# APPENDIX 2 - PERSONAL DATA PROCESSOR AGREEMENT

This appendix to the cooperation agreement entered into between ClearOn and the Customer (the "**Agreement**") constitutes a personal data processor agreement (hereinafter **the "Personal Data Processor Agreement**") between ClearOn and the Customer and forms part of the Agreement between the Parties relating to the provision of campaign production services by ClearOn.

## 1. BACKGROUND

**1.1.** The parties have entered into an agreement whereby ClearOn will provide the Customer with campaign production services including the distribution and clearing of digital coupons and value vouchers by ClearOn.

**1.2.** Within the scope of the obligations arising from the Agreement, ClearOn may process personal data and other information on behalf of the Customer.

**1.3.** In view of the above, the Parties have entered into this Personal Data Processor Agreement on the terms set out below to govern the conditions for ClearOn's processing of, and access to, the personal data of the Customer in accordance with the Agreement.

**1.4.** This Personal Data Processor Agreement consists of this Appendix to the Agreement and *Sub-Appendix 1 - Processing of Personal Data.*

**1.5.** The Customer is the controller of the personal data processed under the Agreement. ClearOn only processes personal data on behalf of the Customer and on the Customer's instructions, in accordance with this Personal Data Processor Agreement.

**1.6.** Prior to the commencement of this Personal Data Processor Agreement, the Customer will have received a price quotation for ClearOn's services (the "**Quotation**") or a cooperation agreement (the "**Cooperation Agreement**"). The Offer or the Cooperation Agreement, together with ClearOn's General Terms and Conditions of Sale, SLA, Pricing Appendix and this Personal Data Processor Agreement, together with any special terms and conditions of sale, constitute the Customer's agreement with ClearOn regarding ClearOn's Campaign Production                                                   Services.

## 2. DEFINITIONS

Unless the circumstances clearly indicate otherwise, definitions used in this Personal Data Processor Agreement (and not defined herein) shall have the corresponding meaning as set out in the Agreement and the personal data legislation in force at the given time, including but not limited to Regulation (EU) 2016/679 of the European Parliament and of the Council ("**GDPR**") and binding decisions, regulations and general guidance of the competent supervisory authority ("**Supervisory Authority**").

## 3. GENERAL OBLIGATIONS

**3.1.** As a data processor, ClearOn is responsible for carrying out the processing of personal data on behalf of the Customer as set out in this Personal Data Processor Agreement and the instructions given by the Customer and in accordance with applicable personal data legislation.

**3.2.** ClearOn, as well as any of its subcontractors, shall only process personal data in accordance with the Customer's documented instructions and not for purposes other than those for which ClearOn has been engaged. In order to avoid any misunderstanding, this Personal Data Processor Agreement, including Sub-Appendix 1, and the Agreement in general shall be deemed to constitute the Customer's instructions to ClearOn regarding ClearOn's processing of personal data.

**3.3.** ClearOn shall notify the Customer if ClearOn feels that an instruction is contrary to personal data legislation in force at the time or if ClearOn is unable to comply with its obligations under this Personal Data Processor Agreement.

**3.4.** ClearOn undertakes to treat personal data processed in connection with the Agreement as confidential and not to disclose such personal data to third parties other than in accordance with this Agreement, unless (i) otherwise agreed upon between the Parties, or (ii) if ClearOn is obliged to disclose such information under applicable law or by order of a court or other governmental authority, such as the Supervisory Authority.

**3.5.** Upon the Customer's written request, ClearOn shall provide the Customer with the necessary information and reasonable assistance required for the Customer to comply with its obligations to respond to a request to exercise the data subjects' rights and, where necessary, perform data protection impact assessments and advance consultation with the Supervisory Authority. ClearOn's obligation under this paragraph shall apply only to the extent possible, to the extent required by the nature of the processing, and to the extent required under the General Data Protection Regulation.

**SECURITY ETC.**

**3.6.** ClearOn shall take and maintain reasonable technical and organizational measures required by applicable data protection legislation to protect the personal data ClearOn processes on behalf of the customer against unauthorized or accidental destruction, loss, alteration, disclosure or access. The measures shall be adapted to a level appropriate to: (i) the sensitivity of the personal data; (ii) the nature, scope, context and purposes of the processing; (iii) the available technological possibilities; and (iv) the costs of implementing the measures.

