General Terms and Conditions MCXess B.V.

Version 2.1 – 30 November 2023

General Terms and Conditions

Module A. General

Article A.1. Scope, priority and definitions

A.1.1. These General Terms and Conditions and the General Module are applicable to all offers by MCXess in relation to the Services and form an integral part of every Agreement.

A.1.2. The specific modules shall be applicable if the Services requested or offered fall within the scope described in the module. If a specific module is applicable, this shall take precedence over the General Module.

A.1.3. Stipulations or terms and conditions of Contractor that differ from or do not appear in these General Terms and Conditions shall only be binding on MCXess if and insofar as they have been expressly accepted by MCXess in Writing.

A.1.4. Specific commitments shall only take precedence over these General Terms and Conditions if they are in Writing and if this is expressly stipulated or was unmistakeably the intention of both parties.

A.1.5. The definitions of terms with an initial capital can be found at the end of the General Module and are applicable to all modules.

A.1.6. In case of conflict between stipulations of the Agreement, General Terms and Conditions or annexes thereto, the following order of priority shall apply:

    a)   the Agreement;

    b)   any Service Level Agreement that has been concluded;

    c)   any supplementary terms and conditions, for example terms and conditions stated via the MCXess Website when offering the Product or Service.

    d)   these General Terms and Conditions;

Article A.2. Inception of the Agreement

A.2.1. An Agreement can be entered into with MCXess or a third party through an online channel, including the MCXess Website, by or on behalf of Contractor using a method authorised by MCXess. Alternatively, an amendment to an existing Agreement can be agreed. The Agreement may, for example, be entered into when Contractor approves an Agreement offered online by MCXess by means of a web form, or when Contractor approves new or amended Agreements with Contractor in a manner stipulated by MCXess.

A.2.2. To Agreements concluded or to be concluded between Contractor and MCXess the articles 6:227b paragraph 1 and article 6:227c of the Dutch Civil Code do not apply.

A.2.3. Contractor represents that the e-mail address provided to MCXess (for example on the moment of concluding the Agreement) is correct and is authorized and supervised by Contractor. Furthermore, Contractor agrees to receive all relevant information relating to the Agreement on the provided e-mail address. The e-mail sent by MCXess shall be deemed to have been received at the time it reaches the server of Contractor. Contractor is solely responsible for the configuration of his (mail)server, including but not limited to spam or authorizations of the e-mail accounts.

A.2.4. MCXess is at all times entitled to refuse Contractor.

Article A.3. Duration and termination

A.3.1. The Agreement is entered into for the period stated on the MCXess Website (hereinafter: the contract period). The said contract period shall run from the day when the Services are ordered by Contractor (activation date). If the contract period is not stipulated, it shall be deemed to have been entered into for a contract period of 12 months from the date on which the Services were activated by MCXess as agreed. Unless agreed to the contrary, the Agreement, in the absence of termination in Writing reaching the other party at least two months before the end of the contract period, shall be tacitly extended for an indefinite period of time, subject to one month's notice. Contractor shall receive (electronic) confirmation of the beginning of the contract period. If different Services are purchased under an Agreement, these shall have separate start dates and also contract periods which may run concurrently and may be extended for different periods. The Agreement shall, in that case, be classified as a master agreement. If a Product and/or Service is terminated under the master agreement, the remaining Services shall continue.

A.3.2. MCXess is authorised to dissolve or suspend the Agreement either in full or in part, with immediate effect, without the intervention of a court, by letter, fax or e-mail and without any obligation to pay compensation or provide indemnity, if:

a)   Contractor fails to meet the obligations in the Agreement in a full and timely manner;

b)   Circumstances that come to the knowledge of MCXess after concluding the Agreement provide good grounds for concern that Contractor will not meet the obligations;

c)   Contractor has been requested, in accordance with Article A.4. to provide security for performance of its obligations arising from this Agreement and the said security has not been provided or is insufficient;

d)   Due to delays on Contractor's side, MCXess can no longer be expected to perform the Agreement under the originally agreed conditions;

e)   Contractor dies, requests suspension of payments or files for bankruptcy;

f)   Any part of Contractor's assets are seized;

g)   Circumstances arise which are such that MCXess cannot possibly be required to comply with the Agreement or cannot reasonably be required to uphold the Agreement unchanged.

A.3.3. If the Agreement is dissolved on the grounds set out in article A.3.2., the debts owed to MCXess by Contractor shall be claimable immediately.

A.3.4. If MCXess suspends compliance with the obligations, it shall retain its claims under the law and the Agreement.

A.3.5. If Contractor fails to meet any of its obligations under an Agreement, MCXess shall be entitled simultaneously to suspend performance of all Agreements concluded with

Contractor without notice of default, notification or action by a court being required and without prejudice to the right of MCXess to compensation for damages, loss of profits and interest.

A.3.6. If Contractor is culpable for the dissolution, MCXess shall be entitled to compensation for the damage that have occurred directly and indirectly as a result. This is deemed in every case to consist of periodical charges that Contractor would have been obliged to pay if the Agreement had continued in force.

A.3.7. If notice is served to terminate the Agreement or it is terminated or dissolved for any reason whatsoever, MCXess is entitled, immediately after the date when the Agreement expires, to terminate or suspend the Services and any Accounts belonging to the said Agreement and to delete or render inaccessible all data stored in MCXess systems for Contractor. MCXess is not hereby obliged spontaneously to provide Contractor with a copy of such data. Prior to termination, Contractor may, however, request a copy.

Article A.4. Security

A.4.1. If MCXess has justified doubts concerning performance of Contractor's payment obligations, MCXess is entitled to request a bank guarantee or surety or to demand payment of a deposit. The amount of this will be no higher than the amount reasonably payable by Contractor in six (6) months.

Article A.5. Performance of the Agreement

A.5.1. After the Agreement takes effect MCXess shall perform it to the best of its ability and with due care and expertise. It shall be guided in this firstly by the SLA, if applicable, and secondly by the product information and/or technical annexes that are valid at the time when the Agreement takes effect, as provided or made available via the MCXess Website or elsewhere as indicated by MCXess.

A.5.2. MCXess depends for the supply of certain Services on third parties such as Operators and any Chain Parties. MCXess can only influence the correct processing of consumption of Services within the technical and legal limitations imposed by said third parties.

A.5.3. The application and use of a Number are subject to the statutory regulations of the country in which a Number is issued. These statutory regulations may be amended by the competent authorities and may be open to interpretation. Although MCXess endeavours to gear the application process and the allocation of a Number as closely as possible to the statutory regulations and to provide the Contractor with as much information about this as possible, MCXess is unable to guarantee that an application for a Number will always be accepted or that a Number will always remain available. The Contractor is obliged to adequately inform himself about the use of the Number in the relevant countries and within the scope of the applicable statutory regulations.

A.5.4. If the statutory regulations of the country take the form of directory law, these General Terms and Conditions will take precedence wherever possible.

A.5.5. The Number will be issued to the Contractor under the license obtained by MCXess from its suppliers (Operators or Intervening contracting parties). The license for the Number is non-transferrable and is issued by MCXess or directly by the Operator to the Contractor for the period of the Agreement, with due observance of the provisions of paragraph 1 of this article. The license can be withdrawn if the Number is withdrawn for any reason by the competent (possibly foreign) authorities (including regulatory authorities) or can no longer be maintained in compliance with the statutory regulations. MCXess will make every effort to ensure that the Contractor can continue to use the Number, but will not be liable to the Contractor for compensation if the Number is withdrawn. If the Number is withdrawn MCXess will reimburse any advance payments for the remaining term of the Agreement unless the Contractor has culpably failed to meet his obligations under the Agreement.

