

## DATA PROCESSING ADDENDUM

This Data Processing Addendum (hereinafter the **"Addendum"**) shall form a part of one or more agreements for the provision of digital marketing services (together, the **"Principal Agreement"**), concluded or to be concluded between the Client and Service Provider.

The Parties hereby acknowledge and confirm that, in connection with performance of the Principal Agreement or mutually agreed actions undertaken in connection with anticipated conclusion and performance of the Principal Agreement, the Parties may process certain data, including but not limited to, unique online identifiers, such as cookie IDs and mobile advertising IDs which may constitute Personal Data under Applicable Data Protection Laws.

### 1. DEFINITIONS

1.1. In this Addendum, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

- (a) **"Applicable Data Protection Laws"** means: (a) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the **"GDPR"**); (b) any national legislation governing the processing of personal data applicable to any of the Parties, (c) any national legislation implementing the Privacy and Electronic Communications Directive 2002/58/EC (as amended by Directive 2009/136/EC) in the applicable Member State (including any future national or European legislation replacing such legislation);
- (b) **"Client Personal Data"** means any Personal Data processed by Service Provider pursuant to Client's Instructions in connection with the Principal Agreement, i.e. data Service Provider collects through tracking technologies on digital properties indicated by the Client that can be attributed to a user via cookies or other such tracking technology (e.g. the products the user viewed, etc.), or any other data provided to Service Provider by the Client; for the avoidance of doubt the Parties confirm that Client Personal Data does not include: (i) Service Provider Personal Data (as defined in this Addendum); (ii) aggregated statistical data which does not constitute Personal Data under Applicable Data Protection Laws;
- (c) **"Instruction"** means a direction, either in writing, in text form (e.g. by e-mail) or by using a software or online tool, issued by the Client to Service Provider and directing Service Provider to process Client Personal Data in a certain manner;
- (d) **"Service Provider Personal Data"** means the Service Provider ID (the unique identifier created, assigned and retained by Service Provider in respect of user who interacts with a website or mobile app) and any data related to such Service Provider ID which Service Provider would have regardless of the Client's use of the Services;
- (e) **"Services"** means digital marketing services performed by Service Provider for the Client pursuant to the Principal Agreement;
- (f) **"Subprocessor"** means any person (including any third party and any other Service Provider group company) appointed by Service Provider to process Client Personal Data on behalf of the Client and in accordance with the Instruction in connection with the Principal Agreement;

1.2 The terms, **"Controller"**, **"Joint Controller"**, **"Processor"**, **"Data Subject"**, **"Member State"**, **"Personal Data"**, **"Personal Data Breach"**, **"processing"**, **"Supervisory Authority"** shall have the same meaning as in the GDPR and cognate terms shall be construed accordingly.

- 1.3 Other capitalized terms not defined in this DPA shall have the meaning given to them in the Principal Agreement.

## **2. APPOINTMENT OF PROCESSOR & SCOPE OF PROCESSING**

- 2.1. The Client hereby appoints Service Provider as a Processor of Client Personal Data for the purposes of performance of Services under the Principal Agreement.
- 2.2. The Client represents that it has a valid legal basis for processing of Client Personal Data and that it is authorized to appoint Service Provider as a Processor of the Client Personal Data.
- 2.3. The Service Provider shall process Client Personal Data exclusively for the purpose of performance of the Principal Agreement (including for the purposes of fraud detection necessary for uninterrupted performance of the Principal Agreement) and in accordance with this Addendum, which together shall constitute the Instruction of the Client. The Client shall be entitled to submit further Instructions with regard to the processing of Client Personal Data from time to time after execution of this Addendum and for duration of the Principal Agreement.
- 2.4. The Client is responsible for ensuring legal basis for the use of cookies or other tracking technologies on Client's digital properties and for processing of Client Personal Data collected therewith as well as for providing Data Subjects with accurate and exhaustive information relating to processing of their Personal Data, as required by the Applicable Data Protection Laws. If agreed by the Parties, Service Provider will assist the Client in complying with the above obligations.
- 2.5. Service Provider shall process Client Personal Data on a continuous basis. Service Provider will perform the following operations on Client Personal Data: collection, recording, organization, storage, use (for the purposes indicated in this Addendum), disclosure to other entities at the Client's request or where it is expressly laid down by the Applicable Data Protection Laws, removal. Client Personal Data shall be processed by Service Provider in electronic form within electronic communications networks.
- 2.6. Service Provider shall not transfer or permit any Client Personal Data to be transferred to a territory outside of the European Economic Area unless Service Provider has undertaken such measures as are necessary to ensure the transfer is in compliance with the Applicable Data Protection Laws. Such measures may include (without limitation) transferring the Client Personal Data to a recipient in a country that the European Commission has decided provides adequate protection for Personal Data or based on standard data protection clauses referred to in article 46(2)(c) GDPR.
- 2.7. Service Provider shall promptly inform the Client if, in the opinion of Service Provider, the Instruction issued to Service Provider constitutes or leads to an infringement of Applicable Data Protection Laws.
- 2.8. If the Client is subject to the GDPR, Service Provider shall assist the Client in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR taking into account the nature of processing and the information available to Service Provider as described below.
- 2.9. The duration of processing of Client Personal Data shall encompass a period between the conclusion of this Addendum and the conclusion of the Principal Agreement, the duration of Principal Agreement and the period from the expiration of the Principal Agreement until deletion or return of Client Personal Data by Service Provider in accordance with the terms of this Addendum.

