

## MASTER SERVICES AGREEMENT

### 1. PARTIES

1.1. **VTEX Ecommerce Platform Limited**, a company incorporated in England (number 10867517), having its registered office at 03-A109, 3rd floor at Aviation House, 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 appendixes, 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 its registration data. The absence of communication will result in **VTEX** validly using the data initially provided;
- 4.1.3. keep the "Contacts" tab in the billing module on the **VTEX Platform** updated with its financial contacts.
- 4.1.4. make its best efforts to quickly respond to all contacts made by **VTEX** to the **Customer** through the tickets opened on the **VTEX Platform** or other contact channels.
- 4.1.5. 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**, as well as be responsible for the actions of those with whom the **Customer** share access directly or via Sponsor User to this module and/or for any and all persons who may have access to the administration password of the **VTEX Platform** and of any other service that may interfere with the **Customer's** online store;
- 4.1.6. Be liable, exclusively and fully, for the activities of its responsibility or of its

subcontractors and representatives, performed in the **VTEX Platform** through the use of the Services, such as the quality and origin of the products and services commercialized; any configuration in the **VTEX Platform** requested by the Customer or third parties acting on the **Customer's** behalf, even if subject to consultation to **VTEX**; exempting **VTEX** of any responsibility in these regards.

- 4.1.7.** The **Customer** agrees that all orders generated involving any **VTEX Platform** Application Programming Interface ("**API**") must be registered in the **VTEX Platform's** Order Management System ("**OMS**"). Violation of this provision will be considered a fraudulent use of the **VTEX Platform**.
- 4.1.8.** Grant access to the **VTEX Platform** only to users that must have access to perform the activities object of this **Agreement**, as well as to be responsible for the activities performed with the **VTEX Platform** by all users to whom it has granted access, including the Sponsor User provided in **Appendix 1**. The **Customer** agrees that it will be solely and exclusively responsible for the use and operation of the **VTEX Platform**, including, but not limited to, any and all customizations, functionalities and features added to the **VTEX Platform**. The **Customer** further agrees that **VTEX** will not be liable for any breach of the **SLA** and security vulnerabilities, which has been caused as a result of the implementation or operation of such features and/or customizations.
- 4.1.9.** **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 Certified APPs.
- 4.1.9.1.** In case a substantially similar Certified APP is not available, and the **Customer** still wishes to integrate it into the **VTEX Platform**, the Customer agrees that **VTEX** shall have no liability for 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.
- 4.1.9.2.** Certified App means an application developed by a **VTEX** partner that has been duly homologated following the process available at: <https://developers.vtex.com/vtex-developer-docs/changelog/homologation-requirements-for-the-vtex-app-store>.
- 4.1.10.** The **Customer** will not, during the **Term** or after the termination or expiration of this **Agreement**, make disparaging statements, in any form, about **VTEX**, **VTEX's** officers, directors, agents, employees, the terms of this **Agreement**, its products or **Services**.
- 4.1.11.** Customer shall not use the **VTEX Platform** to: (i) display or transmit pornographic material of any kind; (ii) transmit material that is unlawful, misleading, harassing, libelous, abusive, fraudulent, threatening, harmful, grossly offensive or otherwise objectionable; (iii) transmit material that contains viruses or any other harmful programs or code; (iv) collect, post or distribute personal information about others without their consent; (v) transmit chain letters or any unsolicited e-mail or other electronic messages ("**SPAM**"); (vii) post or transmit any material that may infringe the copyright, trademark, trade dress or other intellectual property rights or any other personal or property rights of a third party; (viii) store files not related to

**Customer's** web site; (ix) attempt to hack or penetrate security measures; or (x) offer or conduct activities related to gambling, sweepstakes, raffles, lotteries, pyramid or similar schemes; (xi) create an anonymous gateway; and/or (xii) violate any federal, state or local law or regulation of a governing body.

