Data Processing Agreement

concluded by and between	Controller
	– hereinafter, "Company" –

and	Byteplant GmbH Software Solutions & Consulting
	Heilsbronner Strasse 4
	D-91564 Neuendettelsau
	– hereinafter, "Supplier" –

on	the processing of personal data on behalf of a controller in accordance with Article 28 (3) of the EU General Data Protection Regulation (GDPR).

Preamble

This annex details the parties' obligations on the protection of personal data, associated with the processing of personal data on behalf of Company as a data controller. Its regulations shall apply to any and all activities associated with the service agreement, in whose scope Supplier's employees or agents process Company's personal data (hereinafter, "Data") on behalf of Company as a controller.

§ 1 Scope, duration and specification of contract processing of Data

(1) The scope and duration and the detailed stipulations on the type and purpose of Contract Processing shall be governed by the service agreement. Specifically, Contract Processing shall include, but not be limited to, the following Data

Type of data	Categories of data subjects affected	Purpose (subject matter) of data processing or use	Storage limitation
Postal addresses, email addresses, telephone numbers	Customers, Subscribers, Interested Parties	Validation	14 days

(2) Except where this annex stipulates obligations beyond the term of the service agreement, the term of this annex shall be the term of the Agreement.

(3) The type of data processed and the categories of data subjects shall be determined by the company through the choice of products, the use of services and the transmission of data.

§ 2 Scope of application and responsibilities

(1) Supplier shall process Data on behalf of Company. Such Contract Processing shall include all activities detailed in the service agreement and its statement of work.

(2) Within the scope of this annex, Company shall be solely responsible for compliance with the applicable statutory requirements on data protection, including, but not limited to, the lawfulness of disclosing Data to Supplier and the lawfulness of having Data processed on behalf of Company. Company shall be the »controller« in accordance with Article 4 no. 7 of the GDPR.

(3) The company has data sovereignty. The company alone and exclusively decides on the purposes and means of processing the personal data.

(4) Company's individual instructions on Contract Processing shall, initially, be as detailed in the service Agreement. Company shall, subsequently, be entitled to, in writing, modifying, amending or replacing such individual instructions. Instructions not foreseen in or covered by the Agreement shall be treated as requests for changes to the statement of work. Company shall, without undue delay, confirm in writing any instruction issued orally.

§ 3 Supplier's obligations

(1) Except where expressly permitted by Article 28 (3)(a) of the GDPR, Supplier shall process data subjects' Data only within the scope of the statement of work and the instructions issued by Company.

(2) Where Supplier believes that an instruction would be in breach of applicable law, Supplier shall notify Company of such belief without undue delay. Supplier shall be entitled to suspending performance on such instruction until Company confirms or modifies such instruction. Until then, the contractor may continue processing on the basis of the previous instructions.

(3) Supplier shall, within Supplier's scope of responsibility, organise supplier's internal organisation so it satisfies the specific requirements of data protection. Supplier shall, within Supplier's scope of responsibility, implement technical and organisational measures to ensure the adequate protection of Company's Data, which measures shall fulfil the requirements of the GDPR and specifically its Article 32. Details of the measures taken are documented in **Annex 1** to this contract. Company is familiar with these technical and organisational measures, and it shall be Company's responsibility that such measures ensure a level of security appropriate to the risk.

(4) The technical and organisational measures are subject to technical progress and further development. Supplier reserves the right to modify the measures and safeguards implemented, provided, however, that the level of security shall not be less protective than initially agreed upon.

(5) Supplier documented the implementation of the technical and organisational measures before the start of processing and submitted them to the customer for inspection in **Annex 1**. If accepted by the client, the documented measures become the basis of the contract.

(6) Supplier shall support Company, insofar as is agreed upon by the parties, and where possible for Supplier, taking into account the type of processing and the information available to him, in fulfilling data subjects' requests and claims, as detailed in chapter III of the GDPR and in fulfilling the obligations enumerated in Articles 33 to 36 of the GDPR. Supplier is entitled to demand an appropriate remuneration from the customer for such support.

(7) Supplier warrants that all employees involved in Contract Processing of Company's Data and other such persons as may be involved in Contract Processing within Supplier's scope of responsibility shall be prohibited from processing Data outside the scope of the instructions. Furthermore, Supplier warrants that any person entitled to process Data on behalf of Controller has undertaken a commitment to secrecy or is subject to an appropriate statutory obligation to secrecy. All such secrecy obligations shall survive the termination or expiration of such Contract Processing.

(8) Supplier shall notify Company, without undue delay, if Supplier becomes aware of breaches of the protection of personal data within Supplier's scope of responsibility. Supplier shall implement the measures necessary for securing Data and for mitigating potential negative consequences for the data subject; the Supplier shall coordinate such efforts with Company without undue delay.

(9) 14 days after completion of the delivery of the data, supplier shall delete all data in his possession and processing or validation results generated in connection with the service agreement containing personal data.

(10) Where required by law, the contractor shall appoint a data protection officer in writing. Only a natural person who has a verifiable technical qualification and the necessary reliability in accordance with the statutory provisions may be appointed data protection officer.

§ 4 Company's obligations

(1) Company undertakes to data minimization. The data provided to the supplier may only contain the information directly required for the execution of the respective order. The company undertakes to make personal data anonymous as far as technically possible before it is handed over to the supplier.

(2) Company shall notify Supplier, without undue delay, and comprehensively, of any defect or irregularity with regard to provisions on data protection detected by Company in the results of Supplier's work.

(3) Where a data subject asserts any claims against Supplier in accordance with Article 82 of the GDPR, Company shall support Supplier in defending against such claims, where possible. .

