful selection of security guards
   - Carrying of authorization cards
   - Access concept / visitor regulation

3. The following measures have been taken to ensure that unauthorized third parties cannot use the data systems (**data access control**):

   - Allocation of user privileges
   - Compilation of user profiles
   - Issuance of passwords
   - Password Policy (20 symbols length)
   - Authentication via user name / password
   - Private Key Authentication
   - Allocation of user profiles to IT systems
   - Use of VPN technology when transmitting data
   - Use of anti-virus software
   - Use of a software firewall

4. The following measures have been taken to warrant that those authorized to use the data processing system can only access data that have been allocated to their respective user privileges and that personal data cannot be read, copied. Modified or removed by unauthorized individuals while being processed used and after having been archived **(access control):**

   - Authorization concept
   - Rights management by the system administrator
   - Verification and updating of the access rights at regular intervals (in particular if employees are leaving, etc.)
   - Keep the number of administrators to an "absolutely necessary minimum"
   - Password Policy (between 6 and 32 symbols length)
   - Logging of access to applications, in particular when data is being entered, modified or deleted
   - Secure storage of data media
   - Physical deletion of content of data media prior to reuse

5. The following measures make it possible to retroactively verify and determine whether anyone and if so, who entered, changed or removed personal data in data processing systems (**data entry control).**

   - Logging of entries, changes and deletions of data
   - Compilation of an overview that indicates which applications can be used to enter, modify and delete data
   - Solutions that make it possible to track the entries, changes and deletion of data by individual user names (not groups of users)
   - Assignment of privileges for the entry, modification and deletion of data based on an authorization concept

6. The following measures warrant that personal data that is subject to contract processing can only be processed in compliance with Controller's instructions **(order control).**

   - Selection of MOBIZON GmbH in compliance with due diligence aspects (in particular with regard to data security)
   - Prior verification as well as documentation of the security measures taken at MOBIZON GmbH's end
   - Giving of written instructions to MOBIZON GmbH (e.g. by way of the contract processing agreement)
   - Commitment of MOBIZON GmbH's employees to data privacy
   - MOBIZON GmbH has appointed a data protection officer
   - Making sure that data is destroyed upon completion of the order
   - Agreement on effective auditing rights with MOBIZON GmbH
   - Continuous auditing of MOBIZON GmbH and its activities
   - Contractual penalties in the event of infractions

7. The following actions ensure that personal data cannot be obtained by unauthorized parties when it is shared (physically and / or digitally) and that unauthorized parties cannot become aware of it (**transportation and sharing control**):

   - Use of VPN tunnels
   - All user data are transmitted via a secure TLS connection

III.   Availability, Recovery Potential and Stress Tolerance of the Systems

The following measures ensure that the deployed data processing systems always work perfectly, and that personal data are protected against accidental destruction or loss

   - Uninterrupted power supply (UPS)
   - Air conditioning of server rooms
   - Devices for monitoring of temperature
   - Protective socket strips in server rooms
   - Fire and smoke alarm systems in server rooms

- Fire extinguishers in server rooms
- Alarm message for unauthorized access to server rooms
- Server premises not under sanitary facilities
- In flood areas: server rooms above the waterline

IV.   Verification, Evaluation and Adaptation of the Measures in Place

MOBIZON GmbH shall verify, evaluate and, if necessary, adapt the technical and organizational measures set forth in this Annex at intervals of 3 months as well as if any occasion to do so arises.

Annex 2 – List of Existing Sub-contractors at the Time the Agreement is Executed

(Company) Name and Address	Description of the Services	Venue Where Services Are Being Rendered
NewTelco GmbH, Moenchhofstrasse 24 60326 Frankfurt am Main Germany	Hosting provider	Kleyer Strasse 88 / Rebstoecker Strasse 25-31 60326 Frankfurt am Main Germany

MOBIZON GmbH

Waldstraße 32

60528 Frankfurt am Main, Germany

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Telephone: +496987005000

E-mail: info@mobizon.gmbh

1. Scope of Application

1.1 These General Terms and Conditions (GTC) shall govern the contractual relationship between Mobizon GmbH (hereinafter referred to as "Operator") and its contractual partners (hereinafter referred to as "Customers") affiliated with the use of the Mobizon platform (hereinafter referred to as "Platform").

1.2 Unless the Operator has expressly consented to their applicability, Operator shall not accept any GTC that deviate from these General Terms and Conditions.