A.5.6. The Number will not be registered in the Contractor's name. However, MCXess is at all times entitled and authorised, in its sole discretion, to register the Number in the Contractor's name. In such event, the Contractor shall provide any necessary assistance. MCXess will enable a Contractor to port the Number exclusively if MCXess or the Operator is obliged to port the Number under statutory regulations or by the competent (regulatory) authorities.

A.5.7. In the event of the Agreement being prematurely terminated (through porting, for example), MCXess will have the right to charge the lost income for the remaining term of the Agreement to the Contractor.

A.5.8. Despite the customer having a license for the Number, the Contractor is fully responsible for the use of the Number and compliance with the relevant statutory regulations. The Contractor indemnifies MCXess and the Operator against all claims of third parties, including regulatory authorities, and will fully compensate MCXess in this regard.

A.5.9. Contractor will defray all (additional) costs related to taking the Number into use. Costs charged to

MCXess by suppliers will be charged on immediately to the Contractor and must be paid in accordance with the payment terms laid down in these Chop Terms and Conditions.

Article A.6. Delivery

A.6.1. Delivery times stated by MCXess are always indicative, unless expressly stated in Writing that they are deadlines. MCXess is only in default, even where a deadline has been agreed, after Contractor has served notice upon it in Writing, subject to the situations prescribed by law in which it shall automatically be in default.

Article A.7. General Terms and Conditions of Use

A.7.1. Contractor is obliged to do whatever is reasonably necessary and desirable in order to make the timely and correct performance of the Agreement possible. In particular, Contractor shall ensure that all details and documents that MCXess indicates are necessary, or which Contractor should reasonably understand to be necessary for performance of the Agreement, are provided in good time to MCXess. Such details and documents may include, without limitation, company details, proof of address (copy of utility bill no older than 6 (six) months), company registration certificate and/or copy of valid passport or ID.

A.7.2. Unless expressly agreed otherwise, Contractor is itself always responsible for the correct functioning of peripherals on which Services are received and Contractor must itself take responsibility for connecting its own peripherals and/or infrastructure to those of MCXess.

A.7.3. Contractor and Users must not engage in Abuse or Improper use of the Services. In general this means that the Services must not be used in a way that is contrary to the relevant legislation and that they must not infringe the subjective rights of End users and third parties. For the various Services more detailed specific cases may be described that constitute Abuse or Improper use. There are also various codes of conduct that apply to the use of the Services.

A.7.4. Contractor indemnifies MCXess against all claims by End users and third parties based on the assumption that Contractor, its Users or (end) customers have not, using the Services, performed a valid obligation – either legal, on the basis of the Agreement or otherwise – or infringed any subjective right of any other party.

A.7.5. Although MCXess shall make efforts to keep Contractor informed about any licenses that Contractor may need for the Services, no guarantee is given that this is complete. Contractor shall, at all times, remain fully responsible for requesting and obtaining in time all necessary licenses and shall do so at its own expense and risk. Contractor indemnifies MCXess against all damages that may arise from the lack of licenses that Contractor may be obliged by the government to obtain in relation to the Services.

A.7.6. If Contractor may reasonably expect that the use of the Services will exceed the expected use at a specific time, or the expected quantity of data traffic will be larger than expected during a specific period, or that the use of the Services through or via Contractor may cause harm to telecommunications traffic, Contractor is obliged to inform MCXess of this without delay. For specific Services more detailed rules may be defined in this connection in the specific modules and/or in the applicable SLA.

A.7.7. If Contractor in any way fails to comply with the obligations set forth in this article, then Contractor will forfeit an immediately due and payable penalty of 10.000 euro and 1.000 euro for each day the breach continues, without any further act or formality being required. The foregoing shall be without prejudice to all other rights of MCXess, including the right to claim performance and/or compensation for the damage actually suffered by it, insofar as this exceeds the penalty forfeited.

Article A.8. Service Level Agreements

A.8.1. Depending on the applicable Services, the level of service for the Services shall be governed by an SLA.

A.8.2. Unless the SLA expressly stipulates the contrary, its stipulations shall have a lower priority than the stipulations of these General Terms and Conditions.

A.8.3. Unless the applicable SLA expressly stipulates the contrary, the performance standards set out in it, for example concerning the quantity of Uptime or Downtime, constitute indications and not guarantees.

Article A.9. Personal details

A.9.1. The details that are automatically processed and, where applicable, stored when using the Services, contain personal data. For this reason, both Contractor and MCXess fall within the scope of the GDPR, where, within the meaning of the GDPR, Contractor is deemed to be 'controller' and MCXess 'processor'.

A.9.2. Pursuant to article 28 paragraph 3 of the GDPR, Contractor and MCXess must enter into an agreement or other binding legal act relating to the processing of personal data carried out by MCXess on behalf of Contractor. The provisions of Module E. Processing of personal data must be regarded as a data processing agreement within the meaning of the GDPR.

A.9.3. Module E. Processing of personal data is expressly not applicable to the processing of personal data by MCXess and/or Contractor via the Affiliate Materials (Module D. Affiliate). In addition, Module E. Processing of personal data does not apply to any processing operations that MCXess performs in its role as 'controller', i.e. the processing operations for which MCXess independently determines the purpose and the means.

Article A.10. Account

A.10.1. MCXess will provide an Account to Contractor and/or Users. Unless otherwise agreed the Account will be accessible by entering a username and password.

A.10.2. Every action that is carried out through the Account of Contractor or of a User, is deemed to have taken place under Contractor's responsibility and at his risk. If Contractor suspects or should reasonably suspect that abuse of an Account is taking place, Contractor must inform MCXess of this as quickly as possible so that the latter can take action.

Article A.11. Prices

A.11.1. The prices charged by MCXess are divided into the following:

a)   One-time charges;

b)   Periodical charges;

c)   Use dependent charges.

A.11.2. Use dependent charges are payable by Contractor in arrears on the basis of the actual registered use. In so far as MCXess provides an online reporting system, this is for information purposes only and is not binding. The actual registered use as determined by MCXess, the suppliers of MCXess (including, for example, Operators) or Chain Parties shall, unless reliably proven by Contractor to the contrary, constitute full proof of the use and of the charges payable by Contractor. For any telephone traffic from a payphone, a surcharge of 1 euro per minute applies.

A.11.3. MCXess is entitled to adapt the periodical and use dependent charges on the basis of changes in market prices, as well as taxes, duties or import duties imposed by the government that increase the price, and also due to changes in the prices charged by Operators, Chain Parties or other suppliers on whom provision of the Services depends. Contractor shall be informed in good time, in principle one month before it comes into force, of a price change that is to be introduced.

A.11.4. Unless expressly stated to the contrary, all prices disclosed by MCXess exclude turnover tax and other duties charged by the government. MCXess has the right to invoice in other currencies or to convert these

currencies into euros, using a current exchange rate and the costs thereof will be included in the invoicing.

A.11.5. All prices in every offer or tender and on the MCXess Website are subject to programming and typographical errors.

A.11.6. If a price in an offer or tender is based on details provided by Contractor and if these data turn out to be incorrect, MCXess is entitled to change the prices accordingly, even after the Agreement has already taken effect. Any Outpayments received by MCXess will be transferred by means of a credit note, unless parties agree another billing method in Writing.

A.11.7. If and insofar as content is supplied using the Services for which Contractor, its counterparties or the content provider aims to receive Outpayments, MCXess shall only be obliged to transfer Outpayments to Contractor if these are received by MCXess. If, for any reason whatsoever, MCXess does not receive or does not fully receive the Outpayments, or if these are reclaimed in full or in part, MCXess shall not be obliged to pay Contractor for the part that is not received or that is reclaimed. MCXess shall never have an independent payment obligation with respect to Outpayments. If a sum is reclaimed, Contractor is obliged to pay the reclaimed amount to MCXess at the first request by MCXess.