## **3. PURPOSES OF PROCESSING & DATA SUBJECTS**

- 3.1. Pursuant to the Addendum and the Principal Agreement Service Provider shall process Client Personal Data for the purpose of direct marketing of Client's goods or services, by selection and delivery of

personalized advertisements to end-users on third party digital properties. As a part of such processing conducted on behalf of the Client, Service Provider shall not use Personal Data collected on behalf of Service Provider's other clients or received from any third parties.

- 3.2. Within the purpose specified in Section 3.1 above, the Client Personal Data processed by Service Provider pursuant to the Principal Agreement shall concern end-users of digital properties, including websites and mobile apps, indicated by the Client.

#### **4. CATEGORIES OF CLIENT PERSONAL DATA TO BE PROCESSED**

- 4.1. Client Personal Data processed pursuant to the Addendum and the Principal Agreement shall concern the following categories:
- (a) unique online identifiers, including cookie IDs and mobile advertising IDs;
  - (b) data related to end-user's activity on the digital properties indicated by the Client;
  - (c) technical browser and device information (user agent);
  - (d) timestamps recording end-user's activity;
  - (e) any other data concerning end users provided by the Client to Service Provider for the purpose of performance of Services, e.g. CRM data.
- 4.2. The Client undertakes not to transfer to or make available for Service Provider any Client Personal Data which constitutes directly identifiable information, such as end-users' names, telephone number, e-mail address, etc.

#### **5. DATA SECURITY MEASURES & CONFIDENTIALITY**

- 5.1. Service Provider shall implement and maintain technical and organisational measures required pursuant to Article 32 of the GDPR including all organizational and technical security measures necessary to protect against unauthorized or accidental access, loss, alteration, disclosure or destruction of Client Personal Data, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing. Upon Client's request Service Provider shall demonstrate which technical and organizational measures it has implemented.
- 5.2. Service Provider shall ensure full confidentiality of Client Personal Data, in particular by ensuring that:
- (a) access to Client Personal Data by any employee, agent or contractor of Service Provider is strictly limited to those individuals who need to access the relevant Client Personal Data for the purposes of execution of the Principal Agreement;
  - (b) all its employees, agents or contractors comply with the Applicable Data Protection Laws and are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

#### **6. PERSONAL DATA BREACHES**

- 6.1. Service Provider shall notify the Client without undue delay, not later than 24 hours after becoming aware of any Personal Data Breach, in particular any accidental or unlawful destruction, loss, alteration, unauthorized disclosure of Client Personal Data, providing the Client with sufficient information to allow the Client to meet any obligations set out under the Applicable Data Protection Laws.
- 6.2. Service Provider shall cooperate with the Client and take such reasonable steps as are directed by the Client to assist in the investigation, mitigation and remediation of each Personal Data Breach.
- 6.3. Service Provider will, in connection with any Personal Data Breach affecting Client Personal Data:

- (a) take such steps as are necessary to contain, remediate, minimize any effects of and investigate any Personal Data Breach and to identify its cause;
  - (b) cooperate with the Client and provide the Client with such assistance and information as it may reasonably require in connection with the containment, investigation, remediation and/or mitigation of a Personal Data Breach; and
  - (c) immediately notify the Client in writing of any request, inspection, audit or investigation by a Supervisory Authority.
- 6.4 Service Provider will not communicate with any third party, including but not limited to the media, vendors, consumers and affected individuals regarding any Personal Data Breach without prior written consent of the Client.