(4) Company shall notify to Supplier the point of contact for any issues related to data protection arising out of or in connection with the Agreement.

(5) Company is obliged to treat confidentially all knowledge of business secrets and data security measures of the Supplier acquired within the scope of the order. This obligation shall continue to apply even after termination of the service agreement.

§ 5 Enquiries by data subjects

(1) Supplier shall correct, delete or restrict the data processed only after the documented instructions of Company. Where a data subject asserts claims for rectification, erasure or access against Supplier, and where Supplier is able to correlate the data subject to Company, based on the information provided by the data subject, Supplier shall refer such data subject to Company. Supplier shall forward the data subject's claim to Company without undue delay. Supplier shall support Company, where possible, and based upon Company's instruction insofar as agreed upon.

(2) Supplier shall not be liable in cases where Company fails to respond to the data subject's request in total, correctly, or in a timely manner.

§ 6 Options for documentation

(1) Supplier shall document and prove to Company Supplier's compliance with the obligations agreed upon in this exhibit by appropriate measures.

(2) Where, in individual cases, audits and inspections by Company or an auditor appointed by Company are necessary, such audits and inspections will be conducted during regular business hours, and without interfering with Supplier's operations, upon prior notice, and observing an appropriate notice period (at least four weeks) and prior provision of a detailed written examination schedule.

(3) Supplier may also determine that such audits and inspections are subject to prior notice, the observation of an appropriate notice period, and the execution of a confidentiality undertaking protecting the data of other customers and the confidentiality of the technical and organisational measures and safeguards implemented. Supplier shall be entitled to rejecting auditors which are competitors of Supplier. This applies also if another important reason in the selection of another inspector exists for Supplier. Supplier shall be entitled to requesting a remuneration for Supplier's support in conducting inspections. Supplier's time and effort for such inspections shall be limited to one day per calendar year, unless agreed upon otherwise.

(4) Where a data protection supervisory authority or another supervisory authority with statutory competence for Company conducts an inspection, para. 2 above shall apply mutatis mutandis. The execution of a confidentiality undertaking shall not be required if such supervisory authority is subject to professional or statutory confidentiality obligations whose breach is sanctionable under the applicable criminal code.

§ 7 Subcontractors (further processors on behalf of Company)

(1) The performance of the services email / telephone number validation of Supplier is generally possible without the use of subcontractors.

(2) Address validation requires a matching with a reference dataset. This processing takes place exclusively on the territory of the European Union. In the case of US addresses the provision of the validation service is not possible without the involvement of a US service provider. In this respect, Company hereby consents to Supplier's use of this subcontractor.

(3) In all other respects, the Contractor shall inform the Customer before subcontractors are involved. Supplier shall conclude, with such subcontractors, the contractual instruments necessary to ensure an appropriate level of data protection and information security. Where Supplier commissions subcontractors, Supplier shall be responsible for ensuring that Supplier's obligations on data protection resulting from the Agreement and this exhibit are valid and binding upon subcontractor.

(4) Supplier shall, prior to the use or replacement of subcontractors, inform Company thereof. Company shall be entitled to contradict any change notified by Supplier, within a reasonable period of time and for materially important reasons. Where Company fails to contradict such change within such period of time, Company shall be deemed to have consented to such change. Where a materially important reason for such contradiction exists, and failing an amicable resolution of this matter by the parties, Supplier shall be at his own discretion, provide the service without the intended change or, if the performance of the service is unreasonable for the contractor without the intended change, discontinue the service affected by the change.

(5) For the purposes of this provision, no subcontracting relationships are Services which the contractor use of with third parties as an ancillary service to assist in the execution of the order. These include, for example, telecommunications services, printing, postal and transport services, maintenance and user services, cleaning staff or the disposal of data carriers. However, in order to guarantee the protection and security of the client's data, the contractor is obliged to conclude appropriate contractual agreements in accordance with the law, even in the case of ancillary services provided by third parties.

§ 8 Liability and damages

(1) Company and Supplier shall be liable to data subject in accordance with Article 82 of the GDPR.

(2) Supplier is not liable for the content of the delivered data. His liability is therefore excluded in cases in which the client provided incorrect data and the resulting damages were based on it. Furthermore, the contractor's liability is excluded if the client has violated his obligations arising from this agreement (in particular according to § 4 para. 1 of this agreement).

§ 9 Obligations to inform, mandatory written form, choice of law

(1) Where the Data becomes subject to search and seizure, an attachment order, confiscation during bankruptcy or insolvency proceedings, or similar events or measures by third parties while in Supplier's control, Supplier shall notify Company of such action without undue delay. Supplier shall, without undue delay, notify to all pertinent parties in such action, that any data affected thereby is in Company's sole property and area of responsibility, that data is at Company's sole disposition, and that Company is the responsible body in the sense of the GDPR.

(2) The agreement is concluded by the electronic confirmation of Company and Supplier's machine signature provided below.

(3) No modification of this annex and/or any of its components – including, but not limited to, Supplier's representations and warranties, if any – shall be valid and binding unless made in writing format, and furthermore only if such modification expressly states that such modification applies to the regulations of this annex. The foregoing shall also apply to any waiver or modification of this mandatory written form.

(4) In case of any conflict, the data protection regulations of this annex shall take precedence over the regulations of the service agreement. Where individual regulations of this annex are invalid or unenforceable, the validity and enforceability of the other regulations of this annex shall not be affected.

(5) German law applies. Place of jurisdiction is Ansbach.

Neuendettelsau, May 15 2018

Joachim Hönig

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Dr. Joachim Hönig
Managing Director Byteplant GmbH

Annex 1

Exhibit on technical and organisational security measures in accordance with Article 32 of the GDPR