1.3 The Operator shall have the right to modify these GTC for materially justified reasons (e.g. changes in case law, the status of legislation, the market situation) and subject to compliance with a reasonable advance notice period. Existing customers shall be notified of such changes at least two weeks ahead of the effective date of such changes via e-mail and / or via text message. If the existing customer should not object to the changes by the end of the contestation period set in the change notice, Customer shall be deemed to have approved the change. The notification of the intended modification of these GTC shall include information about the deadline for responding and the consequences of objecting.

1.4 Within the scope of application of these GTC, the terms used shall have the following defined meanings:

Operator: Mobizon GmbH; its address is included in the "Information Required by Law" segment of this website;

Platform: All web services offered by the Operator that can be used to implement marketing campaigns (in particular by sending out electronic messages);

Customer: Anyone who opens and registers an account on the platform;

Mobile marketing: All marketing activities implemented by sending electronic messages using the tools provided on the platform;

Lists of recipients: The phone numbers registered in the account of the Customer, which may also be categorized as well as any other recipient information the Customer can use for mobile marketing purposes (e.g. sending of electronic messages); the capacity of a list of recipients (maximum permitted number of recipients) and the maximum number of permitted recipient lists, which is limited and contingent upon the package acquired by the Customer;

Electronic messages: All messages sent by the Customer with the assistance of the platform using text messaging or other messaging services to send notices to recipients from Customer's list of recipients;

Characters: Characters are all symbols that can be used within an electronic message (e.g. letters, numbers and special characters); please note that the maximum number of characters is limited for certain types of electronic messages (in particular text messages). The maximum number of characters that can be used in text messages depends on the encoding of the message, which in turn is contingent upon the type of characters used in the message. For detailed information concerning the maximum number of characters, please consult our website;

SPAM messages: Unsolicited electronic message sent to a recipient without the former's consent or even against the recipients expressed will.

2. Contracts With Consumers Will Not Be Made

2.1 Only individuals acting as entrepreneurs are eligible for the registration of an account on the platform and to use our platform functions. An entrepreneur, based on the definition set forth in § 14 BGB (German Civil Code) is a natural or legal entity or legally competent partnership that,

when entering into a legal transaction, acts in her or his commercial or freelance professional capacity. The Operator expressly refrains from entering into contracts with consumers. All prices – unless marked otherwise – are net prices and subject to the addition of applicable VAT.

2.2 Within one week after registering, the Customer shall undertake to submit evidence of his/her status as an entrepreneur (excerpt from the trade register, registration of a business, etc.). The Operator provides an upload form for this purpose. Moreover, the Operator shall have the right to verify the entrepreneur's status of its contracting partners at any time. For this purpose, Operator may demand, in particular, suitable evidence from the Customer. If the Customer should fail to meet such a request or if the Operator should come up with indications that the Customer is not an entrepreneur, the Operator shall have the right to rescind from a contract that has already been executed.

3. Services

3.1 On the platform, the Operator offers its Customers a cloud-based service for the organization and implementation of mobile marketing campaigns with the assistance of electronic messages. For this purpose, the Operator provides its registered Customers with a series of tools that make an effective management of the lists of customers and the sending of electronic messages possible. Among other things, the Customer can compile electronic messages and different lists of recipients, as well as control the time the messages are sent along with the speed of the message transfer. The types and scopes of these services may be reviewed on the Operator's website as well as in the Customer's user account. Moreover, the Operator offers its Customers the option to design their own registration forms. It also offers a "Short-Link" service. Within the scope of this service, Customers can generate a short URL, for instance to integrate it into electronic messages. The Operator reserves the right to make changes to the platform's functions at any time, if they are acceptable for Customers taking into account their respective interests.

3.2 The lists of recipients and / or the phone numbers for the sending of electronic messages are generated directly by the Customer based on Customer's own customer portfolio or special registration forms. The Operator shall not provide the Customer with any contacts. The Operator merely provides the technical option to send electronic messages and is neither involved in the generation of the messages, nor their sending nor the contractual, contract-like and other relationships between the Customer and Customer's recipients. It shall be Customer's responsibility to independently ensure that the required consent has been obtained from the recipients and that all statutory provisions that govern the sending of electronic messages are complied with. The Operator shall not check these processes and / or the content of Customers for any legal infractions.

3.3 The annual median availability level of the platform totals 98 %. This excludes times spent on necessary regular maintenance work as well as time periods during which availability is limited as a result of events the portal operator is not responsible for (e.g. force majeure, third party acts or changes in the law). The Operator shall strive to perform maintenance work during times when the visitor volume is low.

