INCAMAIL AGREEMENT WITH BUSINESS CUSTOMERS

Preamble

IncaMail is a secure email platform for secure and verifiable electronic message exchange that helps you to exchange email messages with confidential content ("**IncaMail**"). With IncaMail, the Service Provider offers a secure email platform for secure and verifiable electronic message exchange. The Customer shall in the future use this platform to exchange email messages with confidential content.

Both the sender and recipient have various types of service or connection available to them for sending and receiving messages. Senders transmit the emails via an encrypted channel to the IncaMail platform which is then responsible for the encrypted delivery to the email address(es) selected by the sender. The type and method of transmission is based here on the type of service chosen by the respective subscriber. The status of the messages is recorded by the Service Provider and may be viewed by the sender and recipient depending on the type of service selected. The sender has various dispatch methods available to it. Details of how IncaMail operates are described on the website www.incamail.com.

This business customer agreement is concluded between you, the customer (hereinafter referred to as the "**Customer**") and **Post CH Communication Ltd** (*registered seat: Wankdorfallee 4, 3030 Bern, Switzerland*) the service provider (hereinafter referred to as the "**Service Provider**"). The Customer and the Service Provider are hereinafter each referred to as the "**Party**", or jointly as the "**Parties**".

This business customer agreement governs the access and use of the IncaMail Services offered by the Service Provider, including websites and technologies or functions and relating Software and the cooperation obligations of the Customer.

By executing an order form that references this Agreement (the "Order Form"), the Customer agrees to the terms of this Agreement and the IncaMail Terms of Service. This Agreement, together with the applicable Order Form, the IncaMail Terms of Service, any Feature-Specific Terms, the Acceptable Use Policy, the Service-Level Agreement, and the Data Processing Agreement (if applicable) constitute the entire agreement of the Parties (together referred to as the "**Agreement**").

The rights and duties of the Parties are conclusively set forth in this Agreement. The General Terms and Conditions of the Customer are excluded.

1. **DEFINITIONS AND INTERPRETATION**

   In addition to the terms defined elsewhere in this Agreement, the definitions and other provisions in Section 19 apply throughout this Agreement, unless the contrary intention appears.

2. **SCOPE OF THE SERVICE**

2.1 **Services**: Service Provider will (i) use commercially reasonable efforts to make the Services available to the Customer in accordance with the Service-Level Agreement (inseparable Annex 1 to this Agreement); furthermore (ii) provide applicable standard customer support for the Services to the Customer at no additional charge. The Service to be provided by Service Provider is limited to making the IncaMail platform accessible, enabling the exchange of messages that flow over it, and providing the support described in this Agreement.

2.2 Any additional services must be agreed separately, in writing by the Parties. The Customer shall be authorised to use the IncaMail service types selected as listed on the Order Form, in accordance with the provisions of this Agreement. The Customer shall provide the Service Provider with all necessary technical information required in order to activate the IncaMail Service.

2.3 **Feature-Specific Terms**: Certain services or functionalities may be subject to additional terms specific to the relevant service or functionality as specified in the Feature-Specific Terms. By accessing or using the relevant service or functionality covered by the Feature-Specific Terms, Customer also agrees to the Feature-Specific Terms. In case of any discrepancies between the Feature-Specific Terms and this Agreement, the provisions of the Feature-Specific Terms shall prevail.

2.4 **Changes in the Service**: Customer acknowledges that the Service Provider may modify the features and functionality of the Services during the Subscription Term. If the Service Provider changes the Services in a manner that materially reduces the functionality of or limits access to certain features, the Service Provider will notify the Customer. After receiving such a notice, the Customer may terminate this Agreement within 30 days. In such a case, the Customer will be provided with a pro-rata refund of any pre-payment.

2.5 **Affiliates**: Customer may extend its rights and benefits under this Agreement to its Affiliates. Customer must notify the Service Provider 15 days in advance regarding any new Affiliate contemplated to use the Service Provider's services. Upon the Service Provider's acknowledgement of receipt, the notified Affiliate will become an Authorized Affiliate and will be entitled to use the Service Provider's services in accordance with this Agreement and the Order Form. Customer agrees that it will be responsible for its Affiliates' compliance with this Agreement.