A.11.8. If the Outpayments are not paid by the Operator or the End user for any reason whatsoever, Contractor shall still be obliged to pay the one-time, periodical and use dependent charges in connection with the relevant telephone traffic. Any penalties, compensation for damages or costs charged by the Operator and/or a Chain Party to MCXess in connection with unpaid and/or non-delivered Content and/or Content wrongly charged to the End user and/or related to Abuse or Improper use, are for the risk and account of Contractor and Contractor indemnifies MCXess for claims in this respect from Operators, Chain Parties and third parties. Since collection of caller tariff of international callers is not possible, outpayment will not take place for these calls. Possible cost will be charged for these calls.

Article A.12. Terms and conditions of payment

A.12.1. Payments can be made as indicated on the MCXess Website (MCXess Shop). Periodical charges may be billed in advance by MCXess unless otherwise agreed.

A.12.2. Unless otherwise agreed, by entering into the Agreement Contractor authorises MCXess to automatically collect payment for the charges payable by the Contractor, by means of a direct debit on the bank account of Contractor.

A.12.3. Contractor shall ensure that an adequate balance is available in the bank account intended for the direct debit at all times. If a direct debit cannot take place Contractor shall pay the amounts billed by MCXess before the due date by other means.

A.12.4. The due date is (14) days after the billing date.

A.12.5. Contractor will be in default automatically from the date when the bill falls due, without prior notice of default being required. MCXess is then entitled to bill for the full amount payable to Contractor plus interest of 1% per month, or the statutory interest, whichever is higher, from the due date.

A.12.6. Without prejudice to the above, all costs associated with collection of outstanding debts – in or out of court (including costs of lawyers, bailiffs and collection agencies) – shall be payable by Contractor. MCXess shall be entitled in any case to charge out of court costs of 15% of the outstanding amount, with a minimum of EUR 250 (two hundred and fifty euro).

A.12.7. MCXess is entitled to suspend and/or temporarily block the use of Services if:

a)   Contractor withdraws the direct debit mandate that it has provided;

b)   Contractor repeatedly fails to make timely payment of bills submitted by MCXess;

c)   Contractor's solvency deteriorates so as to cast reasonable doubt on Contractor's ability to pay and creditworthiness;

d)   Abuse or Improper use is noticed.

A.12.8. MCXess may charge administrative costs for blocking and possible unblocking. Contractor shall remain obliged to pay any periodical charges during the blocked period.

A.12.9. Abuse or Improper use of the Services by End users or other third parties shall not affect any obligation by Contractor to make payment to MCXess.

Article A.13. Offsetting

A.13.1. MCXess is entitled to offset whatever is payable to Contractor by MCXess, and whatever Outpayments MCXess has collected, against any debt owed to MCXess by Contractor, whether claimable or not.

A.13.2. Contractor is not entitled to offset any of Contractor's obligations to pay against any amount owed by MCXess on any ground whatsoever.

Article A.14. Retention of title

A.14.1. If and insofar as the Agreement stipulates any transfer of title from MCXess to Contractor, all goods supplied shall remain the property of MCXess until MCXess has received full payment of the entire relevant agreed amount. In the case of intellectual property, including copyright, transfer by MCXess to Contractor shall never occur unless expressly agreed to the contrary in Writing.

Article A.15. Intellectual property rights

A.15.1. All intellectual property rights related to all Materials developed or made available in relation to Services are retained exclusively by MCXess or its licensors. The Agreement shall not be deemed to stipulate transfer of intellectual property rights from MCXess to Contractor unless the Agreement unambiguously stipulates this and cannot be interpreted differently.

A.15.2. Contractor shall only acquire the rights of use and authorisations explicitly granted in these General Terms and Conditions, the Agreement or otherwise in Writing and apart from this Contractor shall not reproduce or publish any software or other Materials made available by MCXess. An exception to the above-mentioned shall be allowed in the case of unmistakeably erroneously failure to grant such a right explicitly to Contractor.

A.15.3. Contractor is not permitted to remove or alter any statement concerning copyright, trademarks, trade names or other intellectual property rights from the Materials, including statements concerning the confidential nature and secrecy of the Materials.

A.15.4. MCXess is permitted to take technical measures to protect the Materials. If MCXess has protected the Materials by means of technical safeguards, Contractor is not permitted to remove or circumvent such security measures.

A.15.5. Any use, reproduction or publication of the Materials that falls outside the scope of the Agreement or the usage rights conferred shall constitute an infringement of MCXess' intellectual property. Contractor shall pay MCXess a penalty of 1.000 euro per infringement, payable immediately, and 10.000 euro per intentional infringement, without prejudice to MCXess' right to claim compensation for damages that it has suffered due to the infringement or otherwise to take legal action to stop the infringement and/or claim for the damages. After a single working day has passed since MCXess has notified Contractor of an infringement, Contractor must also pay a penalty of 5.000 euro per day on which the infringement is not stopped.

Article A.16. Promotion

A.16.1. To promote its service, MCXess is entitled to show third parties that it provides Services to Contractor and to specify which ones, unless Contractor's reasonable interests would make this unacceptable or unless otherwise agreed in Writing.

Article A.17. Customer Care

A.17.1. The Customer Care department aims to respond materially within thirty (30) days after receipt of a complaint in Writing, unless this is not reasonably possible, for example because an investigation is needed that cannot be completed within 30 days. In that case Contractor shall be informed in Writing within this period when it will be informed of the decision.

Article A.18. Liability

A.18.1. The exclusions and limitations stipulated in this article shall not apply if and insofar as the damage results from intent or conscious recklessness on the part of the management of MCXess.

A.18.2. The liability of MCXess for direct damage to Contractor resulting from culpable failure by MCXess to meet its obligations under the Agreement, on any ground whatsoever, expressly also including any failure to comply with a guarantee obligation agreed with Contractor, or any unlawful action on the part of MCXess, its employees or third parties which it deploys, is limited for each event or series of associated events to an amount equal to the sums paid to MCXess by Contractor under the Agreement during the six months preceding the event causing the damages (excluding VAT). If the event causing damages is associated with a specific Product and/or Service, the above-mentioned shall only consist of the amount paid for that specific Product and/or Service. The total sum payable for direct damages, however, can never exceed 5.000 euro per event or 50.000 euro per year (excluding VAT).

A.18.3. MCXess shall not be liable for indirect damages, including consequential damage, loss of profits or sales, missed savings, distortion or loss of (commercial) data and damage due to failure of commercial growth.

A.18.4. MCXess is never liable for any damages or defects arising from or related to technical or physical requirements imposed by suppliers (including for example Operators) or Chain Parties.

A.18.5. MCXess is not liable for damages caused by or related to third party software applications or resulting from the use of applications contrary to the license conditions or for purposes for which the relevant application is not intended.

A.18.6. MCXess shall only be liable for culpable failure to comply with the Agreement if Contractor serves proper and timely notice of default on MCXess in Writing, giving a reasonable period to remedy the defect, and MCXess has, even after that period, culpably failed to meet its obligations. The notice of default must contain the most detailed possible description of the defect so that MCXess is able to respond appropriately.

A.18.7. Any entitlement to compensation requires Contractor to report the damage within 30 days of its occurrence in Writing to MCXess.

A.18.8. Contractor indemnifies MCXess for all third party claims for liability due to a defect in a Product and/or Service provided to third parties by Contractor and which (partly) consist of a Product and/or Service from MCXess. Contractor indemnifies MCXess for all third party claims for noncompliance with obligations by Contractor and/or third parties (including Users and supervisors, such as ACM) which are under the responsibility of Contractor.

Article A.19. Breakdowns and force majeure

A.19.1. Neither party shall be obligated to meet any obligation when prevented from doing so due to force

majeure.

