Data Processing Addendum

This Data Processing Addendum ("**Addendum**") forms an integral part of the Service Agreement ("**Agreement**") between _____ ("**Customer**") and Mobilda (**"Company"**) and applies to the extent that Company processes Personal Data, or has access to Personal Data, on behalf of the Customer, in the course of its performance under the Agreement.

Company shall qualify as the Data Processor, as this term is defined under Data Protection Legislation.

All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

1. Definitions

    a. "**Approved Jurisdiction**" means a member state of the EEA, or other jurisdiction as may be approved pursuant to the applicable Data Protection Legislation as having adequate legal protections for data by the European Commission

    b. "**Breach Incident**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

    c. **"Data Protection Legislation"** means any and/or all applicable domestic and foreign laws, rules, directives and regulations, on any local, provincial, state or deferral or national level, pertaining to data privacy, data security and/or the protection of Personal Data, including the Data Protection Directive 95/46/EC and the Privacy and Electronic Communications Directive 2002/58/EC (and respective local implementing laws) concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), including any amendments or replacements to them, including 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 ("**GDPR**").

    d. "**Data Controller**", "**Data Processor**", "**Data Subject**", "**Personal Data**", "**Process**" and "**Processing**" shall have the meanings ascribed to them in the Data Protection Legislation.

    e. **"EEA"** means those countries that are member of the European Economic Area.

    f. "**Security Measures**" mean commercially reasonable security-related policies, standards, and practices commensurate with the size and complexity of Company's business, the level of sensitivity of the data collected, handled and stored, and the nature of Company's business activities.

g. "**Standard Contractual Clauses**" mean the standard contractual clauses for the transfer of personal data to data processors established in third countries adopted by the European Commission Decision C(2010)593.

h. "**Sub-Processors**" mean any Affiliate, agent or assignee of Company that may process Personal Data pursuant to the terms of the Agreement, and any unaffiliated processor engaged by Company.

2. Compliance with Laws

a. Each Party shall comply with its respective obligations under the Data Protection Legislation.

b. Company shall provide reasonable cooperation and assistance to Customer in relation to Company's processing of Personal Data in order to allow Customer to comply with its obligations as a Data Controller under the Data Protection Legislation.

c. Company agrees to notify Customer promptly if it becomes unable to comply with the terms of this Addendum and take reasonable and appropriate measures to remedy such non-compliance.

d. Throughout the duration of the Addendum, Customer agrees and warrants that:
   i. Personal Data has been and will continue to be collected, processed and transferred by Customer in accordance with the relevant provisions of the Data Protection Legislation;
   ii. the processing of Personal Data by Customer, as well as any instruction to Company in connection with the processing of the Personal Data ("**Processing Instructions**"), has been and will continue to be carried out in accordance with the relevant provisions of the Data Protection Legislation; and that
   iii. The Customer has informed Data Subjects of the processing and transfer of Personal Data pursuant to the Addendum and obtained the relevant consent thereto (including without limitation any consent required in order to comply with the Processing Instructions and those purposes detailed herein).

3. Processing Purpose and Instructions

a. The duration of the processing under the Agreement is determined by the parties, as set forth in the Agreement.

b. Company shall process Personal Data only to deliver the Services in accordance with Customer's written Processing Instructions (unless waived in a written requirement), the Agreement and the Data Protection Legislation. Unless permitted under the Agreement or this Addendum, Company shall not otherwise modify,

amend, disclose or permit the disclosure of any Personal Data to any third party unless authorized or directed to do so by Customer.

c. Company will not use Personal Data for any use other than as expressly provided in the Agreement or this Addendum. Processing any Personal Data outside the scope of the Agreement will require prior written agreement between Company and Customer by way of written agreement, and will include any additional fees that may be payable by Customer to Company for carrying out such instructions.

d. Notwithstanding the foregoing, Company shall be entitled to use the Personal Data for statistical and financial purposes provided however that any personal attributes shall be removed from such Personal Data or otherwise if such is maintained on an aggregated basis.

4. Reasonable Security and Safeguards

a. Company represents, warrants, and agrees to use Security Measures (i) to protect the availability, confidentiality, and integrity of any Personal Data collected, accessed, used, or transmitted by Company in connection with this Agreement, and (ii) to protect such data from Breach Incidents.

b. The Security Measures are subject to technical progress and development and Company may update or modify the Security Measures from time to time provided that such updates and modifications do not result in the degradation of the overall security of the Services purchased by Customer.

c. Company shall take reasonable steps to ensure the reliability of its staff and any other person acting under its supervision which has access to and processes Personal Data. Company shall ensure that persons authorized to process Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

d. Customer is responsible for using and configuring the Services in a manner which enables Customer to comply with Data Protection Legislation, including implementing appropriate technical and organizational measures.