- 4.1.12. The **Customer** acknowledges that by initiating access to the **VTEX Platform**, all modules of the Master Data (end-user database solution) will be inaccessible to external access. If the **Customer** publishes the Master Data for external integrations and views, the **Customer** will be solely and fully liable for losses and damages, including, but not limited to, those resulting from data leaks occurring in the **VTEX Platform**, and will hold **VTEX** harmless from any related liability to third parties. The **Customer** further understands that the use of encryption is the most appropriate method for protecting information, and it agrees to use it whenever possible.

## 5. VTEX'S OBLIGATIONS

### 5.1. VTEX shall:

- 5.1.1. Provide the **Services** in accordance with applicable law.
- 5.1.2. Ensure that all licenses required to perform the Services under this Agreement are valid and in accordance with applicable law.
- 5.1.3. **VTEX** may make available beta services, i.e., new services or functionalities in the testing phase of the **VTEX Platform** that may be made available for the Customer to perform tests at its discretion ("**Beta Services**"). Any use of the **Beta Services** will be subject to the specific terms for such utility, to be entered into between the **Parties**.
- 5.1.4. 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**.
- 5.1.5. Keep the hosting infrastructure up-to-date with programs to protect against criminal or irregular actions by third parties.
- 5.1.6. **VTEX** will not, during the **Term** or after the termination or expiration of this **Agreement**, make disparaging statements, in any form, about the Customer, the **Customer's** officers, directors, agents, employees, the terms of this **Agreement**, the **Customer's** products or services.

## 6. SERVICE LEVEL (SLA)

- 6.1. Provided that the **Customer's** obligations are observed and fulfilled under this **Agreement**, **VTEX** will make commercially reasonable efforts to maintain the **VTEX Platform** operational and live according to a minimum percentage of monthly availability time of 99.7% for Platform SLA and 99.5% for Admin SLA, collectively referred to as "**SLA**"). The calculated period **SLA** of the **VTEX Platform** ("**Calculated SLA**") is calculated considering the total minutes of the month, subtracting the sum of eventual unavailabilities that occurred in the same period.

- 6.1.1. "Unavailable" and "Unavailability" means that the sales flow is interrupted to all shoppers of all stores of the Customer ("Platform SLA")
- 6.1.2. or, in the case of the VTEX Platform's administrative environment, that it is inaccessible to the Sponsor User ("Admin SLA").

6.2. 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% contracted plan and 1.00% below the SLA for the contracted plan	10%
Greater than 1.00% below the SLA for the contracted plan	20%

- 6.2.1. **Service Credits** will only be granted if, at the time of the opening of the case, the Customer has paid all outstanding invoices. **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**.
- 6.2.2. 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.

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, including VTEX IO applications developed by third parties or customizations to its store that are not originally available on the VTEX Platform;
- 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. In general, scheduled maintenance does not impact the sales flow of VTEX customers, but it may cause a higher latency than normally practiced. VTEX always seeks to make these scheduled maintenances in periods of lower access, aiming to impact the sales of its customers as little as possible;
- 6.3.3. In case of any emergency interventions arising from the need to preserve the

security of the VTEX Platform, intended to prevent or impede the action of hackers or to implement emergency solutions and security for the VTEX Platform, VTEX will have no obligation to inform the Customer in advance about such interruptions. These are situations that put at risk to the regular operation of the VTEX Platform, and such interruptions aim to ensure the security of all users in the face of detected vulnerabilities, including, but not limited to: (i) Zero Day Vulnerabilities, (ii) DDoS attacks, (iii) exploitation of vulnerabilities with access to information systems and (iv) Ransomware attacks;

- 6.3.4.** 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**;
- 6.3.5.** 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;
  - 6.3.5.1.** VTEX will notify the Customer in case of receipt of a notification and the Customer will be given 2 days to comply with the established requirements;
- 6.3.6.** 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. Although the VTEX Platform is auto-scalable, if the number of accesses suddenly increases without VTEX having been notified of this trend and having prepared for this increase in accesses, there may be a risk of instability in the VTEX Platform;
- 6.3.7.** 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; and
- 6.3.8.** instabilities of software and services outside of VTEX's control, such as, without limitation, disruptions on core telecom network or on public cloud provider's core services.