## 7. DATA SUBJECT RIGHTS

- 7.1 Service Provider warrants and agrees to cooperate with and promptly assist the Client, through appropriate measures, insofar as this is possible and at no charge, in meeting its obligations to Data Subjects and Supervisory Authorities. This cooperation and assistance includes, but is not limited to:
- (a) enabling Data Subjects to exercise their rights, in particular:
    - (i) right of access, referred to in Article 15 of GDPR;
    - (ii) right to erasure (“right to be forgotten”), referred to in Article 17 of GDPR;
    - (iii) right to restriction of processing, referred to in Article 18 of GDPR;
    - (iv) right to data portability, referred to in Article 20 of GDPR;
    - (v) right to object, referred to in Article 21 of GDPR;;
  - (b) responding to inquiries, claims, and complaints from Data Subjects or Supervisory Authorities, received by the Client regarding the processing of Client Personal Data;
  - (c) assisting in defining the processing activities conducted on behalf of the Client, for the purpose of Client’s record of processing activities
  - (d) reporting Personal Data Breaches to Supervisory Authorities.

## 8. SUBPROCESSING

- 8.1 The Client authorizes Service Provider to appoint Subprocessors in accordance with this Section 8 and taking into consideration any provisions of the Principal Agreement.
- 8.2 The Client agrees that Service Provider may engage the following Subprocessors i.e.:

**RTB House S.A.**, with its registered office in Warsaw (00-819) 61 Żłota St., office 101, entered into the National Court Register held by the District Court for the Capital City of Warsaw in Warsaw, 12<sup>th</sup> Commercial Department of the National Court Register under KRS No. 0000462115, NIP (Tax ID) No. 527-269-40-02,

**RTB House Services sp. z o.o.**, with its registered office in Warsaw (00-819) 61 Żłota St., office 101, entered into the National Court Register held by the District Court for the Capital City of Warsaw in Warsaw, 12<sup>th</sup> Commercial Department of the National Court Register under KRS No. 0000698508, NIP (Tax ID) No. 527-282-32-15.

- 8.3 Service Provider shall give the Client prior written notice of the appointment of any new Subprocessor, including full details of the scope of the processing to be undertaken by that Subprocessor. If within **7 (seven) days** of receipt of such notice the Client notifies Service Provider in writing of any objections to the proposed appointment, Service Provider shall not appoint the proposed Subprocessor.
- 8.4 With respect to each Subprocessor, Service Provider shall:
- (a) before the Subprocessor first processes Client Personal Data, carry out adequate due diligence to ensure that the Subprocessor is capable of providing the level of protection for Client Personal Data required by the Principal Agreement;
  - (b) ensure that the arrangement between Service Provider and the Subprocessor is governed by a contract in a written or document form, or by other legal act binding on the Subprocessor that includes terms offering at least the same level of protection for Client Personal Data as set out in this Addendum and which meets the requirements under the Applicable Data Protection Laws;
  - (c) provide to the Client for review such copies of the agreements with Subprocessors (which may be redacted to remove confidential commercial information not relevant to the requirements of this Addendum) as the Client may request from time to time.
- 8.5 Should a Subprocessor fail to comply with obligations set out in the Applicable Data Protection Laws and relevant subprocessing agreement, Service Provider shall be fully responsible to the Client for fulfilling the obligations of such Subprocessor and to provide any remedies for such Subprocessor's non-compliance.

## **9. AUDIT RIGHTS**

- 9.1 Service Provider shall make available to the Client on request all information necessary to demonstrate compliance with this Addendum and the Applicable Data Protection Laws and shall allow for and contribute to audits, including inspections, by the Client or an auditor mandated by the Client in relation to the processing of Client Personal Data.
- 9.2 The Client shall give Service Provider reasonable notice of any audit or inspection to be conducted under Section 9.1 and shall make reasonable endeavours to avoid causing (or, if it cannot avoid, to minimize) any damage, injury or disruption to Service Provider's business operations while its personnel is on Service Provider's premises in the course of such an audit.
- 9.3 Service Provider shall give access to its premises for the purposes of an audit:
- (a) to individuals duly authorized by the Client;
  - (b) during normal business hours at those premises, unless the audit or inspection needs to be conducted on an emergency basis and Client has given notice to Service Provider that this is the case beforehand.
- 9.4 The individuals authorized by the Client for the purpose of conducting an audit shall be entitled to in particular:
- (a) access all documents and all information directly related to the processing of Client Personal Data pursuant to the Principal Agreement;
  - (b) obtain written or oral explanations from Service Provider staff to the extent necessary to conduct the audit.