5. Breach Incidents

Upon becoming aware of a Breach Incident, Company will notify Customer without undue delay and will provide information relating to the Breach Incident as reasonably requested by Customer. Company will use reasonable endeavors to assist Customer in mitigating, where possible, the adverse effects of any Breach Incident.

6. Security Assessments and Audits

Company audits its compliance with data protection and information security standards on a regular basis. Such audits are conducted by Company's internal audit team or by third party auditors engaged by Company.

Company shall, upon reasonable and written notice and subject to obligations of confidentiality, allow its data processing procedures and documentation to be inspected, no more than once a year, by Customer (or its designee), at Customer's expense, in order to ascertain compliance with this Addendum. Company shall cooperate in good faith with audit requests by providing access to relevant knowledgeable personnel and documentation.

7. Cooperation and Assistance

   a. If Company receives any requests from individuals or applicable data protection authorities relating to the processing of Personal Data under the Agreement, including requests from individuals seeking to exercise their rights under EU Data Protection Law, Company will promptly redirect the request to Customer. Company will not respond to such communication directly without Customer's prior authorization, unless legally compelled to do so. If Company is required to respond to such a request, Company will promptly notify Customer and provide Customer with a copy of the request, unless legally prohibited from doing so.

   b. If Company receives a legally binding request for the disclosure of Personal Data which is subject to this Addendum, Company shall (to the extent legally permitted) notify Customer upon receipt of such order, demand, or request. It is hereby clarified however that if no such response is received from Customer within three (3) business days (or otherwise any shorter period as dictated by the relevant law or authority), Company shall be entitled to provide such information.

   c. Notwithstanding the foregoing, Company will cooperate with Customer with respect to any action taken by it pursuant to such order, demand or request, including ensuring that confidential treatment will be accorded to such disclosed Personal Data.

   d. Upon reasonable notice, Company shall provide reasonable assistance to Customer in:
      i. allowing Data Subjects to exercise their rights under the Data Protection Legislation, including (without limitation) the right of access, right to rectification, restriction of processing, erasure ("right to be forgotten"), data portability, object to the processing, or the right not to be subject to an automated individual decision making;
      ii. ensuring compliance with any notification obligations of Breach Incidents to the supervisory authority and communication obligations to Data Subjects, as required under Data Protection Legislation;

iii. Ensuring Customer's compliance with its obligation to carry out Data Protection Impact Assessments ("**DPIA**") or prior consultations with data protection authorities with respect to the processing of Personal Data. Any assistance to Customer with regard to DPIA or prior consultations will be solely at Customer's expense.

8. Use of Sub-Processors

Customer provides a general consent to Company to engage onward Sub-Processors, provided that Company has entered into an agreement with the Sub-Processor containing data protection obligations that are at least as restrictive as the obligations under this Addendum (to the extent applicable to the services provided by the Sub-processor).

Company will be responsible for any acts, errors or omissions by its Sub-Processors, that may cause Company to breach any of its obligations under this Addendum.

9. Transfer of EEA resident Personal Data outside the EEA

a. Company may transfer and process Personal Data of residents of the EEA or Switzerland outside the EEA ("**Transfer**"), only subject to the following:

I. The Transfer is necessary for the purpose of Company carrying out its obligations under the Agreement;

And

II. One (or more) of the following applies:

1. The Transfer is done to an Approved Jurisdiction;

2. The Transfer is done subject to appropriate safeguards (for example, the Privacy Shield as referred to in the COMMISSION IMPLEMENTING DECISION (EU) 2016/1250 of 12 July 2016 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the EU-U.S. Privacy Shield, or other applicable frameworks);

3. Customer and Company will sign the Standard Contractual Clauses attached to this Addendum as Exhibit A.

4. The Transfer is done in accordance with any of the exceptions listed in the Data Protection Legislation. Customer will inform Company which exception applies to each Transfer and will assume complete and sole liability to ensure that the exception applies.

