



## MASTER SERVICES AGREEMENT

### 1. PARTIES

**1.1. VTEX Ecommerce Platform Limited**, a company incorporated in England (number 10867517), having its registered office at WeWork Aviation House, 125 Kingsway WC2B 6NH, 6NH, registered under Tax ID (VAT) GB278404189, hereinafter referred to as "**VTEX**" and "**Customer**" as defined in the commercial proposal set out in Appendix 1, have entered in to this master services agreement and Appendix 1 (together, the "**Agreement**").

### 2. OBJECT

**2.1. VTEX** shall provide the **Customer** with the services set out in **Appendix 1 ("Services")**, and other appendices, if applicable.

### 3. PRICE AND PAYMENT CONDITIONS

**3.1.** In consideration of the provision of the **Services**, the **Customer** shall pay **VTEX** the fees set out in **Appendix 1**. The payment terms and conditions are set out in **Appendix 1**.

### 4. Customer'S OBLIGATIONS

**4.1.** Without prejudice to the other obligations provided for in this **Agreement**, the **Customer** shall:

**4.1.1.** make the payments due under this **Agreement** in a timely manner, in accordance with the provisions of clause 3 and **Appendix 1**;

**4.1.2.** inform **VTEX** about any changes to your registration data. The absence of communication will result in **VTEX** validly using the data initially provided;

**4.1.3.** manage the operation of the **Services** provided by **VTEX** for e-commerce solutions ("**VTEX Platform**") and manage the launch and maintenance of the **Customer**'s online store through the administrative module provided by **VTEX**, provide support to the **Customer**'s representatives, website developers, administrators and / or by any person who may have access to the **VTEX Platform** and any other service, as well as being liable, with exclusivity, for their acts;

**4.1.4.** only use the **Services** in compliance with **VTEX**'s standard published policies (<https://compliance.vtex.com>) then in effect and all applicable laws and regulations. **Customer** hereby agrees to indemnify and hold harmless **VTEX** against any damages, losses, liabilities, settlements and expenses (including without limitation costs and legal fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from **Customer**'s use of **Services**.

**4.1.5.** only use the **VTEX Platform Application Programming Interface ("APIs")** for the purpose of generating requests for registration in the **VTEX Platform's Order Management System ("OMS")**, the use of **APIs** for integration with other systems that generate orders outside the **OMS** of the **VTEX Platform** being prohibited, such as, but not limited to, the use of **APIs** by systems that integrate the *marketplace* with the **Enterprise Resource**



**Planning** (“ERP”) not registering the orders on the **VTEX Platform** and / or non-approved systems. The **Customer** shall not use the **APIs** for any other purpose.

**4.1.6. Customer** hereby understands and agrees that it shall be solely and exclusively responsible for its use and operation of the **VTEX Platform**, including, without limitation, for any and all customizations, features and / or functionalities it adds to the **VTEX Platform**. **Customer** further agrees that **VTEX** shall not be liable for any breaches to the SLA caused due to the implementation and operation of such functionalities, features and / or customizations, unless they were previously agreed by **VTEX** in writing.

**4.1.7. Customer** hereby declares that, provided that VTEX has a substantially similar Certified APP, Customer shall not integrate VTEX Platform with partners who do not provide VTEX Certified APPs.

**4.1.7.1.** In case a substantially similar Certified APP is not available and the Customer still wishes to integrate it to the VTEX Platform, Customer agrees that VTEX shall have no liability to any breaches to the SLA or any losses and damages that may arise out of or relate to such integration or use of the non-certified APP.

## 5. VTEX’S OBLIGATIONS

### 5.1. VTEX shall:

**5.1.1.** use commercially reasonable efforts to provide the **Services**, including the processing infrastructure necessary for the **VTEX Platform**, in accordance with clause 6 of this **Agreement**.

**5.1.2.** keep the hosting infrastructure up-to-date with programs to protect against criminal or irregular actions by third parties.

## 6. SERVICE LEVEL (SLA)

**6.1.** Provided that the **Customer’s** obligations are observed and fulfilled under this **Agreement**, **VTEX** shall use commercially reasonable efforts to provide **Customer** the **Services** in accordance with this clause:

Plan	SLA (“Service Level Agreement”)
Enterprise	Equal or greater than 99.5% calculated monthly
Corporate	Equal or greater than 99.0% calculated quarterly
Business	Equal or greater than 98.5% calculated every six months
On Demand	Equal or greater than 98.5% calculated every six months

Administrative environment (/admin) – Valid for all plans	Equal or greater than 95.00% calculated monthly
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**6.2. VTEX** will make commercially reasonable efforts to maintain the **VTEX Platform** according to the minimum percentages of monthly availability time (“**SLA**”) described in the table in clause 6.1. The calculated period **SLA** of the **VTEX Platform** (“**Calculated SLA**”) is calculated by subtracting from 100% the percentage of time that the **VTEX Platform** was “**Unavailable**”, considering the time, in minutes, from 10 (ten) minutes of “unavailability”.

**6.2.1. "Unavailable" and "Unavailability"** means that the **VTEX Platform** is inaccessible to all users. **Customer** can verify the unavailability by trying to access the standard **VTEX** store, which is on the same infrastructure, and check if it is available.

**6.3.** The following events are excluded from the **SLA** calculation:

**6.3.1.** failures in making online sales and / or overloading the hosting infrastructure due to changes in the settings of the **VTEX Platform** under the responsibility of the **Customer** or of a third party contracted by it;

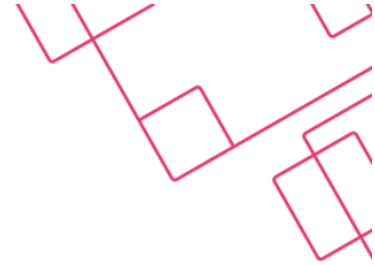
**6.3.2.** In the event of any interruptions necessary for making technical adjustments or maintaining the **VTEX Platform**, **VTEX** shall use reasonable efforts to provide advance notice in writing of not less than 48 (forty-eight) hours. **VTEX** will not be obliged to inform the **Customer** in advance about interruptions in the **VTEX Platform** that are necessary in case of emergency, such as where the regular functioning of the **VTEX Platform** may be at risk, or a vulnerability is detected;

**6.3.3.** when carrying out any emergency interventions arising from the need to preserve the security of the **VTEX Platform**, aimed at preventing or stopping the work of hackers or aimed at implementing emergency and security corrections for the **VTEX Platform**;

**6.3.4.** suspension of the provision of the **Services** (i) by determination of a competent authority; (ii) due to non-compliance by the **Customer** of any clause of this **Agreement**; or (iii) receipt of a notification alleging that the **Customer** infringes third party intellectual property rights.