## **10. SERVICE PROVIDER PERSONAL DATA**

- 10.1 The Parties acknowledge that Service Provider Personal Data shall not be subject to this Addendum, and Service Provider shall be the Controller of Service Provider Personal Data, individually or jointly with other entities. In no event shall Service Provider and the Client process any Service Provider Personal Data as Joint Controllers. If a Data Subject makes an inquiry to the Client in respect of an obligation concerning Service Provider Personal Data, Client will direct the Data Subject to Service Provider.
- 10.2 If it proves to be required for the performance of the Principal Agreement in accordance with the Applicable Data Protection Laws, in particular due to changes of circumstances including without limitation any (i) changes in Applicable Data Protection Laws, or (ii) regulations, interpretations, decisions or guidelines of competent authorities, the Client shall implement or enable Service Provider to implement appropriate measures to assure lawful use of cookies or other tracking technology and processing of Personal Data by Service Provider and provide Service Provider with all information and assistance as may reasonably be required to verify Client's compliance with this Section.

## **11. TERM AND TERMINATION**

- 11.1 This Addendum is entered into for as long as Service Provider processes Client Personal Data in accordance with the Principal Agreement.
- 11.2 The Client has the right to terminate this Addendum with immediate effect if Service Provider violates the provisions of this Addendum or any relevant provisions of the Applicable Data Protection Laws.
- 11.3 Each Party may terminate this Addendum with immediate effect if the Parties fail to execute the Principal Agreement within reasonable time from conclusion of this Addendum and such Party no longer expects to continue cooperation with the other Party within the scope specified in the Principal Agreement.
- 11.4 After the end of the provision of Services, within the next 90 days, Service Provider shall delete all Client Personal Data in its possession, unless before the end of the provision of Services Client instructs Service Provider to act otherwise in connection with the Client Personal Data. This requirement shall not apply to the extent that Service Provider is required by the Applicable Data Protection Laws to retain the Client Personal Data.

## **12. LIABILITY**

- 12.1 Service Provider shall compensate the Client for all damages incurred by the Client as a result of Service Provider's, its employees, representatives or Subprocessors unauthorized and/or unlawful processing or accidental loss, disclosure, destruction or damage to Client Personal Data, save where such loss, disclosure, destruction or damage resulted from following Client's Instructions. For the avoidance of doubt, the limit of liability in the Principal Agreement shall not apply to this Section.

## **13. FINAL PROVISIONS**

- 13.1 In the event of any discrepancies between the provisions of this Addendum and any other agreements concluded between the Parties, including the Principal Agreement, the provisions of this Addendum shall prevail.
- 13.2 Each Party may propose variations to this Addendum which such Party reasonably considers to be necessary to address the requirements of any Applicable Data Protection Laws.
- 13.3 Should any provision of this Addendum be invalid or unenforceable, the remainder of this Addendum shall remain valid and in force. The invalid or unenforceable provision shall be either: (i) amended as necessary to ensure its validity and enforceability, while preserving the Parties' intentions as closely as

possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

- 13.4 The Parties undertake to monitor and consult with each other all issues related to privacy and data protection applicable to Services, including legislation, case law, regulations, interpretations, decisions and guidelines of data protection authorities as well as digital advertising market self-regulatory initiatives, changes in market standards or best practices. Whenever anything in the above may threaten the validity, enforceability or adequacy of this Addendum, the Parties shall undertake all necessary actions to remedy such circumstance.
- 13.5 This Addendum and all disputes arising out of or relating to this Addendum shall be interpreted, construed and enforced in accordance with the laws applicable to the Principal Agreement. Any disputes and claims under this Addendum shall be adjudicated by courts specified in the Principal Agreement.
- 13.6 The Parties hereby agree that this Addendum will become an integral part of the Principal Agreement. This Addendum will apply to all Services provided by Service Provider to the Client in the future, unless the parties agree otherwise.