Virtual Minds
Appendix: General Terms and Conditions (GTCs) for the Use of Adition (Adserver) and Active Agent (DSP)

These General Terms and Conditions (GTCs) regulate – in addition to the User Agreement – the legal relationship between the Virtual Minds GmbH, Ellen-Gottlieb-Straße 16, D-79106 Freiburg im Breisgau, Germany (hereinafter referred to as „**VM**") and the respective contracting partner (hereinafter referred to as Customer). Deviating provisions in the User Agreement shall take precedence over the following provisions.

Section 1 - Conclusion of Contract

A User Agreement for the Adition (Adserver) and/or Active Agent (DSP) shall in principle be concluded only once both parties have signed the User Agreement, whereby it shall be sufficient for each party to sign the document intended for the other party. The written conclusion of the Agreement may be replaced in exceptional cases by VM setting up a user account or an API for the Customer, the Customer having requested the set-up or using Adition (Adserver) / Active Agent (DSP) via the established account or the API. On the other hand, the submission of an unsigned Agreement shall not constitute a binding offer by VM for the conclusion of an Agreement. The same applies to advertising Adition (Adserver) / Active Agent (DSP) as well as for price quotations and other information thereto.

Section 2 - Subject of the Agreement

I. The subject matter of the Agreement may involve the use of Adition (Adserver) and/or Active Agent (DSP). The service is delivered as Software-as-a-Service (SaaS). This means that VM grants the Customer a non-exclusive and non-transferrable right for the use of the software running on the Internet servers of VM (the System) for the term of the Agreement. The Customer shall not receive a copy of the software. Also in other respects, no additional rights beyond the right of use or other rights shall be transferred to the Customer.

II. Adition (Adserver) involves an ad server that enables the Customer to deliver advertising media to advertising spaces on the Internet. In particular, the Customer may create HTML/JavaScript codes (ad tags) for advertising spaces on Internet pages (inventory), specify the advertising media to be delivered and define the criteria according to which the advertising media is to be delivered to the inventory via the ad tags (campaigns). Active Agent (DSP) is a Demand Side Platform (DSP) via which the Customer may acquire the delivery of advertising media to the inventory of publishers from third parties (publishers) that are connected to the DSP. In particular, the Customer may define the advertising media to be delivered and set criteria according to which the DSP is to bid on the inventory offered by the publishers (campaigns). Both Adition (Adserver) and Active Agent (DSP) enable the Customer to perform statistical analyses by inventory and/or publisher, campaigns and time period (reporting).

III. For this purpose, VM creates a user account for the Customer which the Customer may access via the Internet with a common and up-to-date desktop web browser (web interface). The Customer may setup subaccounts for its customers with separate access data via the web interface. The Customer, and possibly its customers, shall keep the access data confidential and protect it properly from disclosure to unauthorised third parties. The Customer shall be responsible for any action performed under this access data, unless the action was performed by an unauthorised third party without the Customer and, if applicable, its customers being responsible. The same applies to the automated programming interface (API) that VM provides to the Customer and via which the Customer may use the individual functions of the System.

IV. The functions described in the contract should be understood as involving a minimum level of functionality. VM may provide additional functions that supplement or expand the minimum level of functionality (Additional Functions). However, there shall be no claim to specific Additional Functions or their permanent availability. In this respect, VM shall be entitled to make modifications at any time, especially to develop the System further.

Section 3 - Usage Compensation

I. The Customer shall compensate VM for the use of Adition (Adserver) / Active Agent (DSP) according to the Price List. VM provides the Customer with the Price List(s) separately (e.g. as Appendix to the User Agreement). The amount of the compensation at Adition (Adserver) may be based particularly on the number of ad deliveries (contacts), with the price being defined as cost per thousand contacts (CPM) in case of doubt. It is immaterial whether the user views or clicks on the advertising delivered. For the use of the Active Agent (DSP), VM's compensation may be based particularly on a percentage of the amount (share) for which the Customer purchased advertising services from publishers. If a tiered share is agreed, the tier refers to the respective billing month; in the event of multiple categories, the tiered price shall be calculated separately for each category. If no price list was provided and no other pricing was agreed, a CPM of €0.20 and a non-tiered share of 15% shall apply. In case of doubt, all price information is net, i.e. plus statutory value added tax if applicable.