2.6 **Mail sent as "Registered":** If the recipient of an IncaMail message that is sent as "Registered" is registered on a secure email platform which is interoperable with IncaMail, the message can be delivered to the other platform and consequently leaves the domain of the Service Provider. Any acknowledgements of receipt shall be sent by the Service Provider to the Customer, or the sender based on a confirmation from the other platform. Every day, i.e. including Saturdays, Sundays and public holidays, counts in computing the pickup periods and availabilities.

2.7 **EAI:** means "Enterprise Application Integration" describing the connection type with which a specialist application is connected via an interface to IncaMail for sending and/or receiving IncaMail messages.

2.8 **MGI**: means "Mail Gateway Integration" describing the connection type with which the mail infrastructure of a customer is connected via a secure connection (enforced TLS) to IncaMail for sending and receiving IncaMail messages.

3. **USE OF THE SERVICES**

3.1 **Access Rights**: During the Subscription Term, the Service Provider grants to the Customer a non-exclusive and non-transferable right to use the Service in accordance with this Agreement and solely for Customer's and its Authorized Affiliates' internal business purposes. Access and use of the Services is restricted to the specified number of the individual Company Administered Users in accordance with the Order Form.

3.2 **Subscription:** The Customer, and not Service Provider, is responsible for the internal management or administration of the Service. The Customer needs to submit an order for the subscription to IncaMail by choosing the preferred pricing plan on www.incamail.com, agree to this IncaMail Agreement with Business Customers and the IncaMail Terms of Service, then confirm its order via the email received from the Service Provider in 24 hours. The Customer then needs to register an account related to the subscription ("Company Administered User Accounts") to access or use the Services. All information provided during the purchase and the account registration process must be valid, accurate, current and complete, and the Customer hereby agrees to keep this information up to date during the term of its subscription.

3.3 **Restrictions**: The Customer and its Users may not, and may not attempt to, directly or indirectly (i) sell, resell or lease the Services or Software; (ii) remove, obscure, or alter any notice of any of the Service Provider's or third parties' trademarks, or other notices of Intellectual Property Rights appearing on or contained within the Services; (iii) modify, copy, tamper with or otherwise create derivative works based on the Software or the Services; (iv) analyze, reverse engineer, disassemble, or decompile the Software or the Services or apply any other process or procedure to derive the source code of any software of the Services, except for the scope in which such limitation is explicitly prohibited by law.

3.4 **Preconditions for use:**

IncaMail can only be used if (a) the Customer agrees to Agreement and to the IncaMail Terms of Service and all documents referred to therein; (b) the Customer or a third party authorised by it has integrated the requested service type with the interfaces provided by IncaMail into its infrastructure; (c) the Customer has notified the Service Provider of all necessary information needed, based on the type of service chosen; (d) there are valid means to access the IncaMail platform (domain certificate, password etc.); e) the Customer has completed the set up and testing of the Service after creating its IncaMail account. The Customer warrants that the information it provides when this Agreement is concluded is

truthful. In the event of a change in the information (e.g. domain certificate), Customer shall immediately notify the Service Provider immediately. During the subscription flow the Customer must specify all employees of the company and Customer agrees to notify the Services provider of any change in this figure. A change in this figure can only be made quarterly and such change must be actively reported by the Customer to support@incamail.ch prior to the re-invoicing.

Service Provider may, without stating any reasons, refuse to provide the Service or grant only limited access to the Service (e.g. the right to only receive messages) to certain Customers. An internet connection is always necessary for opening messages and acknowledgements of receipt.

