MTCaptcha - Data Processing Agreement

This Data Processing Agreement ("Agreement") forms part of the Contract for Services ("Principal Agreement") between _

(the "Company") and MTCaptcha (https://www.mtcaptcha.com) (the "Data Processor") (together as the "Parties")

WHEREAS

(A)The Company acts as a Data Controller.

(B)The Company wishes to subcontract certain Services, which imply the processing of personal data, to the Data Processor.

(C)The Parties seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with the 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 (General Data Protection Regulation).

(D)The Parties wish to lay down their rights and obligations.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1Unless otherwise defined herein, capitalized terms and expressions used in this Agreement shall have the following meaning:

1.1.1**"Agreement"** means this Data Processing Agreement and all Schedules;

1.1.2 “**Company Personal Data**” means any Personal Data Processed by a Contracted Processor on behalf of Company pursuant to or in connection with the Principal Agreement;

1.1.3 “**Contracted Processor**” means a Subprocessor;

1.1.4 “**Data Protection Laws**” means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;

1.1.5 “**EEA**” means the European Economic Area;

1.1.6 “**EU Data Protection Laws**” means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

1.1.7 “**GDPR**” means EU General Data Protection Regulation 2016/679;

1.1.8 “**Data Transfe**r” means:

1.1.8.1 a transfer of Company Personal Data from the Company to a Contracted Processor; or

1.1.8.2 an onward transfer of Company Personal Data from a Contracted Processor to Subprocessor, or between two establishments of a Contracted Processor, in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws);

1.1.9 “**Services**” means the bot detection and mitigation (“captcha”) services the Data Processor provides.

1.1.10 “**Subprocessor**” means any person appointed by or on behalf of Data Processor to process Personal Data on behalf of the Company in connection with the Agreement.

1.1.11 “**Applicable Laws**” means any statute, regulation, executive order, and other rule or rules issued by a government office or agency that have binding legal force and are generally applicable to Personal Data or the provision of the Services with respect to Personal Data, including EU Regulation 2016/679 and the state and federal laws of the United States.

1.2 The terms, “Commission”, “Controller”, “Data Subject”, “Member State”, “Personal Data”, “Personal Data Breach”, “Processing” and “Supervisory Authority” shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

2. PROCESSING OF COMPANY PERSONAL DATA

2.1 Data Processor shall:

2.1.1 comply with all applicable Data Protection Laws in the Processing of Company Personal Data; and

2.1.2 not Process Company Personal Data other than on the relevant Company's documented instructions.

2.2 The Company instructs Processor to process Company Personal Data.

3. PROCESSOR PERSONNEL

Data Processor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Company Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Company Personal Data, as strictly necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

4. SECURITY

4.1 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, Data Processor shall in relation to the Company Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

4.2 In assessing the appropriate level of security, Data Processor shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

5. SUBPROCESSING

5.1 Data Processor shall not appoint (or disclose any Company Personal Data to) any Subprocessor authorized by the Company in writing. Subject to this Agreement, Company consents to Data Processor's engagement of the Subprocessors as of the date of this Agreement, if any, listed in the space below, and to Data Processor's engagement of other Subprocessors from time to time:

Current Subprocessors: None

5.2 Data Processor shall enter into a written contract with each Subprocessor containing privacy, confidentiality and data security obligations at least equivalent in substance to those in the Principle Agreement (including this Agreement). Data Processor shall be liable for all acts and

omissions of any Subprocessor as if they were Data Processor's acts or omissions. Any information in a Subprocessor's care, custody or control is deemed to place such information in Data Processor's care, custody or control.

5.3 Before any new Subprocessor not listed in Section 5.1 is engaged, Data Processor shall notify Company of the engagement (including the name and location of the relevant Subprocessor and the activities it will perform) at least 45 days prior to such engagement. If Company objects to such engagement in a written notice to Data Processor on reasonable data protection grounds, Company and Data Processor shall work together in good faith to find a mutually acceptable resolution to such objection before Data Processor engages the Subprocessor. If the parties are unable to reach a mutually acceptable resolution within 30 days after such written notice, Company may terminate the Principle Agreement and cancel the Services by providing written notice to Data Processor and receive a refund of any prepaid fees under the Principle Agreement.