A.19.2. Force majeure for MCXess is defined as any circumstance outside the will of MCXess as a result of which it is fully or partly hindered from meeting its obligations to Contractor or as a result of which MCXess cannot reasonably be expected to meet such obligations, regardless of whether that circumstance could be anticipated at the time when the Agreement took effect. Such circumstances shall, in every case, include:

a) Emergency situations (such as extreme weather conditions, fire and lightning);

b) Breakdowns in telecommunication infrastructure and the internet that are beyond the control of MCXess;

c) Failures by parties on whom MCXess depends to provide Services;

d) Imperfection of goods, hardware, software or Materials which Contractor has required MCXess to use;

e) Government action, for example due to the absence of required permits.

A.19.3. If a situation of force majeure has existed for longer than one month, each of the parties may dissolve the Agreement in Writing. Work already done under the Agreement shall in that case be charged proportionately, but no other payment shall be due by one party to the other.

A.19.4. In case of force majeure Contractor is not entitled to any compensation or payment, even if MCXess has any advantage as a consequence of the force majeure.

Article A.20. Personnel

A.20.1. Contractor shall provide all necessary support to employees of MCXess carrying out work for the provision of Services at the premises of Contractor so that they can carry out their work.

A.20.2. Contractor is not permitted, as long as the relationship between Contractor and MCXess exists, and for one year after it comes to an end, to recruit employees of MCXess or otherwise to allow them to work for it directly or indirectly, without prior permission in Writing from MCXess. Employees of MCXess are defined in this situation as persons employed by MCXess or one of the associated companies of MCXess or employed by MCXess or one of the associated companies of MCXess no more than 6 (six) months ago.

Article A.21. Confidentiality

A.21.1. Parties shall treat information that they provide to each other before, during or after performance of the Agreement, as confidential if said information is marked as confidential or if the party receiving it knows or should reasonably suspect that the information was intended to be confidential. Parties shall also place this obligation on their employees and third parties deployed by them to perform the Agreement.

A.21.2. MCXess shall not obtain knowledge of data stored by Contractor and/or distributed via MCXess systems, unless this is necessary for proper performance of the Agreement or MCXess is obliged to do so under a legal stipulation or by order of a court. In that case MCXess shall make efforts to limit the knowledge of said data as far as possible, as far as this is within its power.

A.21.3. The confidentiality obligation shall persist after termination of the Agreement on any grounds whatsoever, for as long as the party providing information can reasonably claim that the information is confidential in nature.

Article A.22. Expiry under limitation

A.22.1. All legal claims of Contractor under the Agreement shall expire under limitation – except where prescribed by law – after one year from the date when compliance with obligations arising from the Agreement between the parties became claimable. This article is without prejudice to the regular period of

expiry under limitation of claims by MCXess.

Article A.23. Amendment of the Agreement

A.23.1. If Contractor wishes to amend the Agreement, it may submit a request to that effect. The procedure and conditions for amendment are identical to those for inception of the Agreement, unless stated to the contrary.

A.23.2. Any change in name, residence or registered office, billing address or legal form must be immediately disclosed to MCXess in Writing. MCXess may impose additional conditions for acceptance of the consequences of a change in legal form.

A.23.3. MCXess reserves the right unilaterally to alter or supplement the Services, these General Terms and Conditions and SLAs, even with respect to existing Agreements. Contractual changes shall also apply to Agreements already in effect after a period of 30 days after notification of the change on the MCXess Website or by electronic message. Changes of subsidiary importance can be made at any time.

A.23.4. If the said change(s) has (a) significant negative influence(s) on the (use of) Services or on Contractor's position, Contractor may serve notice to terminate the Agreement, provided notification to that effect is received by MCXess before the date when the change takes effect. Contractor has no entitlement to compensation for damages arising directly or indirectly from the change in the Services.

Article A.24. Assignment of rights, use by others

A.24.1. Contractor is not authorised to assign the rights and obligations under the Agreement to a third party or to allow third parties to use the Services without permission in Writing from MCXess.

A.24.2. Contractor gives MCXess in advance a right, without requiring express permission from Contractor, to assign the Agreement between the parties in full or in part to parent, associated and/or subsidiary companies or to a third party in the event of merger or acquisition. MCXess shall notify Contractor in Writing if such assignment has taken place.

A.24.3. MCXess shall not be liable to the Contractor together with the party to whom the rights and obligations under the Agreement have been transferred for compliance with the obligations under the Agreement.

A.24.4. If Contractor allows employees or third parties to use the Services, such use shall be viewed for the purpose of defining Contractor's obligations as use by Contractor. Contractor is responsible for ensuring that such persons (entities) are placed under the same obligations as Contractor and Contractor is fully liable to MCXess for their actions.

Article A.25. Final stipulations General Module

A.25.1. The laws of the Netherlands shall exclusively apply to the Agreement and all legal relationships arising from or associated with it.

A.25.2. Unless otherwise required by law, all disputes arising from or associated with this Agreement shall be submitted to the court of first instance (rechtbank) of Amsterdam, with the understanding that MCXess is also entitled to submit the dispute to any court that is competent on other grounds.

A.25.3. If any stipulation of this Agreement is found to be invalid, this shall not affect the validity of the entire Agreement. Parties shall in that case define (a) new stipulation(s) to replace it, which shall as far as legally possible express the intention of the original Agreement and these General Terms and Conditions.

A.25.4. Information and disclosures on the MCXess Website are subject to programming and typographical

errors. If there is any inconsistency between the MCXess Website and the Agreement, the Agreement takes precedence.

A.25.5. The version of any communication received or stored by MCXess (including log files and Call Detail Records) is considered to be authentic unless proven to the contrary by Contractor.

Definitions

The terms used in these General Terms and Conditions, the Agreement, Service Level Agreement and similar documents shall be defined as follows:

1. Abuse & Improper use: Abuse or Improper use exists in every case where:

    a)   the Operator takes the view that Abuse or Improper use exists;
    b)   the use is contrary to statutory obligations;
    c)   it is viewed as such in the telecommunications sector or in society, for example but not necessarily set down in codes of conduct and the Covenant to counter the Improper use of Information numbers;
    d)   there is:
    I.   traffic to a specific Number that results in high consumption by the same mobile or fixed number, or from the same geographical location;
    II.   traffic that has not resulted in the correct tariffs being charged to End users;
    III.   traffic that can be identified as traffic whereby the identity of the End user does not correspond to the personal details provided by the End user to the telecommunications provider;
    IV.   a large number of 'calls' shorter than 10 seconds to a Number.

2. Account: The right to access a user interface whereby Contractor can manage and configure (specific aspects of) the Services, as well as the stored configuration(s) itself (themselves).

3. ACM: The 'Autoriteit Consument en Markt' (the Dutch Authority for Consumers and Markets) or a comparable body (including in countries outside the Netherlands) or a possible successor.

4. Affiliate Materials: All materials made available by MCXess to Contractor (acting as an affiliate partner), including banners, widgets and/or a URL consisting of the (business) name of Contractor as a subdomain.

5. Agent: A specific type of User, namely a call center employee of Contractor.

6. Agreement: Every agreement between MCXess and Contractor that arises from an offer or tender produced by MCXess for Services.

7. Chain Party: One or more Chain Parties exist if MCXess does not directly enter into a contract directly with an Operator for the supply of the infrastructure required for the Services or other Services.

8. Contractor: The person or entity with whom MCXess has entered into an Agreement. This also refers to those who enter into or are in negotiations with MCXess in this connection, as well as their representative(s), proxy (proxies), beneficiary (beneficiaries) and heirs.

9. Downtime: The period during which a Product and/or Service which is delivered as continuously as possible via the internet or another ICT network – such as hosting – is interrupted or suspended.

10. End user: The person or entity who purchases (information or content) services and/or products from Contractor, which services and/or products Contractor provides (partly) by using the MCXess Services.

11. End user Agreement: any agreement between Contractor (acting as distributor/reseller) and End user for which MCXess supplies one or more Services to Contractor.