4. Registration and Execution of the Contract

4.1 To be able to use Operator's services, Customers must first create a customer account on the platform. To do this, the registration screen has to be completed by entering all of the required data truthfully and correctly. The submission of the registration constitutes an offer to enter into a user agreement with the Operator. The offer to enter into the user agreement is either accepted by way of an explicit confirmation from the Operator (e.g. via e-mail) or as a result of the activation of the user account.

4.2 Besides companies that advertise, enterprises that implement advertising activities for their own clients are also eligible to create a customer account for use of the platform (resellers, agencies); in such cases the agency is the only contacting party. However, a contract with the agency's principal will not be made.

4.3 Initially, the registration of a customer account is complimentary. To be able to use the functions of the platform for which fees are charged (in particular the sending of electronic messages), the Customer must deposit a respective amount of money into his / her customer account. The deposited amount is credited to the customer account and can be used to send electronic messages and use any other services of the Operator for which fees are due.

4.4 The contract language is German.

5. Generation and Maintenance of Lists of Recipients / Legal Requirements

5.1 The Customer shall generate and maintain the lists of recipients based on Customer's own client portfolio and / or on the basis of independent third party registrations (e.g. through a sign-up form). The Operator merely provides the technical tool for the sending of electronic messages and is not involved in the content creation of the electronic messages, the sending of the electronic messages and the generation of the lists of recipients. In particular, the operator shall not provide the Customer with contacts for lists of recipients. It shall be the Customer's responsibility to keep the lists of recipients up-to-date at all times and to delete any recipients upon request.

5.2 The Customer assures the Operator that Customer shall comply with all mandatory legal provisions when collecting the data. In particular, Customer assures Operator that all recipients listed in Customer's lists of recipients have issued an effective statement of consent for the sending of electronic messages. Customer shall undertake to provide to Operator upon request, no later than within two business days after having been asked, with suitable documentation of the statements of consent received.

6. Payment and Default

6.1 To be able to use all of the functions of the platform (in particular for the sending of electronic messages), the Customer shall deposit a respective amount into Customer's user account. The deposited amount shall be credited to Customer's user account and can be used to send electronic messages and use any other services of the Operator for which fees are due. The

deposit shall be made directly into the customer account using one of the modes of payment made available on the account page. The payment options will be displayed on the customer account page.

6.2 If the Customer should be in default of payment, the Operator shall have the right to block the customer account or the option to send electronic messages until the default of payment has been rectified. Furthermore, the Operator shall have the right (but shall be under no obligation) to offset any amounts due against the credit balance in the customer account. However, the Operator shall not implement any such offsetting until after the second reminder notice does not produce the desired results. Any offsetting shall be without prejudice to Operator's right to rescind from the contract because of the default of payment.

6.3 Principally, any amounts deposited into the customer account shall not be eligible for refunds. Unless this is specifically required as a matter of law, any balance amounts remaining in the account after termination or the end of the user agreement for any other reasons shall not be disbursed.

6.4 In conjunction with the deposit, an advance payment invoice for the amount deposited shall be issued. As part of the monthly billing statement, the respective amount that has been consumed shall be deducted. The latest invoices shall be made available to the Customer in the customer account and / or via e-mail.

7. Prices for the Sending of Electronic Messages, Price Adjustments

7.1 There is a charge for the sending of electronic messages via the customer account. The Customer shall pay the defined price for each electronic message sent. The obligation to pay the fee shall not be contingent upon the receipt of the electronic message by the recipient unless the receipt failed for reasons the Operator is responsible for; in particular the obligation to pay the fee shall not be voided because the numbers in the list of recipients have not been assigned.

7.2 The costs for the sending of electronic messages can be derived from the current Price Overview published by the Operator in the version in effect at the time the electronic messages are sent. This shall also be the case if the Customer commissions the sending of electronic messages for a future date. The Customer is hereby advised that the prices for sending electronic messages are subject to ad-hoc fluctuations at regular intervals. Hence, it shall be the Customer's autonomous responsibility to obtain information on the prices in effect at the time of placing an order.

7.3 If the Customer should send an electronic message that exceeds the scheduled maximum number of characters, multiple electronic messages shall be sent simultaneously. The number of the messages sent shall be contingent upon the number of messages required to accommodate the existing characters. Every message sent shall be billed separately to the Customer (Example: If the customer sends a message that has to be divided into two text messages and the messages are sent to 1,000 recipients, the Customer will be billed for 2,000 text messages). It shall be the

sole responsibility of the Customer to match the length of the electronic messages compiled to the maximum permitted number of characters prior to sending the message.