## 7. VTEX LIMITATION OF LIABILITY

**7.1. 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 direct, indirect, consequential, or special losses, loss of profits, business, business opportunities, revenue, turnover, reputation or goodwill, loss or corruption of data or information, loss of anticipated savings or wasted expenditure, regardless of any notice.

**7.2.** For exemplification purposes only, VTEX will not be liable for:

- 7.2.1.** Damages and 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**;
- 7.2.2.** 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**;
- 7.2.3.** losses arising from **Force Majeure Event** as set out in clause 13 of this **Agreement**;
- 7.2.4.** violations of data or information resulting from  
(i) acts of employees, agents, or persons authorized 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;
- 7.2.5.** 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) requests for services that are not the obligation of **VTEX**;
- 7.2.6.** 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
- 7.2.7.** Damages arising from activities practiced in the VTEX Platform as a result of any access granted and authorized by the Customer to the VTEX Platform, as well as the modification, deletion, destruction, damage, loss or failure to store any of its content or data by the Customer or any user to whom the Customer may have given access.
- 7.3.** Without prejudice to the exclusions provided in sections 7.1 and 7.2 above, **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**.
- 7.4.** For clarification purposes, the limitation of liability provided for in clause 7.3 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** trade name, from the places where it appears on the **VTEX Platform**. No provision in this **Agreement** shall be deemed to have granted any right to the **Customer** over the **VTEX** trademark or **VTEX** 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 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** will become effective on the date of signature of Appendix 1 and will remain in effect for the term set forth in Appendix 1 ("Term"). Unless otherwise defined, the **Agreement** shall be automatically extended for additional periods equal to the Term, and so on, unless either Party gives the other ninety (90) days prior written notice of its intention not to renew the **Agreement**.
- 9.2. VTEX** may, at its sole discretion and at any time, immediately terminate this **Agreement** if:
- 9.2.1.** 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);
  - 9.2.2.** 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
  - 9.2.3.** the **Customer** challenges, directly or indirectly, itself or in collaboration with third parties, **VTEX's** trademark or trade name or its related registrations.
- 9.3.** Either Party may terminate this **Agreement** if the other party commits any material breach of its obligations under this **Agreement**:

**9.3.1.** 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

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

**9.4. 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 to the **Customer** or counting for the calculation of the **SLA**, according to clause 6.3.4.

**9.5.** 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**, provided that **VTEX** has effectively rendered the **Services**.

**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.

**9.7. VTEX** may terminate the **Agreement**, without being subject to any penalty or compensation, upon giving the Customer at least 150 days' notice.

## **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**, including, but not limited to, products, services, and content made available 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.

**10.2.** The **Customer** acknowledges that **VTEX** has no control over the products or content displayed on the **VTEX Platform** and it warrants that if it receives a warning, including from **VTEX**, that content or an uncertified APP may no longer be used or must be removed, modified and/or disabled to avoid violation of applicable law or third party rights, it will do so promptly. If the Customer fails to take necessary action, **VTEX** may disable such content, product, service and/or uncertified APP. If requested by **VTEX**, the **Customer** shall confirm the deletion and discontinuance of such use in writing and **VTEX** shall be authorized to provide a copy of such confirmation to any complainant or governmental authority, as applicable.

## **11. COMPLIANCE COMMITMENT**

**11.1.** The **Parties** declare that they are fully aware of the VTEX Code of Ethics and Conduct

("Code of Ethics") available at <https://vtex.com/br-pt/compliance/ethics/> and of the Anti-Corruption and Money Laundering Prevention Policies available at <https://vtex.com/us-en/compliance/policies-and-procedures/> and undertake to observe for themselves, their managers, agents, representatives and employees, their principles and guidelines, maintaining, throughout their relationship with each other or with third parties related to the purpose of the **Agreement**, the highest standards of ethics and integrity.