12. General Terms and Conditions: The stipulations of this document.

13. In Writing: In these terms and conditions, in Writing means, in addition to text on paper given or delivered by or on behalf of Contractor to MCXess, also e-mail and fax communications, provided the identity of the

sender and the integrity of the message are sufficiently certain.

14. Keyword: A combination of letters or digits used to request content services.

15. Materials: All websites (including the MCXess Website and the Affiliate Website), (web) applications, house styles, logos, folders, brochures, leaflets, lettering, advertisements, marketing and/or communication plans, designs, images, texts, drawings, documentation, recommendations, reports and other intellectual products that are related to the Services, including preparatory materials for these and the data carriers on which the Materials are recorded.

16. MCXess: The company MCXess B.V., registered in Halfweg with the Chamber of Commerce under registration number 34162380.

17. MCXess Website: The website of MCXess, which can be accessed via the domain names http://www.mcxess.com and all associated sub-domains.

18. Numbers: Service numbers or telephone numbers for the purpose of providing Voice (Response) Services & Solutions.

19. Operator: An operator of fixed and/or mobile telecommunications networks.

20. Outpayments: Number-dependent and/or Operator-dependent charge billed by the Operator to the End user for the use of content services offered by or through the Contractor with the use of a Service, which – if and in so far as received by MCXess – will be transferred to Contractor.

21. Services: One or more product(s) or service(s) provided to or for Contractor by or on behalf of MCXess.

22. Service Level Agreement (SLA): The document, entitled Service Level Agreement, SLA, or something similar to this, in which MCXess links standards to the Services as concretely and measurably as possible.

23. Shortcode: A shortened number used for content which acts as a destination for or sender of messages.

24. Uptime: The period during which a Service which is delivered as continuously as possible via the internet or another ICT network – such as hosted (call center) solutions – is not interrupted or suspended.

25. User: The person who uses the software / application / Service provided by MCXess to Contractor. For example: Contractor's employees.

Module B. Services

This module is applicable to every Agreement in which MCXess provides Services (including Voice (Response) Services & Solutions and flat-fee SMS Services) to Contractor. Installation and delivery of the Services is described in the SLA.

Voice (Response) Services & Solutions

Article B.1. Scope

With respect to Voice (Response) Services & Solutions MCXess makes a distinction between the following product groups:

B.1.1. Free and Paid Telephone Numbers: MCXess provides to Contractor the use of free and paid service numbers in a large number of countries, plus where applicable value-added services and connection of calls to a final destination.

B.1.2. Local and Business Numbers: MCXess provides to Contractor the use of local and business numbers in a large number of countries, plus where applicable value-added services and connection of calls to a final destination.

B.1.3. Universal Freephone: MCXess provides to Contractor the use of free international service numbers (UIFN or 00800 service numbers) in a large number of countries, plus where applicable value-added services and connection of calls to a final destination.

B.1.4. Mobile numbers: MCXess provides to Contractor the use of mobile telephone numbers in a large number of countries.

B.1.5. Outbound Trunk: The functionality offered by MCXess by means of which Contractor can initiate and manage outbound calls on the basis of the Session Initiation Protocol (SIP).

Article B.2. Characteristics and requirements

B.2.1. Contractor may ask MCXess to activate Numbers for Contractor which MCXess, after approval, will activate within the national number database of the COIN association in the Netherlands and, if applicable, in an equivalent registration system abroad.

B.2.2. Unless agreed to the contrary the Numbers will remain activated for the Contractor for the duration of the Agreement.

B.2.3. MCXess offers Contractor the option to make a Number portable insofar as this is compulsory by law and under the regulations. MCXess is authorised to change a Number if this is considered necessary by MCXess, an Operator, the ACM or any other authority in the Netherlands or abroad.

B.2.4. Insofar as this arises from the Services, Contractor must request one or more Numbers for the use of the Services from the ACM or any other authority in the Netherlands or abroad. MCXess cannot influence and is not liable for whether or not Numbers are allocated by the ACM or any other authority in the Netherlands or abroad. Contractor has no entitlement to obtain a specific Number.

B.2.5. MCXess cannot, when transferring details that Contractor has provided for the purpose of possible publication in telephone directories or number information services, be held liable for the correctness, completeness and lawfulness of the information provided by Contractor.

B.2.6. The Outbound Trunk is made available without any warranty or promises concerning correctness,

conformity or absence of defects. The Outbound Trunk is solely intended for outbound calls to mobile or fixed national numbers. All other numbers, including without limitation, (international) emergency phone numbers, are expressly not supported. Calls reaching other numbers can be charged based on recalculation.

If Contractor makes use of the Outbound Trunk, Contractor is responsible for setting up or configuring this Service in the correct manner, in accordance with the features and settings available within the Account. If it has been agreed that MCXess will in any way provide support, MCXess will provide reasonable endeavours to make the Service ready for use.

Contractor acknowledges that MCXess is not responsible nor liable for the functioning of the numbers that are used in connection with the outbound calls via the Outbound Trunk.

MCXess is entitled to impose further restrictions on the Outbound Trunk, such as the number of simultaneous calls (call channels).

Contractor will only send numbers contracted from MCXess as caller number and in accordance with local legislation.

Customer is responsible for internet connectivity to customers' locations as well as sufficient bandwidth to support the voice traffic.

Article B.3. Terms and conditions of use

B.3.1. Contractor shall ensure, and is responsible for, strict compliance with the legislation and regulations set out in the (Dutch) Telecommunications Act, similar legislation and regulations abroad, and codes of conduct and agreements that exist within the Telecommunications sector, such as the Memorandum of Understanding to counter the Improper use of Information numbers and other regulations, whether or not they are imposed by the government, such as the Code of Conduct for Promotional Games of Chance, such as shall be in force at any time. Contractor shall also comply with foreign legislation and regulations if applicable to the Services.

B.3.2. If Contractor uses Services from MCXess to provide (content) services to End users, Contractor shall inform MCXess of this in good time beforehand whereby MCXess shall be entitled and Contractor shall be obliged to inform third parties, including End user, of the costs of the (content) services and, in the case of periodical charges, the possibility of terminating / blocking this subscription.

B.3.3. MCXess shall, insofar as the Services lend themselves thereto and unless the Contractor has expressly excluded this in its request, make the name, address, company and/or profession available to Operators to allow these details to be included in public directories and for use in their information services.

SMS Services & Solutions

Article B.4. Scope

B.4.1. This module is applicable to every Agreement under which MCXess makes it possible for Contractor to receive SMS messages via 4-digit Short codes in the Netherlands and abroad and whereby Contractor can send Premium and Flat fee SMS messages in the Netherlands and whereby Contractor can make use of Premium and Flat fee SMS services abroad. Contractor also has access to the SMS Manager service in the Netherlands, whereby a simple click-to-run system makes it possible to set up and manage various interactive SMS services.

Article B.5. Short codes and Keywords

B.5.1. MCXess offers Contractor the opportunity to make a Short code portable insofar as this is compulsory by law and under the regulations. MCXess is authorised to change a Short code or Keyword if this is considered necessary by MCXess, an Operator, the ACM or any other authority in the Netherlands or abroad.

B.5.2. MCXess is authorised to allow a Keyword or reservation for a Keyword to expire if the Services are not used during a period of two months or if less than 50 messages per month are sent using the Keyword in question. Operators or Chain Parties may impose further obligations on the use of Keywords, in which case the said further obligations shall be applicable and the Keyword may lapse on the grounds of the said further

obligations.

B.5.3. When using a shared Keyword, Contractor is not permitted to (allow or cause) actions to take place that may influence the amounts that would, in the absence of such actions, be payable by one party to another party, or the information tariffs that are payable for the use of content services or for consulting an information service. MCXess or a Chain Party is and remains the owner of the Keywords.