3.5 **Communication with Swiss Authorities:**

In Switzerland, IncaMail is a recognised platform for secure delivery in proceedings, to which the Swiss Civil Procedure Code (ZPO), the Debt Enforcement and Bankruptcy Act (SchKG), the Swiss Criminal Procedure Code (StPO) or the Federal Administrative Procedure Act (VwVG) apply. The details are set forth in the relevant laws and implementing provisions. The addresses of the participating authorities are published in the directory of the Federal Chancellery (www.ch.ch/ejustice). Customer acknowledges that generally (a) only an IncaMail message that is sent as "Registered" is permitted as a proper service to authorities, as defined in the said statutes; and (b) it is mandatory for communications to be sent with a qualified electronic signature, pursuant to the Federal Act on Electronic Signatures. Additional preconditions for admissibility may be stipulated in the relevant laws and implementing provisions. Products for creating qualified electronic signatures are not subject of this Agreement. If the Customer to electronically accept service of notices (summons, orders, decisions) from courts and authorities intends in civil, criminal and administrative proceedings, it (or his employees) must register initially with IncaMail to receive registered mail. The result of such registration is that the Customer is included in the cross-platform directory of subscribers. In accordance with the Swiss statutory provisions, the Customer must also inform the courts and authorities of its decision that it wishes to accept service of notices electronically (Transmission Regulation, VeÜ-ZSSV, SR 272.1). The Customer or the individual email address owner may change its registered mail settings in its IncaMail profile at any time.

4. FEES AND PAYMENT TERMS

4.1 **Subscription**: The Services are offered online, on a subscription basis and are provided by the Service Provider for the Subscription Term. Unless otherwise specified in the Order Form, the Subscription Term shall automatically renew for additional periods of the same duration as the original Subscription Term, except if either Party requests for termination, prior to the end of the then-current Subscription Term.

4.2 **Fees**: The Customer will pay all Fees to Service Provider as specified in the Order Form. The Service Provider's current prices and features are published on the Service Provider's website (www.incamail.com). The Fee of those messages which are undeliverable for such reasons that are not attributable to the Service Provider (e.g. typos in the e-mail address; unavailable receiver system, etc.) shall be borne by the Customer. All Fees are payable quarterly, including pro-rata payment of the annual Fees, unless otherwise specified in the Order Form. For the first quarter, the Fee shall be invoiced by the Service Provider at the end of the first business quarter following the activation of the Subscription. Service Provider reserves the right to change the Fees after the first year of the Subscription Term, by providing at least 30 days' notice to the Customers.

4.3 In the case of the fixed price mode, the Customer accepts to pay the fees after the actual employee number reported, even in the case when the number of the actual user becomes less. Should the actual number if the users become more than the employee number reported, the Customer will pay the fees based on the actual user number (over usage).

4.4 **Payment:** The Customer will pay to the Service Provider all applicable Fees for the Services, in the currency quoted at the time of the purchase. Customer authorizes the Service Provider or Permitted Third Party Provider to charge the Customer for all applicable Fees using the Customer's selected payment method. The use of these payment methods offered by the Service Provider or the Permitted Third Party Providers shall be the subject of the relevant services offered, and it is not subject to this Agreement. The Customer acknowledges that, if the provided payment is made by credit card, the Service Provider shall be authorized to assign its claims to the corresponding credit card company. The provisions of the credit card agreement shall apply in this case. Fees are non-refundable, except as required by law or as

otherwise specifically permitted in this Agreement. In case of wire transfer payment, Customer must pay the Fees invoiced within 30 days from the invoice date to the bank account indicated on the invoice.

4.5 The Customer must provide current, complete and accurate billing information. In the event of late payment, the Service Provider shall be entitled to charge a prorated interest for delay at an annual rate of 5% of the outstanding balance, but not more than the highest rate permitted by applicable law. The Customer cannot offset claims by the Service Provider with any counterclaims.

4.6 **Taxes:** Fees are exclusive of taxes and the Customer is responsible for all taxes. Service Provider will invoice the Customer for such taxes, if the Service Provider believes that it has a legal obligation to do so, and the Customer agrees to pay such taxes, if so invoiced. If the Customer is exempt from paying any taxes, the Customer must provide the Service Provider with a valid exemption certificate for all relevant jurisdictions, and the Service Provider will not collect the taxes covered by the relevant certificate.

4.7 **Cancellation and downgrades**: No refunds or credits for fees or payments will be provided to the Customer, if Customer elects to downgrade or cancel certain Services. If Customer decides to downgrade or cancel, changes will take effect from the day following the last day of the then-current Term. Customer accepts that downgrading the Service may cause loss of content, features, or capacity of the Service, and Service Provider does not accept any liability for such loss.