II. One-time fees (such as the set-up fee) shall be due at the conclusion of the contract in case of doubt. VM shall invoice the ongoing remuneration every calendar month. Invoicing is in euros if not stated otherwise. Where the billing is based on usage, the usage data recorded by VM shall be relevant in case of doubt. The Customer shall pay the respective invoice within 20 calendar days without deduction via SEPA wire transfer. The invoice dispatch via email shall be sufficient. The Customer shall be deemed to be in default in the event of late payment without the necessity of a reminder. The date of the credit to the account of VM shall be relevant.

III. The Customer may raise objections to the billing of usage-based fees (e.g. CPM/share) to VM in writing within a cut-off period of six weeks; the period begins with the receipt of the respective invoice. Otherwise, the respective invoice shall be

deemed to be accepted by the Customer. This shall not apply if VM acted maliciously. VM shall inform the Customer of the cut-off period again in the invoices.

Section 4 - Advertising Services

I. Insofar as the Customer uses the Active Agent (DSP), it may buy advertising services via the DSP. In this process, the Customer may bid on individual advertising spaces auctioned by the publishers in real time (real-time bidding; RTB). Publishers are supply-side platforms (SSP) that are connected to the DSP or other publishers that are connected to the DSP directly or indirectly (e.g. via an SSP). When participating in auctions, the criteria set by the Customer in the respective campaign are considered. In particular, this may involve the advertising media to be delivered and the maximum price the Customer is willing to pay for the delivery on an advertising medium (bid), the type of the auction in which the Customer wants to participate (1st/2nd price auction), the bidding strategy (max price/floor price bid) as well as the maximum budget the Customer is willing to spend in a specific period. The budget may be exceeded by up to 5%, which the Customer accepts as contractually agreed. The highest bidder generally wins the auction. However, the Customer has no claim to win the auction. In fact, the winning bid may also be dependent on multiple criteria as are especially determined by the publishers and not disclosed. If the Customer wins the auction, it can deliver its advertising media to the auctioned advertising place. The Customer may use Adition (Adserver) or another ad server for the delivery. If the Customer uses another ad server, VM shall not be responsible for the advertising delivery. If the Customer uses Adition (Adserver), VM 's system transmits the advertising medium of the Customer to the SSP/publisher for further delivery, with VM not being responsible for the further delivery. The price for the delivery depends on the type of the auction and the bidding strategy. The Customer may obtain more details via the Web interface. If no type or strategy with deviating rules has been set, the amount offered shall be paid.

II. The advertising services purchased by the Customer from Active Agent (DSP) may be settled via VM or directly between the Customer and the publishers (direct billing).

1. With direct billing, the Customer shall enter into separate agreements with the publishers whose inventory it intends to bid on. Therefore, the subject matter of the Agreement with VM involves only the use of the System. If the system of the respective publisher is not yet connected to the DSP of VM, the Parties shall separately negotiate such a connection. However, the Customer has no claim to the connection of a specific publisher. VM bills the usage fee for the System according to Section 3. On the other hand, advertising services used by the Customer via the Active Agent (DSP) shall be billed by the respective publisher. In this respect, the contractual regulations that the Customer agreed to with the publishers shall apply. If the billed amount is higher than calculated based on the usage data recorded by VM the Customer shall immediately notify VM about this amount and give account for it on request. If this involves a share that VM receives as a usage fee, the higher amount shall apply. VM shall be

responsible only for the functionality of the DSP. On the other hand, VM shall not be responsible for the performance and billing of advertising services for which the publishers are responsible according to agreements they made with the Customer.