**6.3.5.** if the maximum daily limit of visitors accessing the **VTEX Platform** is exceeded, which shall correspond to twice the daily average of visitors of the last 60 (sixty) days, provided that the **Customer** has not communicated to **VTEX**, at least 72 (seventy-two) hours in advance, of any circumstance that may subject the **VTEX Platform** to an unusual demand load; and

**6.3.6.** cases of overload, **Unavailability** or slowness caused by the **Customer** or third party contracted by it via **WebService (API)**, data import through the administrative environment, consultations external to its own services or third parties to the **VTEX** system. In this case, if necessary, **VTEX** may temporarily suspend the **Services**. An information flow 10 (ten) times greater than the average verified in the fifteen days prior to the occurrence will be considered overload.



6.3.7. instabilities of softwares and services outside of VTEX’s management, such as, without limitation, disruptions on core telecom network (DNS routing) or on AWS core services.

6.4. In the event of non-compliance with the **SLA**, a credit will be granted to the **Customer** (“**Service Credits**”), calculated by applying a percentage on the monthly fee paid by the **Customer** in the month of occurrence of non-compliance with the **SLA** contracted according to the table below:

Calculated SLA	Service Credits Percentage
Between 0.01% and 1.00% below SLA for the contracted plan	10%
Greater than 1.00% below SLA for the contracted plan	20%

6.4.1. **Service Credits** will only be granted for future payments due by the **Customer** under this **Agreement**. **Service Credits** cannot be transferred or credited to any other agreement. The sole remedy for the **Customer** in relation to any **Unavailability** of the **VTEX Platform** will be the receipt of the **Service Credits**. The **Customer** and **VTEX** acknowledge that the Service Credits are a reasonable pre-estimate of the losses that the **Customer** may suffer as a result of, or in connection with, any **Unavailability** of the **VTEX Platform**.

6.4.2. To receive **Service Credits**, the **Customer** must open a call through the **VTEX** service system. The request must be received by the last day of the month following the month of unavailability. If the **Calculated SLA** in such a request is lower than the contracted **SLA**, **VTEX** will grant the **Service Credits** in the invoice for the month following the one in which the occurrence was determined.

## 7. VTEX LIMITATION OF LIABILITY

7.1. Subject to clause 7.2, **VTEX** shall not have any liability, whether arising out of breach of contract, tort (including negligence), breach of statutory duty, misrepresentation (whether innocent or negligent), restitution or otherwise, for:

7.1.1. direct, indirect, consequential or special losses;

7.1.2. loss of profits (whether actual or anticipated), business, business opportunities, revenue, turnover, reputation or goodwill, whether direct or indirect;

7.1.3. loss or corruption of data or information, whether direct or indirect;

7.1.4. loss of anticipated savings or wasted expenditure (including management time but excluding the fees);

7.1.5. losses resulting from (i) the activities carried out by the **Customer** on the **VTEX Platform**; or (ii) the content produced by the **Customer** on the **VTEX Platform**;



7.1.6. errors and / or interruptions in the **Services** caused by the use of the **VTEX Platform** combined with *software* or in conjunction with components, interfaces, *hardware* and / or environments not provided by **VTEX**;

7.1.7. losses arising from **Force Majeure Event** as set out in clause 13 of this **Agreement**;

7.1.8. violations of data or information resulting from (i) acts of employees, agents or persons authorised by the **Customer** to operate the **VTEX Platform**, or (ii) criminal or irregular actions by third parties that cannot be avoided because they are outside the limits of predictability when they occur;

7.1.9. any inability of the **Customer** to use the **Services** as a result of (i) termination or suspension of this **Agreement**; (ii) discontinuation, by **VTEX**, of some functionalities of the **VTEX Platform**; and (iii) service requests that are not required by **VTEX**;

7.1.10. any investments, expenditures or commitments assumed by the **Customer** in relation to this **Agreement** or with the use by the **Customer** of the **Services**; and

7.1.11. damage related to any unauthorised access to the **VTEX Platform**, as well as modification, exclusion, destruction, damage, loss or failure to store any content or data of the **Customer**.

7.2. **VTEX's** total aggregate liability under or in connection with this **Agreement**, whether or not foreseeable or in the contemplation of the parties and whether arising out of breach of contract, tort (including negligence), breach of statutory duty, misrepresentation (whether innocent or negligent), restitution or otherwise, will be limited to 10% (ten percent) of the total amount paid by the **Customer** to **VTEX**, in accordance with the provisions of **Appendix 1**, during the 12 (twelve) months immediately preceding notice of the loss suffered by the **Customer**. If there is more than 1 (one) claim during the 12 (twelve) months immediately preceding notice of the loss suffered by the **Customer**, the claims will be amalgamated but limited to 10% (ten percent) of the total amount paid by the **Customer** to **VTEX**, in accordance with the provisions of **Appendix 1**.

7.3. For clarification purposes, the limitation of liability provided for in clause 7.2 in no way shall be understood as a limitation of the Customer's rights to the Service Credits provided for in clause 6.4.

## 8. INTELLECTUAL PROPERTY

8.1. **VTEX** owns all intellectual property rights over the **VTEX Platform**, including, without limitation, eventual developments, new functionalities and improvements done based on comments and suggestions of the **Customer** or any other clients. This **Agreement** only authorises the use of the **Services** by the **Customer**. **VTEX** warrants that it has the necessary rights to authorize the use of the **VTEX Platform** by the **Customer**. The **Customer** cannot modify or remove any **VTEX** trademark, or **VTEX's** trade name, from the places where it appears on the **VTEX Platform**. No provision in this **Agreement** shall be deemed to have granted to the **Customer** any right over the **VTEX** trademark, or **VTEX's** trade name.

8.2. The **Customer** may not seek to register any trademark or trade name that may cause confusion with **VTEX's** trademark or trade name.

8.3. The **Customer** may store data in the database of the **VTEX Platform**. Such data is the sole and exclusive property



of the **Customer**, and the **Customer** authorises **VTEX** to anonymise the **Customer's** data and use the data in an anonymised form to help improve **VTEX's** products and services. The aggregated anonymous data set can be used to activate features such as benchmarks and publications that can help understand data trends, as well as to assist **VTEX** in sizing its infrastructure.

**8.4.** The **Customer** hereby authorises **VTEX** to use its name, brand, trademark and image ("**Image**") to publicise any activities related to the provision of the Services, including, without exclusion, the launch of the online store and publishing of business cases, provided that **VTEX** may not use the **Image** in provenly detriment to the **Customer**.

## **9. TERM AND TERMINATION**

**9.1.** This **Agreement** enters into force on the date of signature of **Appendix 1**, remaining in effect for the period stipulated in **Appendix 1** ("**Term**") or such earlier termination in accordance with this clause 9.

**9.2.** This **Agreement** may be terminated by either party at any time, provided that, in the event of termination by **VTEX**, the **Customer** is notified by **VTEX** in writing at least 150 (one hundred and fifty) days in advance and, in case of termination by the **Customer**, **VTEX** is notified by the **Customer** in writing at least 60 (sixty) days in advance.