7.4 The costs incurred for the sending of the electronic messages shall be offset against Customer's credit balance in his/her customer account. No other mode of payment is available for the sending of electronic messages. Of the credit balance in the account is insufficient for an order, the order will not be executed.

8. Booking of Feature Packages, Price Adjustments

8.1 The Customer has the option to book various feature packages that include additional services on the platform. Unless other stipulations are made on the platform, such services can be booked for a month or a year (term). The prices of these packages can be found in the current Price Overview published by the Operator.

8.2 The termination notice shall be given at the latest seven (7) days prior to the end of the package term. If a package is not terminated in a timely manner, it shall automatically be extended by the respective period.

8.3 While a package term is in effect, the Customer shall have the right to switch to a more expensive package (upgrade). If the Customer should desire an upgrade, Customer shall have the option to autonomously make these changes in the system. The Operator shall subsequently notify the Customer as of which date the switch can be made. In this case, the previous package shall terminate prematurely.

8.4 In the event that the Customer should terminate one package and switch to a less costly package, Customer shall back up all data that cannot be backed up in the less expensive package arrangement, prior to the expiration of the more expensive package's term and shall remove these data from the platform. This will, for instance, occur in the event that the Customer makes a switch from a package that allows Customer to set up 10,000 contacts or 100 lists to a package that allows Customer to set up a maximum of 1,000 contacts or 10 lists. If the Customer should fail to reduce the number of data to the number required for the new package by the time the new package term begins, Operator shall have the right to reduce the number of data autonomously to the number permitted for the new package.

8.5 When switching to a more expensive package, all data shall be transferred to the new package.

8.6 The user agreement shall not be affected by the termination of a package.

9. Customer's Duties and Obligations

9.1 Customer shall undertake to keep up to date any data provided during the registration process at all time and shall refrain from violating these GTC and applicable laws. In particular, Customer shall undertake to meet payment demands of the Operator in a timely manner. Furthermore, Customer shall ensure that Customer's account is used exclusively by Customer. Customer shall treat Customer's access data and the data archived on the site as confidential and shall ensure that third parties do not gain access to Customer's data. If the Customer should culpably breach this duty, Customer shall be directly responsible for any resulting damages.

9.2 Moreover, Customer shall undertake to use the platform exclusively for its intended purpose (mobile marketing as defined in Sect. 1.4) and to observe all contractual and statutory provisions when using the platform. Any usage that goes beyond the purpose of the usage relationship shall be prohibited. In particular, Customer shall not be permitted to:

Send out promotional messages without observing the statutory requirements (in particular consent mandates and revocability)

Send out promotional messages that advertise illegal goods and / or services

Send SPAM messages

Make available to third parties Customer's access free of charge or in exchange for payment to send out electronic messages for third party businesses

Spy out economically relevant data of the Operator or of other customers; this shall apply in particular to the pirating of third party lists of recipients.

9.3 In the event of any violation of the provisions set forth in this Article, the Operator shall have the right to temporarily block the customer account and / or the sending of electronic messages or to terminate the user agreement extraordinarily. The type of sanction imposed shall depend on the type, severity and duration or the number of violations and shall be chosen at Operator's discretion. A blockage of the customer account or the suspension of the sending of electronic messages shall be without prejudice to the term of the user agreement.

10. Blockage of Individual Recipients / Lists of Recipients

10.1 The Operator shall have the right to

Suspend the sending of electronic messages to individual recipients if Operator should become aware of the fact that the recipient doesn't wish / no longer wishes to receive promotional messages or if other grounds exist that make the sending of messages to this recipient appear to be potentially illegal

Block lists of recipients if the suspicion has arisen that a percentage of the recipients that is more than completely irrelevant has not given effective consent to the sending of promotional messages or if other grounds have arisen that make the sending of such messages to the list of recipients appear to be potentially illegal

Block other lists on the platform if the suspicion has arisen that there are grounds that make the sending via this list appear to be potentially illegal

Block recipient numbers to which the sending of messages has failed (black listing).

10.2 It shall be Customer's responsibility to refute the facts or suspicions based on which recipients or lists have been blocked and to affect the unblocking of the recipient / recipient list. The Customer shall continue to have access to blocked recipients and / or recipient lists; however, Customer shall no longer be in a position to use them. This shall not apply if the Operator is mandated by law to delte the recipient / list of recipients.

10.3 Such blockages shall not affect the term of the user agreement.

11. Term and Termination

11.1 The user agreement shall be made for the period specified in the package and may be terminated by either Party by the end of the period.