10. Data Retention and Destruction

a. Company will only retain Personal Data for as long as Services are provided to Customer in accordance with this Agreement. Following expiration or termination of

the Agreement, Company will delete or return to Customer all Personal Data in its possession as provided in the Agreement except to the extent Company is required by applicable law to retain some or all of the Personal Data (in which case Company will implement reasonable measures to prevent the Personal Data from any further processing). The terms of this Addendum will continue to apply to such Personal Data.

b. Notwithstanding the foregoing, Company shall be entitled to maintain Personal Data following the termination of this Agreement for statistical and/or financial purposes provided always that Company maintains such Personal Data on an aggregated basis or otherwise after having removed all personally identifiable attributes from such Personal data.

11. <u>General</u>

a. Any claims brought under this Addendum will be subject to the terms and conditions of the Agreement, including the exclusions and limitations set forth in the Agreement.

b. In the event of a conflict between the Agreement (or any document referred to therein) and this Addendum, the provisions of this Addendum shall prevail.

c. Company may modify the terms of this Addendum in circumstances such as (i) if required to do so by a supervisory authority or other government or regulatory entity, (ii) if necessary to comply with Data Protection Legislation, or (iii) to implement or adhere to standard contractual clauses, approved codes of conduct or certifications, binding corporate rules, or other compliance mechanisms, which may be permitted under Data Protection Legislation. Company will provide notice of such changes to Customer, and the modified Addendum will become effective, in accordance with the terms of the Agreement.

Accepted by _____ (Customer)	**Accepted by Mobilda (Company)**.
Authorized Signature _____	Authorized Signature _____
Print Name _____	Print Name _____
Title _____ Date _____	Title _____ Date _____25/5/18___

Exhibit A
(To be signed subject to section 9)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

For purposes of this Exhibit A:

any reference to "data exporter" means <u>Customer</u>, acting as data exporter, and any reference to "data importer" means <u>Company</u> (each a "**party**"; together "**the parties**").

The parties have agreed on the following Standard Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

Definitions

For the purposes
of the Clauses:

(a) *'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject'* and *'supervisory authority'* shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

(b) '*the data exporter'* means the controller who transfers the personal data;

(c) *'the data importer'* means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) *'the subprocessor'* means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) '*the applicable data protection law*' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) '*technical and organisational security measures*' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2

Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in
Appendix 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause
6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause
6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix
2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the

Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i)   that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j)   that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer

The data importer agrees and warrants:

(a)   to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b)   that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c)   that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d)   that it will promptly notify the data exporter about:

(i)   any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,

(ii)   any accidental or unauthorised access, and

(iii)   any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e)   to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f)   at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g)   to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h)   that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

(i)   that the processing services by the subprocessor will be carried out in accordance with Clause 11;

(j)   to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

1.   The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2.   If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3.   If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent,

the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

1.   The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a)   to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b)   to refer the dispute to the courts in the Member State in which the data exporter is established.

2.   The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8

Cooperation with supervisory authorities

1.   The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2.   The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3.   The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

Clause 9

Governing Law

The Clauses shall be governed by the law of the Member State in which the data controller is established.

Clause 10

Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11

Subprocessing

1.   The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter.   Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses.   Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.

2.   The prior written contract between the data importer and the subprocessor shall also provide for a third- party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law.   Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

3.   The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be
governed by the law of the Member State in which the data controller is established.

4.   The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12

Obligation after the termination of personal data processing services

1.   The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2.   The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

*Clause 1*3

Indemnification

The parties agree that if data exporter is held liable for a violation of the clauses committed by the data importer, the data importer will, to the extent to which it is liable, indemnify the data exporter for any cost, charge, damages, expenses or loss it has incurred.

DATA EXPORTER   DATA IMPORTER
Name: Name:
Authorised Signature   Authorised Signature

This Appendix 1 forms part of the Clauses.

Data exporter

The data exporter is the Customer.

Data importer

The data importer is Company. Activities relevant to the transfer include the performance of Services for Customer under the Agreement.

Data subjects

The personal data transferred may concern the following categories of data subjects:
- The users of the data exporter's websites
- Internet and mobile users
- and other digital mediums and any data received from Third Party Partners as described in the IO between the parties.

Categories of data

The personal data transferred may concern the following categories of data:
- IP address
- User ID
- Identifier for advertiser (e.g. Google AAID / Apple IDFA)
- Device information (e.g. ID, brand, model, network, provider)
- Ad context (e.g. app/web page meta-data, domain, category)
- Location data
- Contact information (company, email address, etc.)

Processing operations

The personal data transferred may be subject to the following basic processing activities, as may be further set forth in contractual agreements entered into from time to time between the parties. The data importer will access, reproduce, display and store the relevant personal data in order to provide the services as set out in the Agreement and for no other purposes whatsoever.