**3.7.** ClearOn shall comply with any decision of the Supervisory Authority regarding the personal data processed on behalf of the Customer and allow the Supervisory Authority to carry out supervision of the processing that takes place.

**3.8.** Upon discovery of unauthorized or accidental destruction, loss, alteration, unauthorized disclosure or access of personal data processed under this Personal Data Processor Agreement, ClearOn shall notify the Customer without undue delay. ClearOn shall assist the Customer in handling, monitoring and preventing such incidents. ClearOn shall also assist the Customer, to the extent reasonable, with the Customer's advance consultation with the Supervisory Authority and the Customer's impact assessment conducted in accordance with Articles 35 and 36 of the GDPR.

**3.9.** The Customer has the right to verify, either personally or through an independent third party at the Customer's expense, that ClearOn complies with its obligations under this Data Processor Agreement. ClearOn undertakes to assist the Customer to a reasonable extent during such verification and to provide necessary documentation should the Customer require exercising such verification. In the event that the Customer wishes to carry out such an inspection, the Customer shall inform ClearOn thereof within a reasonable time in advance, but at the latest within 30 days, and at the same time specify the content and scope of the inspection. The Customer shall reimburse ClearOn for reasonable costs, including labor, incurred in connection with the performance of inspections under this paragraph 3.8.

## AUTHORITY

**3.10.** Access to personal data processed under this Personal Data Processor Agreement shall be limited only to personnel who need access to personal data for the performance of obligations to the Customer shall have access to the personal data.

**3.11.** ClearOn undertakes to ensure that its employees and retained consultants comply with this Personal Data Processor Agreement and that such employees and consultants are committed to confidentiality.

## SUBCONTRACTS AND THIRD COUNTRY TRANSFERS

**3.12.** ClearOn has the right to engage subcontractors within and outside the EU/EEA for the performance of ClearOn's obligations under the Personal Data Processor Agreement, provided that:

(i) ClearOn maintains a current list of subcontractors used and that the Customer may obtain, upon request, an accurate and up-to-date list of the subcontractors used by ClearOn and receive copies of the related subcontracts; and

(ii) ClearOn will inform the Customer of its intention to use or replace a subcontractor, whereupon the Customer will have thirty (30) days to object to such change.

**3.13.** If ClearOn transfers its obligations under the Personal Data Processor Agreement to a sub-processor, this may only be done by entering into a written sub-processing agreement with the sub-processor, with data protection conditions that correspond to the terms of this Personal Data Processor Agreement. The Customer hereby agrees that personal data may be processed by the sub-processors specified in Sub-Appendix 1 - Processing of Personal Data.

**3.14.** If ClearOn, despite the Customer's objection to the use or replacement of a subcontractor pursuant to paragraph 3.12 the Customer shall have the right to terminate the Agreement for the relevant service in writing within thirty (30) days of ClearOn's notice thereof. If the Customer does not terminate the Agreement within this period, the Customer shall be deemed to have accepted the new subcontractor.

**3.15.** ClearOn shall ensure that transfers of the Customer's personal data to countries outside the EU/EEA are carried out in accordance with the General Data Protection Regulation and any other applicable data protection legislation. ClearOn has the right to enter into standard data protection provisions such as the Commission's standard contractual clauses with subcontractors on behalf of the Customer.

**3.16.** If the sub-processor fails to comply with its obligations in respect of processing under a sub-processing agreement, ClearOn shall remain fully liable to the Customer for the sub-processor's compliance with its obligations under this Personal Data Processor Agreement.

**3.17.** The Customer has the right to require that ClearOn verifies that its subcontractors comply with the requirements of applicable data protection legislation, or to assist the Customer in such verification.

**REQUEST FOR INFORMATION**

**3.18.** In the event that a data subject or other third party requests information from ClearOn regarding the processing of personal data under this Personal Data Processor Agreement, ClearOn shall refer such data subject or other third party to the Customer. ClearOn may not disclose information without express instructions from the Customer.