**9.3.** **VTEX** may also, at its sole discretion and at any time, immediately terminate this **Agreement** if:

**9.3.1.** it reasonably believes that the **Customer** is not using the **Services** strictly in accordance with this **Agreement** and with **VTEX's** standard published policies (<https://compliance.vtex.com>), or if the **Customer** is using spam (sending e-mail or any other type of unauthorised electronic message to carry out unsolicited advertising, or for any other purpose, which may give rise to a complaint by its recipients);

**9.3.2.** the **Customer** fails to make payment in accordance with this **Agreement** and does not remedy that failure after being given ten (10) days' written notice requiring it to make payment; or

**9.3.3.** the **Customer** challenges, directly or indirectly, itself or in collaboration with third parties, **VTEX's** trademark or trade name or its related registrations.

**9.4.** Either party may terminate this **Agreement** if the other party commits any material breach of its obligations under this **Agreement**:

**9.4.1.** in the case of a material breach which is capable of remedy, the other party fails to remedy it after being given fifteen (15) days' written notice specifying the breach and requiring it to be remedied; or

**9.4.2.** in the case of a material breach which is incapable of remedy, immediately by notice in writing to the other party.

**9.5.** **VTEX** may suspend the Services temporarily and immediately in the event that it receives a notification alleging that the Customer's content violates or infringes the intellectual property rights of third parties, without said suspension implying any payment or compensation for the Employer or account for the calculation of the Verified SLA, according to clause 6.3.4.



The termination or expiry of this **Agreement** does not affect any right or remedy that has accrued prior to the date of termination, including payment by the **Customer** of any installment due in respect of **Services** provided by **VTEX**.

**9.6.** This **Agreement** may also be immediately terminated by either **Party**, for a just cause and regardless of any judicial or extrajudicial notices, in the event of (i) impossibility of continuing to perform the **Agreement** as a result of legal or regulatory prohibition; or (ii) bankruptcy, judicial or extrajudicial recovery, dissolution or judicial or extrajudicial liquidation of any of the **Parties**, requested or ratified.

## 10. DEMANDS FROM THIRD PARTIES

**10.1.** The **Customer** assumes the sole responsibility for the products and / or services it offers on the **VTEX Platform**, as well as for compliance with consumer protection rules, recognises that under no circumstances will **VTEX** be liable for any damages or claims made by third parties harmed in reason for the activities carried out on the **VTEX Platform**, and undertakes to take all necessary measures to exclude **VTEX** from the liability of eventual actions, being responsible for all costs and expenses, including attorney's fees, and the payment of eventual judicial determination.

## 11. CONFIDENTIALITY

**11.1.** All information disclosed by a party ("**Disclosing Party**") to another party ("**Receiving Party**") as a result of the **Services**, before or after the execution of this **Agreement**, by any means, including, without limitation, information related to technology, technical or scientific data, plans, strategies, predictions, know-how, trade secrets, research, products, services, inventions (patentable or not), ideas, materials, processes, design, drawings, schemes, models, samples, computer programs, names and data of customers, employees or suppliers, as well as other tangible or intangible forms of information, regardless of whether such information is identified or not, will be hereinafter referred to as "**Confidential Information**". **Confidential Information** excludes any information which: (i) is required to be disclosed by law, by order of any court or by any government agency; (ii) that is or becomes publicly known other than through a breach of this **Agreement**; (iii) is independently developed by the **Receiving Party** and that independent development can be shown by written evidence; (iv) is lawfully disclosed to the **Receiving Party** by a third party without restriction or disclosure; or (v) was in the **Receiving Party's** lawful possession before the disclosure.

**11.2.** The **Receiving Party** agrees to: (i) treat **Confidential Information** with, at least, the same degree of care with which it treats its own **Confidential Information**; (ii) notify the **Disclosing Party** immediately and in writing of any misuse or misappropriation of **Confidential Information** of which it becomes aware; and (iii) use **Confidential Information** exclusively for the purposes of discussing, evaluating and performing the **Services**.

**11.3.** **VTEX** may disclose the **Customer's Confidential Information** to its employees, agents, affiliates and subCustomers who need to be aware of the **Confidential Information** to perform the obligations contained in this **Agreement**, provided such persons are subject to confidentiality obligations that are no less onerous than the terms of this **Agreement**, and the **Customer** must do the same in relation to **VTEX's Confidential Information** with respect to its employees and third parties. Each **Party** assumes full responsibility for the acts and omissions of its Customers and employees that breach this clause.

**11.4.** The **Receiving Party** shall return to the **Disclosing Party** or destroy, at the sole discretion of the **Disclosing Party**, all **Confidential Information**, any copies (such as backing up information for archival purposes), and all documents and materials containing any part of the **Confidential Information**, as well as cease and ensure that its





employees cease the use of **Confidential Information**, immediately after the termination or expiration of this **Agreement** or upon written request from the **Disclosing Party** to this effect. Notwithstanding the destruction or return of **Confidential Information**, the **Receiving Party** will continue to be bound by its obligations under this **Agreement**.

**11.5.** The parties recognise that the breach or omission of the respective obligations resulting from this clause may cause immediate and irreparable damage to the other party that cannot be adequately compensated, and that, in the eventual breach or omission and in addition to all other legal or equity solutions, the affected party shall have the right to request preventive measures from any competent court or jurisdiction, without the need to prove actual damage or collateral or other security.

**11.6.** This clause 11 shall survive 5 (five) years after termination of this **Agreement**.

## **12. PROTECTION OF PERSONAL DATA**

**12.1.** The following terms, when used in this **Agreement**, shall have the following meanings:

“**Customer Personal Data**” means the **Personal Data** provided by **Customer** to **VTEX** for processing, as further described in Paragraph 2 of **Appendix B**.

“**Data Protection Laws**” shall mean (i) Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the “**GDPR**”); (ii) any applicable legislation in force from time to time in Ireland which implements or is related to the European Community’s Directive 2002/58/EC (including but not limited to the Privacy and Electronic Communications (EC Directive) Regulations 2003); (iii) any other legislation in force from time to time relating to privacy or the processing of personal data, including the UK Data Protection Act 2018; and (iv) any guidance or statutory codes of practice issued or adopted by any applicable data protection authority or the European Data Protection Board in relation to such legislation.

**12.2.** References to “**Controller**”, “**Data Subject**”, “**Personal Data**”, “**Personal Data Breach**”, “**process**”, “**Processor**”, “**Supervisory Authority**” and “**Special Categories of Personal Data**” will each have the meaning given to them in the **GDPR**.

**12.3.** To the extent that **VTEX** processes any **Customer Personal Data** in the course of providing the **Services**, the parties shall comply with their obligations under the **VTEX Data Processing Addendum** (<https://compliance.vtex.com>) executed by the **Parties** on or about the date of this **Agreement**.

## **13. FORCE MAJEURE**

**13.1.** Except for the **Customer’s** obligation to make payment, neither party shall be in breach of this **Agreement** or otherwise liable for any delay or failure to perform obligations under this **Agreement** if the delay or failure results from a **Force Majeure Event**. In such circumstances either party may rely on the provisions of this clause 13 for exemption from liability for non-performance part performance defective performance or delay and in the event that any such delay or failure continues for a period in excess of 90 consecutive days either party shall have the right to terminate this **Agreement** with immediate effect by giving notice in writing to the other party.