6. DATA SUBJECT RIGHTS

6.1 Taking into account the nature of the Processing, Data Processor shall assist the Company by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Company obligations, as reasonably understood by Company, to respond to requests to exercise Data Subject rights under the Data Protection Laws.

6.2 Processor shall:

6.2.1 promptly notify Company if it receives a request from a Data Subject under any Data Protection Law in respect of Company Personal Data; and

6.2.2 ensure that it does not respond to that request except on the documented instructions of Company or as required by Applicable Laws to which the Data Processor is subject, in which case Data Processor shall to the extent permitted by Applicable Laws inform Company of that legal requirement before the Contracted Processor responds to the request.

7. PERSONAL DATA BREACH

7.1 Data Processor shall notify Company without undue delay and within 48 hours upon Data Processor becoming aware of a Personal Data Breach affecting Company Personal Data. Such notification shall include, to the extent possible (a) a description of the Personal Data Breach including the suspected cause, the nature of the information affected, the number and categories of individuals, the impact and the likely consequences thereof; (b) the expected resolution time (if it has not already been resolved); (c) corrective measures to be taken, evaluation of alternatives, and next steps; and (d) the name and phone number of the Data Processor representative that Company may contact to obtain further information and updates. Data Processor agrees to keep Company informed of progress and actions taken to address the Personal Data Breach and to prevent future Personal Data Breaches, and to provide Company with all facts about the Personal

Data Breach reasonably necessary to support Company's own forensic investigation of the Personal Data Breach and Company's own assessment of the associated risk to Company and Company Personal Data.

7.2 Data Processor shall co-operate with the Company and take reasonable commercial steps as are directed by Company to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8 Data Protection Impact Assessment and Prior Consultation

8.1 Data Processor shall provide reasonable assistance to the Company with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Company reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Company Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

9 DELETION OR RETURN OF COMPANY PERSONAL DATA

9.2 Subject to this section 9 Data Processor shall promptly and in any event within 30 business days of the date of cessation of any Services involving the Processing of Company Personal Data (the "Cessation Date"), return Company Personal Data and delete and procure the deletion of all copies of those Company Personal Data.

10 AUDIT RIGHTS

10.1 Subject to this section 10, Data Processor shall make available to the Company on request all information necessary to demonstrate compliance with this Agreement, and shall allow for and contribute to audits, including inspections, by the Company or an auditor mandated by the Company in relation to the Processing of the Company Personal Data by the Contracted Processors.

11 DATA TRANSFER

11.1 The Data Processor may not transfer or authorize the transfer of Company Personal Data to countries outside the EU and/or the European Economic Area (EEA) without the prior written consent of the Company. If personal data processed under this Agreement is transferred from a country within the European Economic Area to a country outside the European Economic Area, the Parties shall ensure that the personal data are adequately protected. To achieve this, the Parties shall, unless agreed otherwise, rely on EU approved standard contractual clauses for the transfer of personal data.

12 GENERAL TERMS

12.1 Confidentiality. Each Party must keep this Agreement and information it receives about the other Party and its business in connection with this Agreement (“Confidential Information”) confidential and must not use or disclose that Confidential Information without the prior written consent of the other Party except to the extent that:

(a)disclosure is required by law;

(b)the relevant information is already in the public domain.

12.2 Notices. All notices and communications given under this Agreement must be in writing and will be delivered personally, sent by post or sent by email to the address or email address set out in the heading of this Agreement at such other address as notified from time to time by the Parties changing address.

13 LIABILITY

Any limitation on liability for services under this data processing agreement shall not apply with respect to claims of indemnity, breach of confidentiality, breach of data security obligations, or arising from a personal data breach.

This Agreement is entered into with effect from the date first set out below.

Please contact info@mtcaptcha.com (mailto:info@mtcaptcha.com) for a signed Data Processing Agreement