**3.19.** If an authority requests information pursuant to paragraph 3.18 ClearOn shall without unreasonable delay notify the Customer of such request and ClearOn and the Customer shall in consultation agree on the appropriate course of action. ClearOn is not entitled to represent the Customer or act on the Customer's behalf in such requests. ClearOn shall be entitled to reasonable compensation for such requested cooperation that relates specifically to the processing of the Customer's personal data and that is not the result of a breach by ClearOn of its obligations under this Processor Agreement.

**LIABILITY**

**3.20.** ClearOn's liability to the Customer with respect to the processing of personal data includes direct damage caused to the data subjects as a result of such processing of personal data that is manifestly contrary to ClearOn's obligations under the General Data Protection Regulation, this Processor Agreement and written instructions from the Customer. ClearOn's total liability for damages under this Personal Data Processor Agreement is limited to direct damages up to a maximum aggregate amount of one hundred percent (100%) of the total contract amount per year.

**3.21.** The Customer shall indemnify ClearOn in the event that ClearOn becomes liable to a third party due to damage caused by the Customer.

**3.22.** The liability of the Party for other types of damage than those expressly regulated in this paragraph 0 shall be governed exclusively by the Agreement.

**AMENDMENTS**

**3.23.** If applicable data protection legislation, including the GDPR, changes during the term of this Agreement, or if guidelines, decisions or regulations are issued regarding the application thereof, which cause this Personal Data Processor Agreement to fail to meet the requirements of a processor agreement, this Personal Data Processor Agreement shall be amended to meet such new or additional requirements. If such a change is made, it will take effect on the day ClearOn notifies the Customer that the change is to take effect, but no earlier than five (5) working days after the change notice has been sent to the Customer.

**3.24.** Amendments and additions to this Agreement not made pursuant to paragraph 3.23 above, shall be in writing and duly signed by the Parties in order to be binding.

**TERMINATION**

**3.25.** This Agreement shall enter into force on the date of the Agreement being signed by both Parties and shall remain in force until the processing of personal data by ClearOn under this Personal Data Processor Agreement is terminated or replaced by another Personal Data Processor Agreement.

**3.26.** Upon termination of this Agreement, ClearOn shall return all personal data to the Customer in the manner indicated by the Customer or, if the Customer so notifies ClearOn in writing, destroy all data relating to the Agreement.

**3.27.** After the termination of this Agreement, ClearOn shall not retain any personal data of the Customer and as soon as ClearOn has complied with the provisions of paragraph 3.25 above, ClearOn's right to process or otherwise use the personal data of the Customer will cease.

**3.28.** Provisions of this Personal Data Processor Agreement that by their nature are intended to continue to apply after the termination of the Agreement, including but not limited to the paragraph 0 (Liability), shall continue to apply after termination of the Personal Data Processor Agreement.

**JURISDICATION AND DISPUTES**

The jurisdiction and the place of dispute resolution are set out in the Agreement.

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This Agreement has been drawn up in two (2) identical copies, of each Party retains one.

ClearOn AB

Location, date:

Stockholm, xx xx 20xx

Customer

Location, date:

Xx xx xx 20xx

_____
Name:
Title:

_____
Name:

Title:

## SUB-APPENDIX 2.A - PROCESSING OF PERSONAL DATA

*This sub-appendix applies to personal data processed by ClearOn*

**1.  PERSONAL DATA PROCESSED**

Telephone number and/or email address.

**2.  CATEGORIES OF REGISTRANTS**

Customers of the Customer who, by taking part in a promotion organized by the Customer, share their mobile telephone numbers or e-mail addresses.

**3.  DESCRIPTION OF THE PERSONAL DATA PROCESSING AND ITS PURPOSES**

Through the campaign organized by the Customer, the data subject's personal data is collected for use by ClearOn to send out a coupon or other value voucher  prepared by the Customer, through ClearOn's service, to the data subject via mobile or email.

**4.  PROCESSING AND STORAGE TIME**

Vouchers will be sent out during the time that the Customer has an ongoing promotion. The personal data is stored for nine (9) months after the last completed campaign in which a data subject participated, after which the data is automatically deleted.

**5.  WHERE THE PROCESSING TAKES PLACE**

All personal data processing takes place at ClearOn or at ClearOn's subcontractors. Coupon support, the main system for the creation of digital coupons, runs on servers in Germany where the Customer's data is mainly stored.