**13.2.** “**Force Majeure Event**” means any circumstance not within a party’s reasonable control including, without limitation (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (c) terrorist



attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom or pandemic; (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (f) collapse of buildings, fire, explosion or accident; (g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); (h) non-performance by suppliers or subCustomers (other than by companies in the same group as the party seeking to rely on this clause), such as, without limitation, an outage on AWS's services; and (i) interruption or failure of utility service.

## 14. GENERAL PROVISIONS

**14.1.** This **Agreement** constitutes the entire agreement between the parties, and supersedes any previous agreement, arrangement or understanding (whether oral or written) between the parties relating to its subject matter.

**14.2.** Each **Party** agrees that in entering into this **Agreement**, all statements, representations, warranties and undertakings on which it relies are incorporated into this **Agreement** and it does not rely on (and shall have no remedy in respect of) any statement, representation (including any misrepresentation), warranty or undertaking (whether negligently or innocently made) of any person (whether **Party** to this **Agreement** or not) (in each case whether contractual or non-contractual) which is not expressly set out in this **Agreement**. Without prejudice to any other provision of this **Agreement** limiting the remedies available to either **Party**, each **Party** agrees that it will have no remedy in relation to this **Agreement** for innocent or negligent misrepresentation, negligent misstatement or mistake based on any statement in or made in relation to this **Agreement**. Without prejudice to any **Party's** ability to seek injunctive or equitable relief, the only remedy available to each **Party** in relation to any breach of this **Agreement** shall be for damages for breach of contract under the terms of this **Agreement**.

**14.3.** No variation of this **Agreement** shall be effective unless it is in writing and signed by both parties. In the event of inconsistency or ambiguity between the main body of this **Agreement** and **Appendix 1**, the terms set out in **Appendix 1** shall prevail.

**14.4.** If any provision (or part of a provision) of this **Agreement** is found to be invalid, unenforceable or illegal, the other provisions (or parts of any provisions) will remain in force. If any provision or part-provision of this **Agreement** is deemed deleted under this Clause, the **Parties** shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

**14.5.** A person who is not a **Party** to this **Agreement** shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this **Agreement**.

**14.6.** Except as expressly provided in this **Agreement**, the rights and remedies provided under this **Agreement** are in addition to, and not exclusive of, any rights or remedies provided by law.

**14.7.** The fact that any of the parties fails to exercise, or delays in the exercise of, any right or remedy under this **Agreement** will not be considered a waiver of that or any other right or remedy, and nor shall it preclude or restrict the **further** exercise of that or any other right or remedy or affect the validity of this **Agreement**. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

**14.8.** The **Customer** may not transfer, assign, charge, sub-contract, declare a trust over or deal in any other manner, in whole or in part, with all or any of its rights and obligations under this **Agreement** to third parties without the written consent of **VTEX**.

**14.9.** The **Customer** hereby authorises **VTEX** to share the **Customer's** data with **VTEX's** partners for the purpose of developing the **Services**.

**14.10.** This **Agreement** is signed on a non-exclusive basis and, therefore, the parties are free to enter into similar contracts with third parties or any other type of **Agreement** with the same purpose and object.

**14.11.** All notices under this **Agreement** must be made in writing and will be deemed delivered to the recipient:

**14.11.1.** if delivered by hand, at the time of delivery;

**14.11.2.** if sent by means of an internationally recognised courier, at 4.30 pm on the third business day following dispatch; or

**14.11.3.** if sent by email, upon receipt confirmation, provided that a copy of the notice is also sent to the recipient in accordance with clauses 14.11.1 or 14.11.2.

**14.12.** The parties declare and guarantee that they know and understand the anti-corruption laws, committing themselves to (i) not perform acts harmful to the national or foreign public administration, as well as refraining from promising, offering, giving, directly or indirectly, by itself or by an interposed third party, undue advantage to a national or foreign public agent, or the third person related to it; (ii) implement adequate guidelines and controls aimed at preventing and correcting deviations, in order to comply with and ensure that its administrators, employees, Customers and other representatives comply with the provisions of the anti-corruption laws; and (iii) evidence, at the request of the other party, the effectiveness of these guidelines and controls.

**14.13.** The **Customer** shall insert the **VTEX** signature ("Powered by VTEX"), in the form of its logo containing a hyperlink to its website, in all items accessible to users of the **VTEX Platform**.

**14.14.** **VTEX** is performing the **Services** as an independent Customer, is not an employee, joint venturer or partner of the **Customer**. No **Party** shall have authority to make any representation for or act as agent for, in the name of or on behalf of another **Party** in any way.

**14.15.** This **Agreement** may be executed in any number of counterparts and by the Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

## **15. GOVERNING LAW AND ARBITRATION**

**15.1.** This **Agreement** and any dispute or claim arising out of or in connection with it or its subject matter or formation

(including non-contractual disputes or claims) shall be governed and interpreted in accordance with the laws of England.

**15.2.** Disputes or claims, including any question regarding their existence, validity or termination, shall be referred to and finally resolved by arbitration under the then applicable Rules (the “Rules”) of the London Court of International Arbitration (the “**LCIA**”), which Rules are deemed to be incorporated by reference into this clause, subject to the additional terms below.

**15.2.1.** The appointment and number of arbitrators shall be made and determined in accordance with the Rules. The seat, or legal place, of arbitration shall be London.

**15.2.2.** The language to be used in the arbitration shall be English.

**15.2.3.** Unless the parties to the dispute agree otherwise, no **Party** shall be required to give general discovery of documents, but may be required only to produce specific, identified documents that are relevant to the dispute.

**15.2.4.** In the event multiple disputes arise and such disputes are of the type that are subject to resolution by arbitration under this clause, then, upon the request of any **Party**, such disputes shall be consolidated into one arbitration proceeding to the greatest extent possible.

**15.3.** Notwithstanding the foregoing, nothing in this clause 15 shall prevent a **Party** from pursuing the following matters outside of the arbitration process:

**15.3.1.** obtaining injunctive relief to prevent the unauthorised use of intellectual property rights or Confidential Information;

**15.3.2.** suspending the provision to the Customer of all or a part of the Services due to the failure of the **Customer** to make all payments as and when required pursuant to the terms of this **Agreement**; or

**15.3.3.** pursuing amounts which are due and owing to **VTEX** and/or its Affiliates under this **Agreement** through litigation or other judicial process or other means of lawful debt collection that may be permitted in any jurisdiction in which the Customer is located or in which **VTEX** and its Affiliates providing the Services are located.

**Location, date and signatures on Appendix 1**

## Appendix 2

### Data Processing Terms

This Section includes certain details of the processing of **Customer Personal Data** as required by Article 28(3) **GDPR**:

**Subject matter and duration of the processing of the Personal Data.** The subject matter and duration of the **Processing** of the **Customer Personal Data** are as set out in this **Agreement**.