2. In the case of billing through VM, VM shall make the System available to the Customer and at the same time enter into contracts on its own or via third parties with the publishers on the basis of which the Customer may use advertising services. However, the Customer shall have no claim on the provider concluding or maintaining such an agreement with a specific publisher. The subject matter of the Agreement with VM thus involves the utilisation of advertising services in addition to use of the system. VM bills the Customer for its usage of the System according to Section 3. Furthermore, VM shall bill the Customer for advertising services used. VM shall bill the advertising services according to the statements that it received from the publishers for services used by the Customer. In case of doubt, this shall involve the total of the prices at which the Customer won the auction (media value). The Customer acknowledges that in the mass delivery of advertising media there may be discrepancies between the data recorded by VM and the data recorded by the publisher. In case of doubt, the records of the publisher shall be applicable. Section 3 Articles 2 and 3, respectively, shall apply to the billing of advertising services through VM. If a free test period was agreed upon, VM shall not bill the Customer any usage fees for this period. On the other hand, advertising services used by the Customer are also payable during the test period.

Section 5 - Obligations of the Customer

I. The Customer shall use Adition (Adserver) and/or Active Agent (DSP) only within the scope of contractual and legal regulations. In particular, the Customer shall assure VM (a) that it owns all rights necessary for the delivery of the advertising media, especially copyrights and trademark rights, and that the advertising media do not infringe the rights of third parties in any other way, especially name and personality rights, (b) that the environment into which the ad tags are integrated (advertising environment) is not illegal, immoral or blatantly offensive; being blatantly offensive refers especially to pornographic or otherwise youth-endangering content, content glorifying violence, inciting hatred, disclosing confidential information or serving the distribution of spam, malware or other malicious software, (c) that it will not disrupt the data collection by the System of VM, alter the ad tags and also refrain from anything else that may cause a disruption of the physical or logical structure of the System.

II. VM is not obligated to monitor the use of the System by the Customer, the advertising environment or the advertising media. The Customer shall indemnify VM from any claims that third parties may assert due to the use of the System by the Customer. This obligation shall also include the indemnity from reasonable costs of legal defence. In the event of an obvious or proven infringement, VM shall be entitled to discontinue

such infringement via its system. If the infringement is not obvious or proven, VM shall request the Customer to make an immediate statement. If such a statement is not submitted or if such a statement fails to refute a presumed infringement of rights, VM shall also be entitled to prevent the infringement. Any additional or further rights of VM shall remain unaffected.

Section 6 - Obligations of VM

I. The Customer acknowledges that it is not possible to make software completely error-free. VM shall be obliged in this respect to exercise prudent industry practices. The Customer further acknowledges that disruptions to the System's operation cannot entirely be avoided. Whether the non-availability of the System or a part thereof constitutes a defect therefore depends on the type of error involved and the duration of the malfunction. In case of doubt, the regulations that the parties agree to in a separate Service Level Agreement (SLA) shall take precedence.

II. Error classes are as follows: 1. Disruption preventing operations, i.e. no advertising media can be delivered; 2. Disruption obstructing operations, i.e. the minimum functionality is noticeably restricted; 3. Other disruption. VM keeps the System basically permanently available (24/7). The level of availability shall be determined by the output of the router that connects the VM data centre to the Internet. VM guarantees a monthly average availability of 99% for Class 1 errors and 97% for Class 2 errors. The availability shall be considered limited in the case of Class 2 errors only once the Customer has notified VM about the error (error report). Disruptions that are beyond the control of VM – such as force majeure – shall be excluded from the guarantee concerning availability. The Customer shall support VM in the troubleshooting as far as this is reasonable. Permanent availability is not guaranteed in the case of Class 3 errors; however, VM shall rectify such errors after the error report in due time.

III. The Customer's claims for defects shall lapse one year after the date of their occurrence. In addition to claims for damages due to defects, the limitation of liability according to Section 8 shall also apply. Otherwise, the legal regulations shall apply.

Section 7 - End of Contract

I. The term of the Agreement is governed by the User Agreement. If such regulation is absent from the User Agreement, the Agreement shall be entered into for an indefinite period and may be terminated by both parties within a notice period of two weeks prior to the end of each calendar month. The right of premature termination for good reason shall remain unaffected. The termination shall be made in writing.

II. At the end of the contract, but at the latest within three months thereafter, VM shall block the access data of the Customer and erase the accumulated customer data in the System. The Customer shall be responsible for securing its data on its own in due time before the end of the contract. VM shall confirm its erasure to the Customer in writing on request. However, VM shall be obligated to erasure only if the data is not subject to legal retention requirements or its storage is required for other reasons (e.g. for data related to billing).