5. CUSTOMER CONTENT

5.1 **Confidentiality:** The Service Provider warrants that any messages sent via IncaMail have the following characteristics: integrity, non-repudiability, confidentiality and authentication (www.incamail.com). The Service Provider warrants that the messages sent via IncaMail within the Subscription Term can be decrypted for 24 months from the date on which they are sent. The Service Provider may, if it informs the Customer accordingly, allow decryption after the mentioned period, or in exceptional cases shorten the period due to security reasons.

5.2 **Limited Permission:** This Agreement does not grant the Service Provider any ownership over the Customer Content or Customer's intellectual property, except for the limited rights that are reasonably necessary for the Service Provider to provide the Services in accordance with this Agreement, in particular, to store, backup or transfer Customer Content and Service Data.

5.3 **Content:** The Customer understands that he/she is fully and solely responsible and accountable for his/her use of the Services, including the content of messages, i.e. the Customer Content.

5.4 **Indemnity**: To the extent permitted by law, Customer will defend, indemnify and hold harmless the Service Provider and its employees and affiliates, from and against any claims, incidents, liabilities, procedures, damages, losses and expenses, including reasonable legal and accounting fees, arising out of or in any way connected with the access or use of the Services by the Customer or its Company Administered Users, or the violation of this Agreement by the Customer or its Company Administered Users, including any third-party claims relating to the Customer Content.

6. CUSTOMER'S RESPONSIBILITIES

6.1 **Consequences of non-compliance, indemnification**: The Customer shall be liable for loss or damage incurred by the Service Provider or third parties because of the content of the electronic messages transmitted by the Customer using the Services or as a result of the misuse or the non-contractual or illegal use of the Services. If, as a result of culpable breaches by the Customer of the obligations as set out in clause 7.2, third parties make claims directly against the Service Provider, the Customer undertakes to fully indemnify the Service Provider in particular for litigation costs. The Service Provider shall inform the Customer immediately if such claims are made.

6.2 **Careful retention of the access tools**: The Customer is responsible for maintaining the confidentiality of passwords and Customer accounts. In particular, the Customers must keep their usernames and passwords separate from each other and ensure that both they and any devices that are used are not misused by third parties. If third parties have access to the customer account in question, Customer must be liable for the actions of these third parties in the same way as they are for his own actions. If the Customer has a reason to believe that an unauthorized third party knows or can access the access tools,

Customer must change the password immediately or notify the Service Provider thereof. The Customer, and not the Service Provider, is responsible for the internal management or administration of the Services. The Services support logins using two-step authentication.

6.3 **Compliance**: Customer and its Users must use the Services in compliance with this Agreement, the Terms of Service and the Acceptable Use Policy available at https://support.incamail.com/hc/en-us/categories/20994510996114-Legal-Information. As between the Parties, the Customer is responsible for compliance with the provisions of this Agreement and the Acceptable Use Policy, including for any and all activities that occur under the Company Administered User Accounts. The Customer is solely responsible for compliance with the laws and regulations applicable to the Customer's and Company Administered User's use of the Services. The Customer maintains all responsibility for determining whether the Services are accurate or sufficient for the Customer's purposes.

6.4 **Legal effect and admissibility of electronically transmitted messages**

The information in Section 6.5 is not binding or exhaustive. It is the exclusive responsibility of the Customer to undertake due diligence concerning the legal effect and admissibility of electronically transmitted messages in individual cases. The legal effects of the electronic messages sent and received via IncaMail shall be governed in individual cases by the statutory provisions and judicial and institutional practice of the national jurisdiction responsible for adjudication, as well as by any existing private agreements. The use of IncaMail, including, in particular, for the purpose of adhering to time limits, shall be exclusively for the benefit and at the risk of the Customer. In relation to adhering to time limits, it must be noted that delays may occur with electronic transmission. The legal effects described in this Agreement are based on Swiss law. The Customer acknowledges that the exchange of data with a (qualified) signature and/or encrypted data outside Switzerland is subject to foreign jurisdictions and that therefore different effects may result which may be more or less extensive than is the case under Swiss law. The exchange of encrypted messages is also subject to statutory restrictions in certain foreign states. It is the Customer's responsibility to save on its system the messages and acknowledgements of receipt sent and received via IncaMail for any evidentiary purposes in a way that allows their content or the message exchange that has been performed to be unequivocally restored where necessary.