Article B.6. Terms and conditions of use

B.6.1. Contractor shall ensure, and is responsible for, strict compliance with the regulations set out in the (Dutch) Telecommunications Act and codes of conduct and agreements that exist within the telecommunications sector, such as the Code of Conduct on SMS Services and other regulations, whether or not they are imposed by the government, such as the Code of Conduct on Promotional Games of Chance, such as shall be in force at any time. Contractor shall also comply with foreign legislation and regulations if applicable to the Services.

B.6.2. Contractor assumes full responsibility for the content of SMS messages sent by itself, its employees and third parties at its request. Contractor shall comply with all laws and regulations applicable to the content and intent of SMS messages and which are described in the Code of Conduct for SMS services. Contractor must refrain from sending SMS messages with aggressive, violent, discriminatory or any other illegal content. Contractor must do its absolute best to ensure that SMS messages are sent only to End users who have registered by means of so-called opt-in methods. Contractor is liable for all consequences and costs that may result from infringement of such laws and regulations and indemnifies MCXess for claims or fines by supervisory authorities (including the ACM or similar bodies abroad).

B.6.3. If Contractor uses Services from MCXess to provide (content) services to End users itself, Contractor shall inform MCXess of this in good time beforehand whereby MCXess shall be entitled and Contractor shall be obliged to inform third parties, including End user, of the costs of the (content) services and, in the case of subscriptions, the possibility of terminating / blocking this subscription.

Article B.7. SMS sending

B.7.1. Contractor realises that MCXess is reliant upon IT companies, telecommunications companies and Operators for the sending of SMS messages. For that reason, MCXess can only influence the provision and transmission of SMS messages within the technical limitations imposed by the said companies.

B.7.2. MCXess shall do its utmost to deliver the message to the recipient as quickly as possible.

Module C. Reselling

Article C.1. Scope of application

C.1.1. This module is applicable to Contractors classed as distributors/resellers of the Services, unless a separate reseller agreement has been entered into with Contractor (other than the reseller agreement of which these General Terms and Conditions form an integral part). In that case, the reseller agreement will take precedence at all times.

Article C.2. Reseller arrangements

C.2.1. MCXess offers Contractor the opportunity to purchase and resell the Services.

C.2.2. Contractor will be given a license to offer the Services, including Numbers, as specified in the Agreement or the (online) application form, to End users at Contractor's expense and risk. MCXess is not a party to the End user Agreements.

C.2.3. Contractor does not have any exclusive right with respect to the existing and potential group of End users.

C.2.4. Contractor will provide its End users with an adequate level of support when they use the Services. MCXess may formulate additional guidelines in consultation with Contractor for the purpose of providing this level of support, to which guidelines Contractor will conform. If Contractor, within the scope of its support obligations, is unable to provide sufficient support to a Customer, then Contractor will approach MCXess to provide second-line support.

C.2.5. Contractor is only permitted to inform End users and third parties that it is a reseller for MCXess with respect to the Services and to inform them of the legal implications of this relationship.

C.2.6. MCXess has the right to refuse to deliver Services to the End user or to suspend the Services if MCXess wishes to do so due to competition concerns. MCXess will undertake to inform Contractor timely if MCXess anticipates that new orders placed by Contractor cannot be complied with, and that Contractor consequently cannot conclude or fulfil End user Agreements.

C.2.7. Contractor undertakes to strictly fulfil its obligations vis-à-vis its End users as described in the End user Agreement and in conformity with these General Terms and Conditions.

C.2.8. Contractor is obliged to provide honest and sincere advice about the Services to potential and existing End users. Contractor will refrain from providing any information about the Services that could be misleading or difficult to prove.

C.2.9. In offering the Services, Contractor will adhere to all relevant statutory provisions and regulations, as well as the rules of conduct generally accepted in the sector (e.g. the Code of Conduct for SMS services and the Covenant to counter the Improper use of Information Numbers).

C.2.10. Contractor will comply with all recommendations and reasonable requests of MCXess to the extent that these relate to the performance of the Agreement and an order and do not prejudice Contractor's independence.

C.2.11. If MCXess makes a system accessible to Contractor (provides an account), any actions taking place using the account will be regarded as taking place under the responsibility and at the risk of Contractor. Contractor declares that it will keep the access details to Contractor's account strictly confidential. In the event of suspected misuse of an account, MCXess must be notified as soon as possible to enable it to take measures.

C.2.12. Before purchasing the Services for End users, Contractor will follow the procedures of MCXess and pass on the conditions for the relevant Services to the End user. If an order is placed for a specific End user Agreement, Contractor is expected to ensure the duration and termination date of the End user Agreement coincides with the duration and termination date of the order.

C.2.13. Failure to pay on the part of End user does not discharge Contractor from any of its payment obligations vis-à-vis MCXess.

C.2.14. Progress on the objectives of the Contractor will be discussed by the Parties periodically and will serve as a basis for evaluating the collaboration and for taking appropriate follow-up steps.

C.2.15. MCXess is entitled to request and inspect the End user Agreements. In the event of termination of the Agreement, MCXess is entitled to approach End users of Contractor with the aim of continuing to supply them with the Services.

C.2.16. At the first request of MCXess, Contractor will address any End users acting in violation of the General Terms and Conditions or otherwise improperly using a Product or Service. If legal measures prove to be necessary, in the first instance it is up to Contractor to take such measures. If Contractor fails to take the legal measures referred to above, Contractor is obliged to transfer the legal claim to MCXess upon first request.

C.2.17 During the term of the Agreement, Contractor shall not develop a Pricing Portal or use it for benchmarking purposes. The same applies to the MCIN engineering interface and the Online Shop for Business Communication Services. This includes providing third parties with confidential information about the Services with the aim of facilitating these third parties to develop competing services. Additionally, Contractor will refrain from any active acquisition among End users for competing Services during the Agreement.

Article C.3. Processing of personal data

C.3.1. Contractor processes personal data through the Services. For this reason, both Contractor and MCXess fall within the scope of the GDPR, whereby Contractor is the 'controller' and MCXess the 'processor' within the meaning of the GDPR. However, if End users determine the purpose of and the means for the processing of personal data, the End users are deemed to be the 'controllers'. In this relationship Contractor is deemed the 'processor' and MCXess the 'sub-processor'.

C.3.2. Pursuant to article 28 paragraph 3 of the GDPR, Contractor and MCXess must enter into an agreement or other binding legal act relating to the processing of personal data carried out by MCXess on behalf of Contractor. The provisions of Module E. Processing of personal data must be regarded as a data processing agreement within the meaning of the GDPR.

Module D. Affiliate

Article D.1. Scope of application

D.1.1. This module is applicable to Contractors acting as an affiliate partner for the Services and Contractors using the Affiliate Materials made available by MCXess, unless a separate affiliate agreement has been entered into with Contractor (other than the affiliate agreement of which these General Terms and Conditions form an integral part). In that case, the affiliate agreement will take precedence at all times.

Article D.2. Affiliate arrangements

D.2.1. Contractor undertakes to present the Affiliate Materials in the best possible manner and Contractor will refrain from any act that damages (or might possibly damage) the goodwill created by MCXess and/or the security of the intellectual property rights of MCXess.

D.2.2. Contractor will communicate under its own name and for its own account and risk when promoting the Affiliate Materials. Contractor may not present itself as being a part of, agent for or employee of MCXess, unless explicitly agreed otherwise in writing.

D.2.3. Contractor will follow any recommendations and reasonable requests made by MCXess insofar as these relate to the performance of the Agreement.

