The following provisions shall apply as a processor's agreement within the meaning of Article 28(3) of the GDPR between Netpresenter B.V. as Processor and the Customer as Controller. Processor and Controler are hereinafter jointly referred to as: Parties.

Article 1 Definitions

1.1 The terms mentioned below have the meaning defined in Article 4 GDPR: Personal Data, Processor (i.e. Netpresenter), Controller (i.e. Customer), Data Subject(s), Processing, Third Party, Consent of Data Subject, Personal Data Breach.

1.2 Data Breach: a Personal Data Breach as referred to in Article 4(12) of the GDPR.

1.3 Duty to Report Data Breaches: the duty to report a Data Breach as referred to in Article 33 of the GDPR.

Article 2 Applicability and duration

2.1 This processor agreement applies to any Processing of Personal Data by Processor based on the Netpresenter Software Licence Agreement (hereinafter: LNS) concluded between the Parties.

2.2 This processor agreement shall enter into force on the date of signature of the LNS and shall end when the LNS ends. It is not possible to terminate this processor agreement (prematurely) separately from the LNS.

2.3 The provisions of this processor agreement shall remain in force if necessary for its completion and insofar as they are intended to survive its termination, such as the provisions relating to confidentiality.

Article 3 Subject Agreement

3.1 The Processor guarantees that the Processing will only take place in accordance with the GDPR and on the basis of written instructions from the Processing Responsible Party - which exclusively determines the purpose of and means for the processing of Personal Data - and under the conditions set out in the LNS and this Processing Agreement, except insofar as a different obligation rests on the Processor under the law.

3.2 If the Processor believes that an instruction as referred to in the previous paragraph infringes the GDPR or any other provision of Union or Member State law on data protection, it will inform the Processing Party accordingly, unless a legal provision prohibits this.

Article 4 Obligations and responsibilities

4.1 The Processor is only responsible for the Processing under the LNS. The Processor is never responsible and/or liable for other Processing, in particular Processing of Personal Data that the Processing Party provides to the Processor without request, without necessity and/or without reason. The Processing Responsible Party will inform the Processor of the purposes of the processing at all times, insofar as these are not already included in the LNS.

4.2 The Processor guarantees that it will act in accordance with the GDPR and UGDPR and that the Processing is not unlawful and/or infringes the rights of a data subject or a third party.

4.3 The Processing Responsible Party may monitor the Processor's compliance with safeguards under the GDPR by means of audits at the expense of the Processing Responsible Party, in consultation with the Processor and to be carried out exclusively by an independent and expert auditor.

4.4 If the Processor in turn engages a sub-processor for the purposes of the (specific) processing activities, the Processor shall ensure that a (sub-)processing agreement is concluded with the sub-processor which imposes the same data protection obligations on the sub-processor (in terms of scope) as are included in this Processing Agreement.

4.5 The Processing Agent grants the Processing Agent permission to engage the following sub-processors:

- Microsoft Azure or another cloud service provider;
- Claranet GmbH
- MessageBird B.V. - only in case SMS services are used.

4.6 The Processor grants the Processor general permission to add or replace subprocessors in the future, as long as the Processor ensures that a (sub) processor agreement is concluded with the subprocessors that imposes the same data protection obligations (in scope) on subprocessors as are included in the Agreement. The Processor shall inform the Processing Party in advance of any intended changes concerning the addition or replacement of other processors. The Processor will then be given the opportunity to object to these changes.

4.7 Processors shall not process Personal Data outside the European Union unless they have received prior written consent to do so from the Processing Responsible Party and except in the case of differing legal obligations. A transfer of Personal Data to a third country or an international organization may take place if the European Commission has decided that the third country, a territory or one or more specified sectors in that third country, or the international organization in question guarantees an adequate level of protection.

4.8 If Processor is obliged to transfer Personal Data to a third country or an international organization on the basis of a provision of Union or Member State law, Processor will notify Controller of that legal provision prior to Processing, unless that legislation prohibits such notification for important reasons of public interest.

Article 5 Security measures

5.1 The processor shall ensure the application of appropriate technical and organizational measures, which will ensure a level of security appropriate to the risk, taking into account the state of the art, the implementation costs, as well as the nature, scope, context and purposes of the processing and the risks to the rights and freedoms of persons which vary in terms of probability and seriousness.

5.2 In this context, Processor shall apply at least the following technical and organizational measures: Access to the data is restricted to IT support staff, your account manager and, in his/her absence, a replacement. All employees with access to the data are in possession of a Certificate of Conduct. Modern technology is used to secure data, and security is a permanent point of attention.
These measures are indicative in nature and may be amended from time to time, considering developments in the state of the art and implementation costs, among other things. If so requested in writing, the Processor will provide the Accountable Party with a periodic overview of the technical and organizational measures applied.

5.3 The Processor does not warrant that its technical and organizational measures will be effective in all circumstances.

5.4 If requested in writing by the Processing Responsible, the Processor may take additional technical and organizational measures in consultation with and at the expense of the Processing Responsible.

Article 6 Data breach

6.1 The Processor shall inform the Processing Party without unreasonable delay as soon as it becomes aware of a Personal Data breach.

6.2 The Processor shall inform the Processing Party immediately and, if this is not possible, without unreasonable delay, in accordance with Art. 33(3) GDPR.

6.3 There is never an obligation for Processor to report a Data leak to the Complainant(s) and/or the supervisory authorities. Only the Processing Agent is and remains responsible for compliance with the relevant obligations under the GDPR.

Article 7 Rights of involved parties

7.1 If a Data Subject makes a request to inspect Personal Data, to rectify, erase, restrict processing or transfer the data, as referred to in Chapter III GDPR, and sends it to the Processor, the Processor will forward the request to the Processing Responsible Party, and the Processing Responsible Party will deal with the request.

7.2 To the extent possible, the Processor will assist the Processing Party in fulfilling its obligation to implement requests to exercise the rights of the Data Subjects referred to in Chapter III of the GDPR, against payment of the Processor's reasonable costs.

7.3 The Processing Responsible shall indemnify the Processor against all claims by third parties, including the Complainants, based on a breach of privacy.

Article 8 Confidentiality and secrecy

8.1 All Personal Data processed by the Processor of the Processing Party in connection with the Agreement are subject to a duty of confidentiality. The Processor declares that the persons authorized to process the Personal Data have undertaken to observe confidentiality.

8.2. The duty of confidentiality does not apply insofar as the Processor has given express written consent to provide the information to Third Parties, if providing the information to Third Parties is logically necessary in view of the nature of the Agreement and/or the performance of the Agreement, or if there is a legal obligation to provide the information to a Third Party, all this in accordance with the GDPR.

8.3 If Processor is required to provide data on the basis of a legal obligation, Processor will verify the basis of the request and the identity of the requester and will inform Processor of this prior to providing the data, unless statutory provisions prohibit this.
8.4 The Processor will ensure an internal privacy policy and will also impose this duty of confidentiality on its employees and external advisers and regularly check compliance with the privacy and confidentiality policy.

Article 9 Deletion or return of Personal Data

9.1 Processor shall destroy the Personal Data after the Agreement has ended, unless under laws or regulations Processor is obliged to retain (certain) Personal Data for a certain period, in which case Processor shall destroy the Personal Data after the expiry of that period, which shall not exceed seven years.

9.2 If the performance of the Agreement for a Complainant is to be regarded as finally completed, then Processor shall destroy the Personal Data of that Complainant within three months of the completion of that Agreement, unless a longer period is prescribed under laws or regulations and/or Processor is required to retain it for reasons of being able to provide evidence.