6.5 **Embargoed Countries**:

The exchange of encrypted messages might be subject to statutory restrictions under the laws of the country in which the Customer intends to use the Services. It is the Customer's sole obligation and responsibility to check such limitations before using the Services and to comply with such restrictions and limitations.

The Customer shall not access or use the Services if Customer is located in any jurisdiction in which the provision of the Services, the Software or other components is prohibited under the laws of Switzerland, the United States or the European Union or other applicable laws or regulations (a "Prohibited Jurisdiction") and Customer shall not provide access to the Services to any government, entity or individual located in any Prohibited Jurisdiction. Customer represents and warrants that (i) Customer is not prohibited from receiving Swiss, EU or US exports; (ii) Customer is not a national of, or a company registered in, any Prohibited Jurisdiction; (iii) the Customer shall not permit the Company Administered Customers to access or use the Services in violation of any U.S. or other applicable export embargoes, prohibitions or restrictions; and (iv) Customer shall comply with all applicable export laws regarding the transmission of technical data.

6.6 **Internet connection:** The Customer understands that certain functions of the Services require Internet connection. The Customer is responsible for procuring and maintaining the network connections that connect your network to the Services, including, but not limited to, "browser" software that supports protocols used by the Service Provider. The Customer is responsible for obtaining and maintaining all connectivity, computer software, hardware and other equipment needed for access to and use of the Services.

7. COLLABORATION

Administrator: The Customer may appoint selected Company Administered User(s) as "Administrator(s)" and may change this role at any time. Administrators may have the ability to monitor, restrict or

terminate access to Company Administered User Accounts. In addition, Administrators may be entitled to request different or additional services (including setting up policies and two-step verification for Customer accounts), assist in third-party product integrations, and accept notices, disclosures, and terms and conditions. Customer is responsible for informing Company Administered Users and Collaborators of all policies and practices that are relevant to the use of the Service Provider Services and any settings that may impact the processing of Personal Data.

8. DATA PROCESSING

8.1 **Personal Data**: In order to operate and provide the Services, the Service Provider processes certain information (hereinafter referred to as the "**Service Data**") that may include Personal Data. Further information about how the Service Provider collects, uses and discloses Personal Data is set out in the IncaMail Privacy Policy and the Data Processing Agreement (if applicable).

8.2 **Data Processing on behalf Customer:** By entering into this Agreement, the Customer instructs the Service Provider to process Company Personal Data on its behalf and to provide the Services in accordance with the Service Provider's features and functionalities, or as further documented by mutually agreed upon written instructions given by the Customer and accepted by the Service Provider. The Parties shall enter into a Data Processing Agreement that shall be incorporated by reference herein into this Agreement, once signed by the Parties. The Customer cannot process any information via the Services that falls within the definition of "Protected Health Information" under the HIPAA Privacy Rule (45 C.F.R. Section 164.051), unless the Customer and the Service Provider have entered into a separate HIPAA Business Associate Agreement.

8.3 **Sub-processors**: The Customer agrees that in providing the Services, the Service Provider will engage entities within the Service Provider group and authorized service providers, to process Service Data (hereinafter referred to as the "**Sub-processors**"), including and without limitation, any associated Company Personal Data under this Agreement within the EEA, the United States and in other countries and territories. The list of Sub-processors is available at https://support.incamail.com/hc/en-us/categories/20994510996114-Legal-Information.

8.4 **Data transfers**: The Customer agrees that the Service Provider and its Sub-processors may transfer Service Data between their servers, to the devices of IncaMail Users, and as a result, Users may have access to Service Data in locations other than Customer's country.