**The nature and purpose of the processing of the Personal Data.** The nature and purpose of the **Processing** of the **Customer Personal Data** are as set out in this **Agreement**.

**The categories of Data Subject to whom the Customer Personal Data relates.** The categories of **Data Subject** may include some or all of the following:

- Please consult our Data Processing Addendum (<https://compliance.vtex.com>)

The types of **Customer Personal Data** to be processed. The **Customer Personal Data Processed** may include some or all of the following attributes:

- Please consult our Data Processing Addendum (<https://compliance.vtex.com>)

The obligations and rights of the **Customer**. The obligations and rights of the **Customer** are as set out in this **Agreement**.

## DATA PROCESSING ADDENDUM

This Data Processing Addendum (“DPA”) forms a part of the Master Services Agreement found at <https://vtex.com/msa-uk> unless the Customer has entered into a superseding written Master Services Agreement with VTEX, in which case, it forms a part of such written agreement. Together, the Master Services Agreement and the Order Form - Commercial Proposal, are referred to as the “Agreement”.

By signing the DPA, the Customer enters into this DPA on behalf of itself and, to the extent that applicable Data Protection Laws require, a Controller Affiliate enters into a DPA with VTEX, in the name and on behalf of its Controller Affiliates (defined below). For the purposes of this DPA only, and except where indicated otherwise, the term “Customer” shall include the Customer and those Controller Affiliates required by applicable Data Protection Laws to enter into a DPA with VTEX. All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

In the course of providing the Services under the Agreement, VTEX may Process certain Personal Data (such terms defined below) on behalf of Customer and where VTEX Processes such Personal Data on behalf of Customer the Parties agree to comply with the terms and conditions in this DPA in connection with such Personal Data.

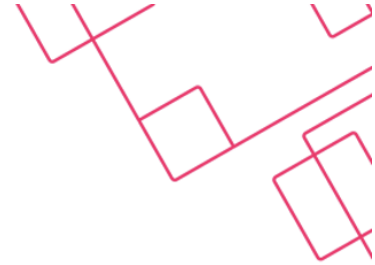
### HOW TO EXECUTE THIS DPA:

1. This DPA consists of two parts: the main body of the DPA, and Exhibit A and B (including Exhibit B.1 and Exhibit B.2).
2. Customer declares to be aware of the clauses foreseen in this DPA when signing the Order Form - Commercial Proposal.

### HOW THIS DPA APPLIES TO CUSTOMER AND ITS AFFILIATES

If the Customer entity signing this DPA is a party to the Agreement, this DPA is an addendum to and forms part of the Agreement. In such a case, references to “VTEX” in this DPA shall mean the VTEX entity that is party to the Agreement.

If the Customer entity signing this DPA has executed an Order Form - Commercial Proposal with VTEX or its Affiliate pursuant to the Agreement, but is not itself a party to the Agreement, this DPA is an addendum to that Order Form - Commercial Proposal and applicable renewal Order Form - Commercial Proposals, and references to “VTEX” in this DPA shall mean the VTEX entity that is party to such Order Form - Commercial Proposal.



## 1. DEFINITIONS

For the purposes of this DPA, any terms in capitalised letters that are not defined below or otherwise in this DPA, will have the meanings given to them in the Agreement.

“Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“Authorized Users” means any person authorized by VTEX in writing to have control over VTEX Platform environment and any person who is given access by Customer to VTEX Platform environment.

“Controller” means the entity which determines the purposes and means of the Processing of Personal Data.

“Controller Affiliate” means any of Customer's Affiliate(s) (a) (i) that are subject to applicable Data Protection Laws of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom, and (ii) permitted to use the Services pursuant to the Agreement between Customer and VTEX, but have not signed their own Order Form - Commercial Proposal and are not a “Customer” as defined under the Agreement, (b) if and to the extent VTEX processes Personal Data for which such Affiliate(s) qualify as the Controller.

“Customer” means the entity signing this DPA as the customer.

“Customer Data” means all data and information submitted by Authorized Users to the Services and includes message text, files, comments and links, excluded Non-VTEX Products. Customer Data does not include any Personal Data relating to Authorized Users received for the purposes of authorising access to the Services, or the representatives of the Customer or Controller Affiliates in connection with execution and administration of the Agreement or this DPA, which Personal Data VTEX processes as a controller.

“Data Protection Laws” means all laws and regulations, including laws and binding regulations of the European Union (including the GDPR), the European Economic Area and their member states, Switzerland and the United Kingdom, applicable to the Processing of Personal Data under the Agreement.

“Data Subject” means the identified or identifiable person to whom Personal Data relates.

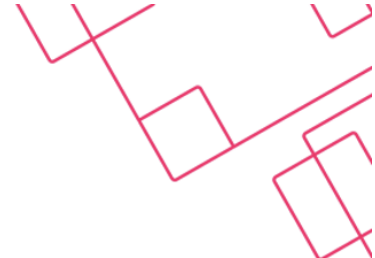
“GDPR” means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

“Personal Data” means any Customer Data that relates to an identified or identifiable natural person, to the extent that such information is protected as personal data under applicable Data Protection Laws.

“Processing” means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Processor” means the entity which Processes Personal Data on behalf of the Controller.

“Security Practices Data Sheet” means VTEX Security Practices Data Sheet, as updated from time to time, and currently accessible at <https://compliance.vtex.com/policies/security-practices>.

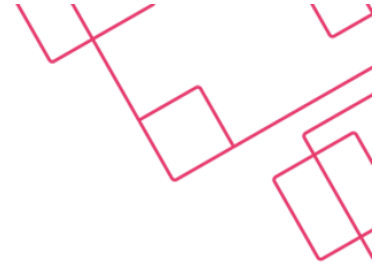


“VTEX” means the VTEX entity which is a party to this DPA, as specified in the section “HOW THIS DPA APPLIES TO CUSTOMER AND ITS AFFILIATES” above.

“VTEX Group” means VTEX and its Affiliates engaged in the Processing of Personal Data.

“Standard Contractual Clauses” means the Standard Contractual Clauses approved pursuant to the European





Commission's decision (C(2010)593) of 5 February 2010 on Standard Contractual Clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

"Sub-processor" means any entity engaged by VTEX, including a member of the VTEX Group as a sub-processor, to Process Personal Data in connection with the Services.

"Supervisory Authority" means an independent public authority which is established by an EU Member State pursuant to the GDPR.

## **2. PROCESSING OF PERSONAL DATA**

2.1. Roles of the Parties. The parties acknowledge and agree that with regard to the Processing of Personal Data, Customer is the Controller, VTEX is the Processor and that VTEX will engage Sub-processors pursuant to the requirements set forth in Section 4 "Sub-processors" below.

2.2. Customer's Processing of Personal Data. Customer shall, in its use of the Services and provision of instructions, Process Personal Data in accordance with the requirements of applicable Data Protection Law. Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data. Customer warrants that it has all necessary rights and needed consents from Data Subjects to share the Personal Data with VTEX and for VTEX to process the Personal Data as contemplated in the Agreement and this DPA.