D.2.4. Contractor is not permitted to:

   a)   violate applicable laws and regulations via the Affiliate Materials, such as the GDPR;

   b)   promote the partnership between Contractor and MCXess without consulting and without the approval of MCXess;

   c)   to register or operate trade names, trademarks, brand names, domain names or service user names (such as names on Facebook, Twitter or other third party services) which contain a brand and/or a trade name belonging to MCXess or which display a confusing resemblance to such;

   d)   to display promotional communications in a way that is damaging or could reasonably be considered damaging to MCXess' reputation;

   e)   make any expressions concerning the Affiliate Website that are inaccurate or that infringe relevant and applicable laws and regulations.

D.2.5. If MCXess has a reasonable suspicion that Contractor is acting contrary to the provisions in this article, it will notify Contractor of such. In this case, Contractor will cease and not resume the act in question as soon as possible but not later than 48 hours after receiving said notice. Following such notice, MCXess has the right to suspend the Affiliate Materials and the commission, and if the Contractor fails to cease the relevant action within 48 hours, MCXess may cancel the Agreement with immediate effect.

Article D.3. Commission

D.3.1. During the term of the Agreement, Contractor has the right to commission on the transactions (hereinafter: 'Transaction') generated through the Affiliate Materials as indicated on the MCXess Website and/or in the Agreement, or any annex thereto. Exceptions to Transactions as the basis for the commission for Contractor are collection costs, Outpayments, chargebacks and surcharges as well as not completed collections and invoices not paid. MCXess is entitled to amend the amount of commission in the interim. Amendments also apply to Agreements already concluded with due observance of a term of thirty (30) days following notification of the amendment on the MCXess Website or by electronic communication. In the event Contractor does not wish to accept the amended Commission, it may terminate its affiliate partnership up to the date on which the new Commission takes effect. The foregoing termination shall not affect any

other Agreements which are in place.

D.3.2. Contractor is not entitled to any commission other than the commission as described in the Agreement.

D.3.3. If a Transaction is cancelled, Contractor can make no claim for the commission in respect of that Transaction.

D.3.4. MCXess may refuse to pay commission for well-founded reasons, such as fraud.

Article D.4. Reporting

D.4.1. For the purpose of determining the results and commission, MCXess shall provide Contractor with detailed reports once a month.

D.4.2. The results reported by MCXess are decisive, unless Contractor is able to produce convincing evidence to the contrary.

Article D.5. Payment

D.5.1. Contractor is responsible for supplying the correct bank details for payment of commission. If Contractor has provided no details or if the details are incorrect, then MCXess has the right to postpone payment.

D.5.2. MCXess is authorized at all times to offset what it owes to Contractor with any amount that MCXess is entitled to claim from Contractor on whatever basis.

D.5.3. Contractor is responsible for the payments of any possible taxes or social security contributions that are owed on all payments that are made to it by MCXess.

Article D.6. Privacy

D.6.1. In the performance of the Agreement, MCXess acquires personal data of customers through the Affiliate Materials or otherwise. Contractor is not permitted to intercept personal data or to acquire these in any other way. Should Contractor nevertheless acquire personal data in any way, Contractor is only permitted to process it insofar as this is necessary for the performance of the Agreement.

D.6.2. If Contractor obtains personal data in any other way and uses it for purposes other than the performance of the Agreement, then it is aware that it bears full responsibility for this. Contractor will have to comply with applicable laws and regulations when processing personal data, including but not limited to the GDPR.

D.6.3. With respect to the personal data that are processed via the Affiliate Materials, MCXess can be regarded as the 'controller'. As a general rule, Contractor is not permitted to process personal data via the Affiliate Materials, and Contractor will also not obtain access from MCXess for this purpose. Consequently, Contractor is not a processor or controller with respect to the personal data processed through the Affiliate Materials.

D.6.4. The provisions of Module E. Processing of personal data are expressly not applicable to the processing of personal data via the Affiliate Materials.

Module E. Processing of personal data

Article E.1. Scope and definitions

E.1.1. This module is applicable when, as part of the Services, MCXess processes personal data on Contractor's behalf. In this regard, Contractor determines the purpose of and the means for the processing of personal data. Consequently, Contractor is deemed to be the 'controller' and MCXess the 'processor'. This module also applies to processing in the context of the Service(s) where the End user determines the purpose of and the means for the processing of personal data and in this respect End user is deemed to be the 'controller', Contractor the 'processor' and MCXess the 'sub-processor'.

E.1.2. This module expressly does not apply to the processing of personal data by MCXess, for which MCXess independently determines the purpose and the means. Furthermore, this module does not apply to the processing of personal data by both MCXess and Contractor via the Affiliate Materials (Module D. Affiliate). For the agreements on the handling of personal data collected and processed through the Affiliate Materials, see article D.6. Privacy.

E.1.3. The terms included in this module (such as but not limited to 'personal data' and 'processing') have, in any conjugation, the meaning as referred to in the GDPR.

Article E.2. Purposes of processing

E.2.1. MCXess undertakes to process personal data on behalf of Contractor in accordance with the conditions laid down in this module. The processing will be executed exclusively within the framework of providing the Services to Contractor, including the purposes reasonably connected with the foregoing and for all such purposes as may be agreed to subsequently.

E.2.2. The categories of personal data processed by MCXess in connection with the execution of the Agreement, are the following:

    a.   Name and address details;
    b.   Contact details;
    c.   Purchase history;
    d.   Customer number;
    e.   Connection data (calling number, called number, date and time of start and end of call);
    f.   Recording of calls.

E.2.3. The categories of data subjects to whom the personal data as referred to in the preceding paragraph relate are the following:

    a.   End users (such as customers and/or employees (with the exception of the contact person of MCXess) of Contractor);
    b.   The natural persons contacting Contractor via the Service(s).

E.2.4. MCXess will not process the personal data for any other purpose than as determined by Contractor, unless MCXess is obliged to do so on the basis of a statutory obligation or court order. Contractor will inform MCXess of the processing purposes to the extent that they are not already mentioned in the Agreement and in this module.

E.2.5. To enable the provision of the Service(s), MCXess must, in some cases, on the basis of a legal duty resting on the telecommunications service provider of the country from which the Contractor wishes to purchase an electronic service, process the following categories of personal data:

a. copy of a valid passport or ID of (a contact person of) Contractor, including photo and social security number;
   b. registration with the Chamber of Commerce;
   c. LOA (Letter of Authorisation);
   d. Proof of address;
   e. Invoice current supplier.

MCXess is expressly not responsible for the processing of this personal data, and only processes this personal data for the provision of the Service (s) on behalf of the telecommunications service provider and for the performance of the Agreement with Contractor.

E.2.6. Contractor represents and warrants that he has a legal basis for the processing of personal data under the Agreement and complies with all other obligations pursuant to applicable laws and regulations.

Article E.3. Obligations of MCXess

E.3.1. MCXess shall comply with the laws and regulations relating to the protection of personal data in connection with the processing as referred to in the preceding clause, such as the GDPR.

E.3.2. MCXess's obligations arising under the terms of this module also apply to whomsoever processes personal data under MCXess's instructions.

E.3.3. MCXess will, insofar this is within its power and it is obliged to do so pursuant to the GDPR, provide any reasonably necessary assistance if a data protection impact assessment, or a prior consultation with a supervisory authority, is necessary with respect to the processing of personal data. The costs reasonably incurred or to be incurred by MCXess in connection with the aforementioned assistance will be reimbursed by Contractor.

Article E.4. Allocation of responsibility

E.4.1. MCXess shall be responsible for the processing of personal data under this Data Processing Agreement, in accordance with the documented instructions of Contractor and under the (ultimate) responsibility of Contractor. MCXess is expressly not responsible for other processing of personal data, including but not limited to, the collection of personal data by Contractor, and processing for purposes that are not reported by Contractor to MCXess.

E.4.2. Contractor represents and warrants that the content, the use and the instruction to process the personal data within the meaning of this Data Processing Agreement are not unlawful and do not infringe any rights of a third party. In this context, Contractor indemnifies MCXess of all claims and actions of third parties resulting from a breach of the foregoing representation and warranty by Contractor and/or its Customers.