8.5 **Data Processing on behalf Customer having a business account**: If the Customer has an account for business purposes, by entering into this Agreement Customer instructs the Service Provider to process Personal Data on its behalf and to provide the Services in accordance with IncaMail features and functionalities or as further documented by mutually-agreed upon written instructions given by Customer and accepted by the Service Provider. Customer acknowledges that its users' use of the Services is subject to IncaMail Privacy Policy and understand that it identifies how the Service Provider collects, stores, and uses certain information. Customer will make its users familiar with the Privacy Policy.

8.6 **Data Processing Agreement:** If the Customer has an account for business purposes and is subject to the Swiss or EU Data Protection Laws, the Customer agrees to the Data Processing Addendum.

8.7 The Customer acknowledges that the home address entered by it may be provided to the recipient of a message as an automatic part of the message and on acknowledgements of receipt and may also be provided to the sender of a message as an automatic part on acknowledgements of receipt.

9. THIRD-PARTY REQUESTS

9. 1. **Service Provider Responsibility**: If the Service Provider receives a Third-party Request relating to the Customer, then - to the extent allowed by law and by the terms of the Third-party Request - the Service Provider will make commercially reasonable efforts to: (i) notify the Customer promptly of Service Provider's receipt of a Third-party Request; (ii) comply with the Customer's commercially reasonable requests regarding its efforts to oppose a Third-party Request; and (iii) provide the Customer with the information or tools required for the Customer to respond to the Third-party Request, if the Customer is otherwise unable to respond to the Third-party Request.

9. 2.   If Customer fails to respond promptly to any Third-party Request, the Service Provider may, but will not be obligated to, do so. In particular, the Service Provider may provide Service Data in response to a Third-party Request, respecting all limitations in clause 5.1, if the Service Provider has a reason to believe that it is required: (i) to comply with any law or order issued by any legal authority; (ii) to avoid infringement of the rights of a third party; (iii) to protect the property of the Service Provider or the personal safety of our users and the public.

9. 3.   **Involvement of third parties:**

Subcontractor: the Customer authorizes the Service Provider to engage its Affiliates as third-party service providers any time into the provision of the Services ("Permitted Third Party Provider"), this also applies in particular to the product development and functionalities, furthermore, the maintenance and support of the Services (specifically by Tresorit Kft.) The list of the third parties is available here: https://support.incamail.com/hc/en-us/categories/20994510996114-Legal-Information.

10.   INTELLECTUAL PROPERTY RIGHTS

10.1   **Reservation of Rights**: Each Party and/or any third parties shall retain all rights, title and interest in and to all its respective patents, inventions, copyrights, trademarks, domain names, databases trade secrets, know-how and any other intellectual property and/or proprietary rights (collectively referred to as the "**Intellectual Property Rights**"). Except as expressly set out in this Agreement, this Agreement does not grant any right, title, or interest to the Customer with respect to the Services or in any Service Provider Intellectual Property Rights.

10.2   **Software**: the Service Provider and/or any third parties remain the owners of the Software at all times. The Service Provider grants to the Customer a limited non-exclusive, non-transferable license to use the Software in connection with the Services and in accordance with this Agreement. The Service Provider and its licensors retain the ownership of all copies of the Software, even after installation on any Customer device. Any updates provided by the Service Provider shall be deemed to be subject to this Agreement, unless the Service Provider indicates otherwise. Depending on the update, the Company Administered Users may not be able to use the Services, until they have downloaded the latest version of the Software and accepted any new terms.

10.3   The Customer acknowledges that the Software may contain third-party, open-source software components ("**Open-Source Component**"). To the extent required by the licenses covering Open-Source Components, the terms of such licenses will apply in lieu of this Agreement with respect to that component of the Software. The list of the Open-Source Components of the Software is available on the IncaMail website (https://support.incamail.com/hc/en-us/categories/20994510996114-Legal-Information).

10.4   **Feedback**: The Service Provider may use any feedback, ideas, comments, enhancement requests, recommendations or suggestions ("Suggestions") that the Customer sends or shares with the Service Provider. The Service Provider is hereby granted a world-wide, royalty free, irrevocable, perpetual license to use and otherwise incorporate any Suggestions.