2.3. VTEX's Processing of Personal Data. As Customer's Processor, VTEX shall only Process Personal Data for the following purposes:

(i) Processing in accordance with the Agreement;

(ii) Processing initiated by Authorized Users in their use of the Services; and

(iii) Processing to comply with other reasonable instructions provided by Customer (e.g., via email or support tickets) that are consistent with the terms of the Agreement (individually and collectively, the "Purpose"). VTEX acts on behalf of and on the instructions of Customer in carrying out the Purpose. When processing Special Categories of Data as defined in Exhibit B or native Categories of Data with processes that were customized by the Controller or their commissioned actors, VTEX's responsibility is limited to the storage of this data. This DPA and the Agreement are Customer's complete and final instructions at the time of execution of the DPA for the Processing of Personal Data. Any additional or alternate instructions must be agreed upon separately.

2.4. Details of the Processing. The subject-matter of Processing of Personal Data by VTEX is as described in the Purpose in Section 2.3. The duration of the Processing, the nature and purpose of the Processing, the types of Personal Data and categories of Data Subjects Processed under this DPA are further specified in Exhibit B (Description of Processing Activities) to this DPA.

## **3. RIGHTS OF DATA SUBJECTS**

3.1. Data Subject Requests. VTEX shall, to the extent legally permitted, promptly notify Customer if VTEX receives any requests from a Data Subject to exercise the following Data Subject rights in relation to



Personal Data: access, rectification, restriction of Processing, erasure (“right to be forgotten”), data portability, objection to the Processing, or to not be subject to an automated individual decision making (each, a “Data Subject Request”). Taking into account the nature of the Processing, VTEX shall assist Customer by appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of Customer’s obligation to respond to a Data Subject Request under applicable Data Protection Laws. In addition, to the extent Customer, in its use of the Services, does not have the ability to address a Data Subject Request, VTEX shall, upon Customer’s request, provide commercially reasonable efforts to

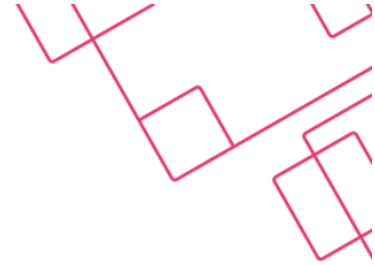
assist Customer in responding to such Data Subject Request, to the extent VTEX is legally permitted to do so and the response to such Data Subject Request is required under applicable Data Protection Laws. To the extent legally permitted, Customer shall be responsible for any costs arising from VTEX's provision of such assistance, including any fees associated with provision of additional functionality.

## 4. SUB-PROCESSORS

- 4.1. Appointment of Sub-processors. Customer acknowledges and agrees that (a) VTEX's Affiliates may be retained as Sub-processors through written agreement with VTEX and (b) VTEX and VTEX's Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services. As a condition to permitting a Sub-processor to Process Personal Data, VTEX (or a VTEX Affiliate acting as Sub-processor) will enter into a written agreement with each Sub-processor containing data protection obligations that provide at least the same level of protection for Personal Data as those in this DPA, to the extent applicable to the nature of the Services provided by such Sub-processor.
- 4.2. List of Current Sub-processors and Notification of New Sub-processors. A current list of Sub-processors for the Services, including the identities of those Sub-processors and their country of location, is accessible via <https://compliance.vtex.com/gdpr/policies/subprocessors> ("Sub-processor List"). VTEX shall update the Sub-processor List before authorizing a new Sub-processor to Process Personal Data in connection with the provision of the applicable Services.

## 5. SECURITY

- 5.1. Controls for the Protection of Personal Data. VTEX shall maintain appropriate technical and organizational measures for protection of the security, confidentiality and integrity of Personal Data. VTEX's current measures are set forth in the Security Practices Data Sheet and may change from time to time to maintain compliance with this clause. VTEX regularly monitors compliance with these measures. VTEX will not materially decrease the overall security of the Services during a subscription term.
- 5.2. Third-Party Certifications and Audits. VTEX has obtained the third-party certifications and audits set forth in the Security Practices Data Sheet. Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, VTEX shall make available to Customer (or Customer's independent, third-party auditor) information regarding the VTEX Group's compliance with the obligations set forth in this DPA in the form of the third-party certifications and audits set forth in the Security Practices Data Sheet. Customer may contact VTEX to request an on-site audit of VTEX's procedures relevant to the protection of Personal Data, but only to the extent required under applicable Data Protection Law. Customer shall reimburse VTEX for any time expended for any such on-site audit at the VTEX Group's then-current rates, which shall be made available to Customer upon request. Before the commencement of any such on-site audit, Customer and VTEX shall mutually agree upon the scope, timing, and duration of the audit and any measures to protect the security of third party personal data or VTEX confidential information, in addition to the reimbursement rate for which Customer shall be responsible. All reimbursement rates shall be reasonable, taking into account the resources expended by VTEX. Customer shall promptly notify VTEX with information regarding any non-compliance discovered during the course of an audit, and VTEX shall use commercially reasonable efforts to address any confirmed non-compliance.



## 6. PERSONAL DATA INCIDENT MANAGEMENT AND NOTIFICATION

VTEX maintains security incident management policies and procedures specified in the Security Practices Data Sheet (<https://compliance.vtex.com>). VTEX shall notify Customer without undue delay of any breach relating to Personal Data of which VTEX becomes aware and which may require a notification to be made to a Supervisory Authority or Data Subject under applicable Data Protection Law or which VTEX is required

to notify to Customer under applicable Data Protection Law (a "Personal Data Incident"). VTEX shall provide commercially reasonable cooperation and assistance in identifying the cause of such Personal Data Incident and take commercially reasonable steps to remediate the cause to the extent the remediation is within VTEX's control.

## 7. RETURN AND DELETION OF PERSONAL DATA

Upon termination of the Services for which VTEX is Processing Personal Data, VTEX shall, in the case of not being able to provide the interfaces necessary to the Customer to retrieve it by their own means, upon Customer's request, and subject to the limitations described in the Agreement and the Security Practices Data Sheet, return all Personal Data in VTEX's possession to Customer or securely destroy such Personal Data and demonstrate to the satisfaction of Customer that it has taken such measures, unless applicable law prevents it from returning or destroying all or part of Personal Data. For clarification, data that is not available for self-service retrieval may incur additional charge(s).