E.5. Transmission of personal data

E.5.1. MCXess may process the personal data in any country within the European Economic Area. MCXess may also transfer the personal data to a country outside the European Economic Area in accordance with the applicable laws and regulations pertaining to such transfer.

E.5.2. Contractor hereby provides MCXess general written authorization to engage third parties (sub-processors) within the framework of the Agreement and the processing activities contemplated in this Data Processing Agreement.

E.5.3. MCXess shall use reasonable endeavours to ensure that the engaged sub-processors are bound to substantially similar obligations as agreed between MCXess and Contractor.

E.6. Security

E.6.1. MCXess will endeavour to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. However, the foregoing only applies if and insofar the personal data are located on the infrastructure of MCXess. The security measures will focus on the prevention of loss or against unlawful processing (in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed). MCXess does not warrant that the security measures are effective under all circumstances.

E.6.2. Contractor will only make personal data available to MCXess if it has ensured that the required security measures have been implemented in accordance with article 32 of the GDPR.

E.7. Notification of personal data breaches

E.7.1. In the event of a personal data breach within the meaning of article 4 (12) of the GDPR, MCXess will notify Contractor thereof without undue delay or within forty-eight (48) hours after discovery. Contractor shall then decide whether or not to notify the Customers, data subjects and/or the relevant supervisory authorities.

E.7.2. If required by applicable laws and/or regulations, MCXess shall reasonably cooperate in notifying the Customers, data subjects and/or the relevant supervisory authorities.

E.7.3. The notification shall include at least the fact that a breach has occurred. In addition, the notification shall, to the extent this information is available:

   a. describe the nature of the breach including, where possible, the categories and approximate number of data subjects concerned, and the categories and approximate number of personal data records concerned;
   b. include the name and contact details of a contact person regarding privacy subjects;
   c. describe the likely consequences of the breach;
   d. describe the measures taken or proposed to be taken by MCXess.

E.8. Requests of data subjects

E.8.1. In the event a data subject submits a request to MCXess to exercise his or her legal rights (such as a request to correct or delete personal data), MCXess will forward the request to Contractor. If necessary, Contractor will forward the request to the relevant Customer. Then Contractor and/or the relevant Customer will handle the request. MCXess may notify the data subject hereof.

E.8.2. MCXess will provide reasonable assistance to Contractor and/or Customer in handling the requests referred to in the previous paragraph. MCXess is entitled to charge Contractor reasonable costs for the aforementioned assistance.

E.9. Confidentiality obligations

E.9.1. All personal data that MCXess processes on behalf of Contractor is subject to a duty of confidentiality vis-à-vis third parties. This duty of confidentiality will not apply in the event that Contractor has expressly authorised the provision of such information to third parties, where the provision of the information to third parties is reasonably necessary taking into account the nature of the instructions and the execution of the Agreement, or if there is a statutory obligation to provide the information to a third party. This also applies to communication via the Service(s). This communication shall not be tapped, intercepted, or checked without the prior permission of the Contractor or the End user(s) concerned, unless this is required by law.

E.10. Audit

E.10.1. In order to confirm compliance with all matters in this Data Processing Agreement and everything directly connected therewith, Contractor shall be at liberty to perform audits. Such audits can be performed no more than once per year and may only be conducted by an independent third party who shall be obliged to observe confidentiality vis-à-vis third parties. Contractor will inform MCXess of the intended audit at least two weeks in advance.

E.10.2. MCXess shall cooperate with the audit and furnish all relevant information required within reason for the audit, including supporting data such as system logs, and agrees to make staff available as promptly as possible.

E.10.3. The findings in respect of the audit will be discussed and evaluated by the Parties and where applicable implemented accordingly as the case may be by one of the Parties or jointly by both Parties.

E.10.4. The costs of the audit will be borne by Contractor. Possible costs incurred by MCXess as a result of the audit, for example for giving advice or for adjusting the Services, the Online Shop and the Widget, will be reimbursed by Contractor.

E.11. End

E.11.1. As soon as the Agreement, for whatever reason and in any way whatsoever, is terminated, MCXess will, upon request of Contractor, remove and/or destroy the personal data in its possession, unless the Parties agree otherwise or in the event MCXess is obliged to retain the personal data on the basis of a statutory obligation. During the term of the Agreement, Contractor has the possibility to extract the personal data from the Services of MCXess.

Service Level Agreement MCXess B.V.

Version 2.1 – 30 November 2023

Service Level Agreement

This Service Level Agreement (SLA) is part of the Agreement between MCXess and Contractor concerning the delivery of Services. This SLA describes the availability of the Services as well as the associated procedures and processes. For additional terms and conditions applicable to the Services, please refer to the MCXess General Terms and Conditions.

The definitions used in this SLA are described in the General Terms and Conditions. In addition, the following definitions will apply:

Availability:	The total length of time during which Contractor has actually been able to use the Services, expressed as a percentage of the total length of time measured during 1 (one) calendar year. The following are not included in the determination of availability: Scheduled Maintenance, force majeure, malfunctions caused by third parties, malfunctions caused by Contractor, improper use of a Product and/or Service and the improper functioning of telecommunications equipment, in whole or in part (other than the Services).
Customer Care:	Telephone operators available to help Contractor resolve any questions and/or issues.
Scheduled Maintenance:	The performance of operations to the infrastructure of MCXess, Operators and Intermediate Parties to the Contract, which takes place at a previously announced time.
Response Time:	The time between the moment at which a Malfunction is first reported and the moment at which MCXess first contacts (or attempts to contact) Contractor.
Malfunction:	The improper functioning of the Services purchased from MCXess, in whole or in part, compared to certain agreed upon specifications, resulting in an interruption of the provision of Services. 'Malfunction' expressly excludes Scheduled Maintenance, the unavailability of Services due to any enhancements and additional customer wishes and any other items not contractually defined as such.

Article 1 - General Provisions

1.1   This SLA pertains to the Services delivered by MCXess only. Telecommunications infrastructure of third parties, whether connected or not, including fixed connections and/or peripheral equipment, fall outside the scope of this SLA.

1.2   MCXess will make every reasonable effort to achieve the service levels described in this document.

Article 2 - Term and Termination

2.1   The term of this SLA will coincide with that of the Agreement.

2.2   Termination of any MCXess Service will be subject to the terms and conditions and the notice period stated in the Agreement and the General Terms and Conditions.

Article 3 - Malfunctions and Response Times

3.1   Malfunctions may be reported 24 hours per day, 7 seven days per week in any manner listed in Table 2: Contact Matrix.

3.2   Contractor will be charged for any costs associated with the handling of Malfunctions due to improper operation or use of the Product and/or Service by Contractor.

Article 4 - Availability

4.1   The Availability of the Services will be subject to the percentages listed in Table 1 in this SLA.

Table 1: Summary of Availability, Malfunctions and Response Times.

Product Module	Services
Availability	99,80%[1]
Indicated delivery time	Indicated delivery time depends on product and country.
Response Time	4 hours
Expected time to correct interference	P1 - 8 hours[2]
	P2 - 72 hours
	P3 - NA

Notes	
NA	Not applicable.
[1]	For value added services (such as IVR) an availability of 99,60% applies.
[2]	The expected time to correct the interference of Universal Freephone is based on best effort and may vary by country.
P1	Complete interrupted service due to interference.
P2	Partially interrupted service due to interference.
P3	Requests not reproducible interferences support. A P3 ticket is no interference with the consequence that there is no expected turnaround time.

Table 2: Contact Matrix

Support & Escalation	Position	Name	Email address (office hours)	Telephone number
Support	Support	Support	support@mcxess.com	+31 85 0014 522
Escalation Level 1	Service Manager			
Escalation Level 2	General Manager			