Section 8 - Limitation of Liability

VM 's liability shall be unlimited in the event of intent and gross negligence, for injury to life, body or health pursuant to the regulations of the German Product Liability Act (ProdHG) as well as to the extent of any guarantees assumed by VM. If there is a breach of an essential contractual obligation due to slight negligence, VM's liability shall be limited to losses which are foreseeable and contractually typical at the time the contract was concluded. Essential contractual obligations are those which enable the proper fulfilment of the contract in the first place and which the Customer may regularly rely on to be fulfilled. Apart from that, the liability of VM shall be excluded irrespective of legal grounds. VM does not assume any liability due to initial defects regardless of culpability. This limited liability shall also apply to the personal liability of VM's legal representatives, employees and vicarious agents.

Section 9 - Confidentiality and Data Protection

I. The parties shall observe data protection regulations, in particular those of the General Data Protection Regulation (GDPR), the German Federal Data Protection Act (BDSG) and the German Telemedia Act (TMG). Insofar as VM processes personal data on behalf of the Customer, such data shall be processed according to the instructions of the Customer (Controller) that may especially arise from the Agreement and the Customer settings in the Web interface or made through the API. The Customer assures VM that it will duly inform data subjects in its advertising environment about the data processing and obtain all necessary consent; Section 5 Article 2 shall apply correspondingly. The parties shall specify the details for data processing in a separate agreement, which may also involve an appendix to the User Agreement.

II. Both parties are obligated to keep confidential business and trade secrets of the respective other party which have been expressly declared as such by this or are identifiable as such. The confidentiality obligation shall not extend to information that was already known to one party or was made public legally by a third party not bound by a confidentiality obligation, was already public knowledge or became publicly known without violating this confidentiality obligation, must be disclosed due to statutory, judicial or official reasons or is excluded from confidentiality in writing by the respective other party. The confidentiality obligation shall also not apply to employees, consultants, vicarious agents and companies with which the company is affiliated according to Section 15 of the German Stock Corporation Act (AktG). However, information may be disclosed to these persons only insofar as this is necessary. Moreover, these persons shall be bound to confidentiality in advance, provided that such an obligation does not already exist. The content of this Agreement but not its existence as such is also subject to confidentiality obligations. The Customer shall not be entitled to obtain business secrets through observation, evaluation, reverse engineering or testing of VM's system or use or disclose secrets obtained in doing so. Any additional legal confidentiality obligations shall remain unaffected.

Section 10 - Final Provisions

I. Even in the event of the legal invalidity of individual provisions, the contract shall remain binding in its remaining parts. Statutory provisions shall replace any unenforceable clauses where applicable. However, if this might constitute undue hardship for one party, the contract as a whole shall become invalid.

II. Insofar as terms such as "auction" or "purchase" are used in connection with the use of advertising services, this shall serve solely for better understanding and not constitute a specific reference to the respective legal regulations such as Section 156 of the German Civil Code (BGB) or sales law.

III. If the Customer is a businessman, a legal person under public law or a public law special fund, Düsseldorf shall hereby be agreed on as the exclusive place of jurisdiction for all claims which arise under or on the basis of the Agreement. The same shall apply in relation to persons who do not have a general place of jurisdiction in Germany, who relocate their place of residence or usual whereabouts to a country outside Germany following the conclusion of the contract or whose place of residence or usual whereabouts is not known at the time of the commencement of proceedings. The laws of the Federal Republic of Germany shall apply.

IV. There are no undocumented side agreements. Modifications of the Agreement (including its components such as appendices) require the written form to become effective. Insofar as the Agreement requires the written form, transmission by telecommunication of the signed document shall suffice in case of doubt (via telefax or as a scan via email); where requested, the original of the document shall be submitted immediately. Apart from that, contractual declarations shall be made in writing or, if applicable, via the web interface or the API of VM. The cancellation of the contractual written form requirement shall also require the written form.

V. The Customer may set off only such claims against VM to which it is entitled under the same contractual relationship or which are not disputed by VM or have been recognised by a court. The Customer may assert the right of retention only if the counterclaims are based on the same contractual relationship.