## 8. CONTROLLER AFFILIATES

- 8.1. Contractual Relationship. The parties acknowledge and agree that, by executing the DPA in accordance with "HOW TO EXECUTE THIS DPA," Customer enters into the DPA on behalf of itself and, as applicable, in the name and on behalf of its Controller Affiliates, thereby establishing a separate DPA between VTEX and each such Controller Affiliate subject to the provisions of the Agreement and this Section 8 and Section 9. The Customer warrants that it has the power and authority to enter into the DPA on behalf of itself and, as applicable, in the name and on behalf of its Controller Affiliates. Each Controller Affiliate agrees to be bound by the obligations under this DPA and, to the extent applicable, the Agreement. For the avoidance of doubt, a Controller Affiliate is not and does not become a party to the Agreement, and is only a party to the DPA. All access to and use of the Services by Controller Affiliates must comply with the terms and conditions of the Agreement and any violation of the terms and conditions of the Agreement by a Controller Affiliate shall be deemed a violation by Customer.
- 8.2. Communication. The Customer that is the contracting party to the Agreement shall remain responsible for coordinating all communication with VTEX under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Controller Affiliates.
- 8.3. Rights of Controller Affiliates. If a Controller Affiliate becomes a party to the DPA with VTEX, it shall, to the extent required under applicable Data Protection Laws, also be entitled to exercise the rights and seek remedies under this DPA, subject to the following:
  - 8.3.1. Except where applicable Data Protection Laws require the Controller Affiliate to exercise a right or

seek any remedy under this DPA against VTEX directly by itself, the parties agree that (i) solely the Customer that is the contracting party to the Agreement shall exercise any such right or seek any such remedy on behalf of the Controller Affiliate, and (ii) the Customer that is the contracting party to the Agreement shall exercise any such rights under this DPA not separately for each Controller Affiliate individually but in a combined manner for all of its Controller Affiliates together (as set forth, for example, in Section 8.3.2, below).

8.3.2. The parties agree that the Customer that is the contracting party to the Agreement shall, if carrying out an on-site audit of the VTEX procedures relevant to the protection of Personal Data, take all reasonable measures to limit any impact on VTEX by combining, to the extent reasonable possible, several audit requests carried out on behalf of different Controller Affiliates in one single audit.

## 9. LIMITATION OF LIABILITY

Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Controller Affiliates and VTEX, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Agreement, and any reference in such section to the liability of a party means the aggregate liability of that party and all of its Affiliates under the Agreement and all DPAs together.

For the avoidance of doubt, VTEX's and its Affiliates' total liability for all claims from the Customer and all of its Controller Affiliates arising out of or related to the Agreement and each DPA shall apply in the aggregate for all claims under both the Agreement and all DPAs established under the Agreement, including by Customer and all Controller Affiliates, and, in particular, shall not be understood to apply individually and severally to Customer and/or to any Controller Affiliate that is a contractual party to any such DPA.

## 10. EUROPEAN SPECIFIC PROVISIONS

10.1. GDPR. With effect from 25 May 2018, VTEX will Process Personal Data in accordance with the GDPR requirements directly applicable to VTEX's provisioning of the Services.

10.1.1. Data Protection Impact Assessment. Upon Customer's request, VTEX shall provide Customer with reasonable cooperation and assistance needed to fulfill Customer's obligation under the GDPR to carry out a data protection impact assessment related to Customer's use of the Services, to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to VTEX. VTEX shall provide reasonable assistance to Customer in the cooperation or prior consultation with the Supervisory Authority, to the extent required under the GDPR.

10.1.2. VTEX will notify the Customer if it believes an instruction infringes the GDPR or other European Union or Member State data protection laws.

10.1.3. Transfer Mechanisms - Onward transfers to Sub-processors. The Parties acknowledge that in providing the Services, VTEX may need to transfer Personal Data to a Sub-processor located in a country outside the EEA that is not deemed to offer an adequate level of data protection as defined by the Data Protection Laws, and in each case, where such transfer would be prohibited by Data Protection Laws in the absence of the Standard Contractual Clauses or other appropriate safeguards, (“**Restricted Transfer**”). The Customer hereby authorises the VTEX to act as its agent to enter into Standard Contractual Clauses with such sub-Processors in the name of and on behalf of the Customer to facilitate the arrangements as set out in this paragraph. In such instance, the Customer shall be the data exporter and the Sub-processor(s) will be the data importer(s). Customer acknowledges that the Sub-processor may appoint sub-processors in accordance with Clause 11 of Exhibit C.

10.1.4. Instructions. VTEX will inform the Controller of any European Union or Member State law which requires VTEX to carry out Processing (where no instruction are given or which are conflicting to the instruction given by the Controller).

10.1.5. Confidentiality. VTEX will ensure that persons authorized to Process Personal Data are subject to an appropriate contractual or statutory obligation of confidentiality.

## 11. LEGAL EFFECT

This DPA shall only become legally binding between Customer and VTEX when the formalities steps set out in the Section “HOW TO EXECUTE THIS DPA” above have been fully completed. If Customer has previously executed a data processing addendum with VTEX, this DPA supersedes and replaces such prior Data Processing Addendum.

## 12. GOVERNING LAW

As established in Clause 9 - Governing Law of the Exhibit B.

### List of Exhibits

- Exhibit A: Additional Data Transfer Terms
- Exhibit B: Standard Contractual Clauses

**Location, date and signatures on the Order Form - Commercial Proposal**

## EXHIBIT A

### ADDITIONAL DATA TRANSFER TERMS

#### 1. ADDITIONAL TERMS TO STANDARDS CONTRACTUAL CLAUSES

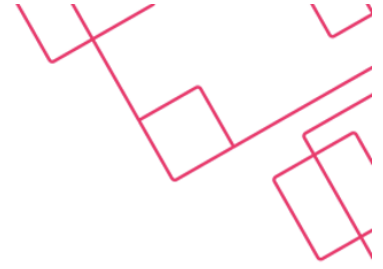
- 1.1. Customers covered by the Standard Contractual Clauses. The Standard Contractual Clauses and the additional terms specified in this Exhibit A apply to (i) the legal entity that has executed the Standard Contractual Clauses as a data exporter and its Controller Affiliates and, (ii) all Affiliates of Customer established within the European Economic Area, Switzerland and the United Kingdom, which have signed the Agreement for the Services. For the purpose of the Standard Contractual Clauses and this Section 1, the aforementioned entities shall be deemed “data exporters”.
- 1.2. Instructions. For the purposes of Clause 5(a) of the Standard Contractual Clauses, the following is deemed an instruction by the Customer to process Personal Data: (a) Processing in accordance with the Agreement; (b) Processing initiated by Authorized Users in their use of the Services; and (c) Processing to comply with other reasonable instructions provided by Customer (e.g., via email or support tickets) where such instructions are consistent with the terms of the Agreement.
- 1.3. Appointment of new Sub-processors and List of current Sub-processors. Pursuant to Clause 5(h) of the Standard Contractual Clauses, Customer acknowledges and expressly agrees that (a) VTEX's Affiliates may be retained as Sub-processors; and (b) VTEX and VTEX's Affiliates respectively may engage third- party Sub-processors in connection with the provision of the Services. VTEX shall make available to Customer the current list of Sub-processors in accordance with Section 4.2 of this DPA.
- 1.4. Notification of New Sub-processors and Objection Right for new Sub-processors. Pursuant to Clause 5(h) of the Standard Contractual Clauses, Customer acknowledges and expressly agrees that VTEX may engage new Sub-processors as described in Sections 4.2 and 4.3 of the DPA.
- 1.5. Copies of Sub-processor Agreements. The parties agree that the copies of the Sub-processor agreements that must be provided by VTEX to Customer pursuant to Clause 5(j) of the Standard Contractual Clauses may have all commercial information, or clauses unrelated to the Standard Contractual Clauses or their equivalent, removed by VTEX beforehand; and, that such copies will be provided by VTEX, in a manner to be determined in its discretion, only upon request by Customer.
- 1.6. Audits and Certifications. The parties agree that the audits described in Clause 5(f) and Clause 12(2) of the Standard Contractual Clauses shall be carried out in accordance with the following specifications:

Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, VTEX shall make available to Customer (or Customer's independent, third-party auditor) information regarding the VTEX Group's compliance with the obligations set forth in this DPA in the form of the third-party certifications and audits set forth in the Security Practices Data Sheet. Customer may contact VTEX to request an on-site audit of VTEX's procedures relevant to the protection of Personal Data, but only to the extent required under applicable Data Protection Law. Customer shall reimburse VTEX for any time expended for any such on-site audit at the VTEX Group's then-current rates, which shall be made available to Customer upon request. Before the commencement of any such on-site audit, Customer and VTEX shall mutually agree upon the scope, timing, and duration of the audit and any measures to protect the security of third party personal data or VTEX confidential information, in addition to the reimbursement rate for which Customer shall be responsible. All reimbursement rates shall be reasonable, taking into account the resources expended by



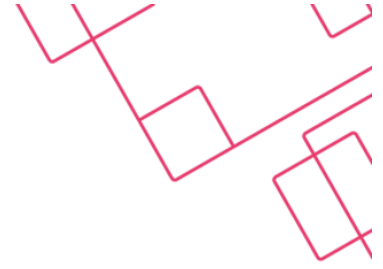


VTEX. Customer shall promptly notify VTEX with information regarding any non-compliance discovered during the course of an audit, and VTEX shall use commercially reasonable efforts to address any confirmed non-compliance.



- 1.7. Certification of Deletion. The parties agree that the certification of deletion of Personal Data that is described in Clause 12(1) of the Standard Contractual Clauses shall be provided by VTEX to Customer only upon Customer's request.
- 1.8. Conflict. In the event of any conflict or inconsistency between the body of this DPA and any of its Schedules (not including the Standard Contractual Clauses) and the Standard Contractual Clauses in Exhibit C, the Standard Contractual Clauses shall prevail.

**Location, date and signatures on the Order Form - Commercial Proposal**



## **EXHIBIT B**

### **STANDARD CONTRACTUAL CLAUSES (PROCESSOR)**

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

Data exporter: "Customer", as defined in the Order Form - Commercial Proposal

Data importer: VTEX

each a "party", together "the parties",

HAVE AGREED on the following 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 Exhibit B.1.

**Location, date and signatures on the Order Form - Commercial Proposal**

## Clause 1 - Definitions

- (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

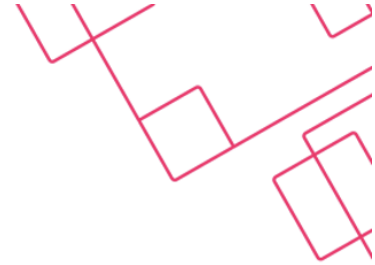
The details of the transfer and in particular the special categories of personal data where applicable are specified in Exhibit B.1 which forms an integral part of the Clauses.

## 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.



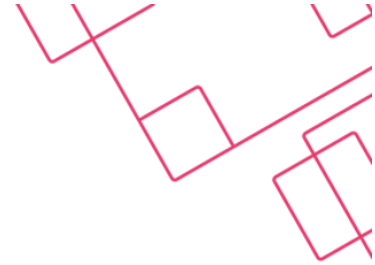
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

#### **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 Exhibit B.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 Exhibit B.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 Exhibit B.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 Exhibit B.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 or 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.

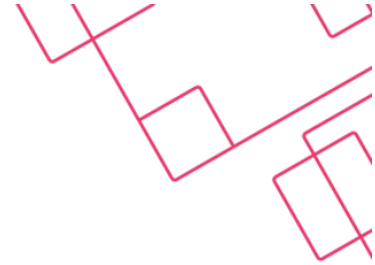
3. If a data subject is not able to bring a claim against the Data Exporter or the Data Importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the Data Exporter and the Data Importer have 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 United Kingdom.
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**

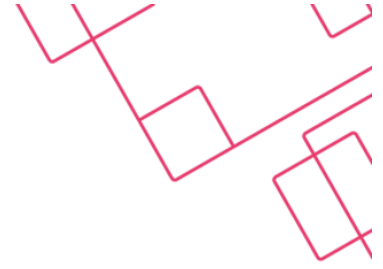
The Clauses shall be governed by the law of the Member State in which the Data Exporter is established.

### **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 Exporter 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.

**Location, date and signatures on the Order Form - Commercial Proposal**



## Exhibit B.1 to the Standard Contractual Clauses

### Data Exporter

The Data Exporter is a customer of the Data Importer's communication and productivity software, services, systems and/or technologies.

### Data Importer

The Data Importer is a provider of communication and productivity software, services, systems and/or technologies.

### Data Subjects

Data Exporter may submit personal data to the Data Importer through the Services, the extent of which is determined and controlled by the Data Exporter in compliance with applicable Data Protection Law and which may include, but is not limited to, personal data relating to the following categories of data subject:

- Authorized Users;
- employees of Customer;
- consultants of Customer;
- Customers of Customer;
- agents of Customer;
- customers of Customer; and/or
- third parties with which customer conducts business.

### Categories of Data

The personal data transferred concern the following categories of data: any personal data comprised in Customer Data.

### Special Categories of Data

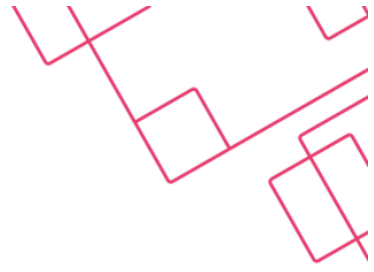
Data Exporter may submit personal data to the Data Importer through the Services, the extent of which is determined and controlled by the Data Exporter in compliance with Applicable Data Protection Law and which may concern the following special categories of data, if any:

- photograph
- birth date
- gender

### Processing Operations

The personal data transferred will be processed in accordance with the Agreement and any Order Form - Commercial Proposal and may be subject to the following processing activities:

- storage and other processing necessary to provide, maintain, and update the Services provided to the Customer;
- to provide customer and technical support to Customer; and
- disclosures in accordance with the Agreement, as compelled by law.



**Location, date and signatures on the Order Form - Commercial Proposal**

## **Exhibit B.2 to the Standard Contractual Clauses**

Technical and organisational security measures implemented by the Data Importer in accordance with Clauses 4(d) and 5(c):

The Data Importer has implemented and will maintain appropriate technical and organisational measures to protect the personal data against misuse and accidental loss or destruction as set forth in VTEX Privacy and Security Policies.

### **Location, date and signatures on the Order Form - Commercial Proposal**