11.2 The above shall be without prejudice to the right to terminate extraordinarily for important grounds. Important grounds shall in particular have manifested themselves if

Customer, despite a second reminder notice does not pay an invoice from the Operator that is due

Customer repeatedly violates applicable laws when using the platform (in particular if electronic messages are sent out in a manner that violates applicable law)

Customer engages in activities that could place the technical functionalities of the platform in jeopardy

Customer engages in business impairing activities that could place the business administrative success or the reputation of the platform in jeopardy.

11.3 In the event of termination by the Customer or in the event of extraordinary termination by the Operator, any residual credit balances that remain in the customer account shall be forfeited. Such amounts shall not be refunded. The customer account and any data remaining in the account shall be deleted two weeks after the termination of the user agreement. It shall be Customer's responsibility to back up Customer's data (in particular the lists of recipients) by other means prior to the expiration of the agreement.

12. Contract Data Processing

The Customer shall be solely responsible for the data uploaded to the platform. Customer shall enter into a separate contract on the contract processing of data pursuant to Art. 28 GDPR.

13. Data Backup by the Customer

13.1 Customer shall undertake to backup Customer's data at regular intervals. Customer is hereby advised that inadequate data backup may result in Customer having to assume shared culpability as defined in § 254 German Civil Code (BGB).

13.2 If the Customer should wish to back up data after Customer's account has been blocked by the Operator, Customer shall take the initiative to contact the Operator. The Operator shall verify the concern and shall release the data to the Customer, provided Operator is mandated to do so by law and the data can be released from a technical perspective. It shall be Customer's responsibility to get in touch with the Operator with regard to the release of the data. Customer is hereby advised that if the account is deleted, the data will be lost, and it will be impossible to recover the data at that point.

14. Liability

14.1 The Operator shall assume unlimited liability vis-à-vis the Customer for all contractual, contract-like and statutory (including tort) claims for damage and expense compensation based on any legal grounds if Operator is culpable of acts of intent or gross neglect, in the event of intentional or negligent damages to life, physical injury or health damages, based on any warranty assurance, unless other provisions have been agreed upon or if mandatory statutory provisions apply.

14.2 If the Operator should violate a cardinal contractual duty due to negligence, the liability amount shall be limited to the contract typical, foreseeable damages unless unlimited liability is in effect as set forth in the previous section. Cardinal contractual duties are obligations the contract imposes on the Operator based on its content so that the purpose of the contract can be attained. Their fulfillment is the very basis for the proper performance of the contract and the contracting partner is in a position to regularly have confidence that such duties will be met.

14.3 Any other assumption of liability by the Operator shall be excluded

14.4 The above liability provisions shall also apply with regard to Operator's assumption of liability for Operator's agents and statutory representatives.

14.5 The Customer shall indemnify the Operator against any third party claims raised against the Operator due to illegal acts of the advertising Customer – including the costs for mounting a legal defense in the amount permitted by law. This shall in particular apply if the Customer should send electronic messages to recipients who did not provide the respective declaration of consent to receive such messages. In any event, Customer shall undertake to notify the Operator of potentially imminent third party claims.

15. Data Privacy

The Operator shall treat personal data as confidential and in compliance with the statutory data protection legislation. Any sharing of such data in the absence of the express consent of the data subject shall not occur or shall occur only in conjunction with the necessary contract processing work. For more details, please consult the Operator's Privacy Policy

16. Final Provisions

16.1 All contractual relations between the Operator and the Customer shall be governed by the laws of the Federal Republic of Germany subject to the exclusion of the applicability of the UN Convention on the International Sale of Goods (CISG).

16.2 If the Customer should be a merchant, legal entity under civil law or a public-law based special entity, the court at Operator's domicile in Frankfurt am Main, Germany shall be the competent court, unless an exclusive place of jurisdiction has been established for the litigation. This shall also be the case if the Customer does not have a domicile / place of residence within the European Union.

16.3 The Operator shall have the right to adjust its package pricing at regular intervals to the extent that Operator's own costs for the rendering of the services increase. Existing Customers shall be notified of such price adjustments at least one month prior to the effective date of the price change via e-mail. This shall not apply to the varying prices for the SMS service and other electronic messages. Unless the existing Customer objects by the deadline set in the change notification, Customer's agreement with the change shall be presumed. The notification about the intended price adjustment shall alert Customer to the deadline and the consequences of objecting to the change or the failure to object. If the Customer should not agree with the price change, Customer shall have the option to extraordinarily terminate the subscription at the time the price change becomes effective. This clause shall be without prejudice to Sect. 7.2.