**11.2.** The **Parties** strongly repudiate any practice involving money laundering or financing of terrorist acts and strictly and rigorously comply with the obligations applicable to the subject under the terms of the legislation in force to prevent such practices. In this sense, the **Customer** declares and guarantees that the origin of the resources/assets destined to the **Customer** under the terms of this **Agreement** do not derive from illegal activities or that can be understood as illegal. In addition, the **Customer** declares that the origin of the goods comes from legal business activities and, under no circumstances, do such goods come, directly or indirectly, from illegal activities or that may be considered illegal in the United Kingdom or abroad. In view of the foregoing, the **Customer** exempts **VTEX** from any liability that may arise as a result of the falsity or inaccuracy of this statement.

**11.3.** The **Parties** declare and guarantee that they know and understand the anti-corruption laws of their region, especially the rules contained in the laws of the United Kingdom on foreign corrupt practices (FCPA - Foreign Corrupt Practices), committing: (i) not to carry out acts detrimental to the national or foreign public administration, as well as to refrain from promising, offering, giving, directly or indirectly, by themselves or by a third party, an undue advantage to a national or foreign public agent, or to a related third party; (ii) to implement adequate guidelines and controls to prevent and correct deviations, in order to be in compliance and ensure that its managers, employees, contractors and other representatives comply with the provisions of the anti-corruption laws; (iii) to demonstrate, at the request of the other **Party**, the effectiveness of these guidelines and controls.

**11.4.** Any breach of the obligations contained in Clauses 11.3, 11.4 and 11.5 and any applicable anti-corruption law will be considered a breach of this instrument that cannot be corrected or remedied, and any **Party** may declare this Agreement terminated for just cause and with immediate effect, regardless of any notice or notice.

## **12. CONFIDENTIALITY**

**12.1.** 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.

**12.2.** 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**.

**12.3.** **VTEX** may disclose the **Customer's Confidential Information** to its employees, agents, affiliates, and subcontractors 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.

**12.4.** 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**.

**12.5.** 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.

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

### **13. PROTECTION OF PERSONAL DATA**

**13.1.** 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**.

**13.2.** The Customer can only perform any type of penetration test ("pentest") or vulnerability scan on the VTEX Platform if previously authorized by VTEX and upon compliance with the pre-established procedure for requesting security tests. No third party is authorized to perform such tests. Any results or reports of vulnerability scans or pentests conducted by the Customer or any third party acting on the Customer's behalf will belong exclusively to VTEX. In no event will VTEX be responsible for any costs related to penetration tests performed by the Customer.

### **14. FORCE MAJEURE**

**14.1.** 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.

**14.2. “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.

## 15. GENERAL PROVISIONS

**15.1.** 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.

**15.2.** 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**.

**15.3.** 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.

**15.4.** 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 on a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

**15.5.** 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**.

**15.6.** 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.

**15.7.** The fact that any of the parties fail 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.

**15.8.** 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**.

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

**15.10.** 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.

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

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

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

**15.11.3.** 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.

**15.12.** 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.

**15.13.** 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**.

**15.14.** **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.

**15.15.** 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.

**15.16.** The Parties may include VTEX international entities and Customer international entities to this Agreement by signing a Territorial Expansion Addendum. The Parties agree that as of the date of execution of the Territorial Expansion Addendum the entities shall observe, comply with, and be bound by the provisions of this Agreement as if such entity were an original party to the Agreement, except for the variations set forth in such Addendum. Each Territorial Expansion Addendum shall be considered a separate and binding agreement between the Parties.

## **16. GOVERNING LAW AND ARBITRATION**

**16.1.** 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.

**16.2.** 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.

**16.2.1.** 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.

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

**16.2.3.** 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.

**16.2.4.** 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.

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

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

**16.3.2.** 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

**16.3.3.** 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.