**6.  SUBCONTRACTORS**

ClearOn has the right to use subcontractors within and outside the EU/EEA to provide its services. ClearOn uses the following subcontractors approved in advance by the Customer:

- FPH Management AB;

    - generates digital coupons through the Coupon Support system.

- Link Mobility AB

    - distributes digital coupons via SMS.

- Mailgun

  -   distributes digital coupons via e-mail

**7.  SECURITY MEASURES**

- **Authorization Control:**

    Authorization control is carried out so that only authorized personnel of ClearOn or its subcontractors have access to information in the systems. The

Services are designed in such a way that ClearOn's staff or subcontractors will normally never access customers' personal data. This is only done in case of troubleshooting/complaints.

- **Information Security:**

  We do not encrypt the databases, but all communication is done over Hypertext Transfer Protocol Secure ("**HTTPS**"), i.e. secure/encrypted transactions.

- **Authentication:**

  Staff working with the service have personal user accounts for access. Authentication is based on two factors, personal passwords combined with one-time codes.

- **Access Control:**

  Access rights are controlled at the individual level so that each system administrator is given the rights needed for the job, but not beyond.

- **Network Security:**

  All communication within the service and between customers, administrators and the service is encrypted, using accepted standard technology (HTTPS). All communications are filtered through firewalls so that only authorized (intended) traffic is allowed to pass

- **Server Security:**

  Servers used for the service are located in protected data warehouses provided by ClearOn's subcontractors.

- **Protection Against Malware and Untrusted Programs:**

  Servers and data traffic within the service are protected with up-to-date malware protection software (antivirus). Programs are developed in service through quality testing before being put into production. They are also controlled by permission-based version control software.

- **Backups of the Customer's Personal Data:**

  Backups of stored information are taken every day.

8.    **OTHER**

*If ClearOn would like to specify anything further, there is space to do so below.*

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## 9. SPECIAL INSTRUCTIONS TO CLEARON

*To be filled in by the Customer.*

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**SUB-APPENDIX 2.B - PROCESSING OF PERSONAL DATA**

*This sub-appendix applies when ClearOn's handling of personal data deviates from the standard.*

1. **PERSONAL DATA PROCESSED**

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2. **CATEGORIES OF REGISTRANTS**

   Customers of the Customer who, by taking part in a promotion organized by the Customer, share their mobile telephone numbers or e-mail addresses.

3. **DESCRIPTION OF THE PERSONAL DATA PROCESSING AND ITS PURPOSES**

   Through the campaign organized by the Customer, the data subject's personal data is collected for use by ClearOn to send out a coupon or other value carrier prepared by the Customer, through ClearOn's service, to the data subject via mobile or email.

4. **PROCESSING AND STORAGE TIME**

   Vouchers will be sent out during the time that the Customer has an ongoing promotion. The personal data is stored for nine (9) months after the last completed campaign in which a data subject participated, after which the data is automatically deleted.

5. **WHERE THE PROCESSING TAKES PLACE**

   All personal data processing takes place at ClearOn or at ClearOn's subcontractors. Coupon support, the main system for the creation of digital coupons, runs on servers in Germany where the Customer's data is mainly stored.

6. **SUBCONTRACTORS**

   ClearOn has the right to use subcontractors within and outside the EU/EEA to provide its services. ClearOn uses the following subcontractors approved in advance by the Customer:

   - FPH Management AB;

     - generates digital coupons through the Coupon Support system.

     - Wildbit LLC, a subcontractor of FPH Management AB that distributes digital coupons via e-mail.

   - Link Mobility AB

     - distributes digital coupons via SMS.

7. **SECURITY MEASURES**

   - **Authorization Control:**

Authorization control is carried out so that only authorized personnel of ClearOn or its subcontractors have access to information in the systems. The Services are designed in such a way that ClearOn's staff or subcontractors will normally never access customers' personal data. This is only done in case of troubleshooting/complaints.

- **Information Security:**

  We do not encrypt the databases, but all communication is done over Hypertext Transfer Protocol Secure ("**HTTPS**"), i.e. secure/encrypted transactions.

- **Authentication:**

  Staff working with the service have personal user accounts for access. Authentication is based on two factors, personal passwords combined with one-time codes.

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