10.5   **Identifying Customer**: The Service Provider may publish and identify the Customer as a user of the Service, and the Customer hereby grants to the Service Provider a non-exclusive, fully paid-up license to use its logos and trademarks and agrees that the Service Provider may on its website and in other marketing materials use any logo and/or name associated with the Customer. The Service Provider agrees to comply with all reasonable guidelines and directions of the Customer regarding the form, manner and application of such logos and trademarks.

11.   CONFIDENTIALITY

11.1   **Confidential Information**: "Confidential Information" means all information disclosed by a Party ("Discloser") to the other Party ("Receiver"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information does not include any information which (i) in the public domain not by breach of this Agreement, (ii) known by the Receiver at the time of disclosure, (iii) lawfully obtained by the Receiver from a third party other than through a breach of confidence, (iv) independently developed by the Receiver, or (v) expressly indicated by the Discloser as not confidential.

11.2 **Protection of Confidential Information**: The Receiver shall (i) take reasonable measures to protect the Discloser's Confidential Information, and at least those measures it takes to protect its own Confidential Information of a similar nature; and (ii) not disclose Confidential Information to any third parties unless expressly authorized in writing. Each Party may use the other Party's Confidential Information only for the purpose of exercising their rights and performing their obligations under this Agreement.

11.3 **Disclosure**: The Receiver may disclose Confidential Information to its employees, directors, agents, advisors and third-party contractors (the "Representatives") who have a need to know of the Confidential Information, if such Representative is bound to restrictions at least as protective of the other Party's Confidential Information as those set forth in this Agreement. A Party may share the Confidential Information if legally required but must promptly notify the other Party of the requirement, if legally allowed.

11.4 **Retention**: The Receiver must take reasonable steps to destroy or erase any Confidential Information it holds within 30 days of the Discloser's request, except the Receiver may retain copies of the Confidential Information that are securely stored in archival or computer back-up systems or to meet legal or regulatory obligations.

11.5 With regard to message exchange via IncaMail, the Service Provider and the third parties engaged by it to provide its Services guarantee compliance with the regulations on Swiss postal and telecommunications secrecy. The Parties shall also treat as confidential all information and facts that are neither common knowledge nor freely accessible. If in doubt, such information or facts shall be considered confidential. The obligation regarding confidentiality shall begin before the conclusion of the Agreement as well as after its termination. This does not apply to any statutory duty of disclosure. No breach of confidentiality occurs where both Parties exchange confidential information within their group, provided such exchange is required for the performance of work. The Parties shall also ensure that their employees, other auxiliary staff and further contractual partners are aware of and comply with the obligations in this Section 11.

11.6 **Survival**: The provisions set out in section 11 will continue to be effective following the termination of this Agreement without time limitation, until the Confidential Information legitimately become publicly known in Switzerland or worldwide.

12. WARRANTIES

12. 1 **Representations**: Each Party represents, warrants and undertakes that (i) it has full capacity and authority and all necessary consents to enter into and to perform this Agreement and that this Agreement is executed by its duly authorized representative and represents a binding commitment on it; and (ii) the execution and performance of the Agreement does not and will not violate the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

12. 2 **Provided as-is**: the Service Provider provides the Service "as is" and "as available", without express or implied warranty or condition of any kind to the maximum extent permitted by applicable law, except as expressly stated in this Agreement. The Service Provider also disclaims any warranties of merchantability, fitness for a particular purpose or non-infringement or any warranty that the Service are of any particular quality or purpose.

12. 3 **Third-party Services**: The Service Provider has the right to engage third parties to perform its services without the consent of the Customer. Customer understands and agrees that the Service Provider does not control Non-Service Provider Services' features and functionality, and Service Provider is not liable for any damage or loss arising from or in connection with the Customer's use of Non-Service Provider Services. If any Non-Service Provider Service stops providing access to certain features or functionality, the Service Provider may stop providing access to certain features and functionality of the Services. The Service Provider will not be liable to you for any refunds or any damage or loss arising from or in connection with any such change made by the Non-Service Provider Service.

13. LIMITATION OF LIABILITY

13.1 **Limitations**: In no event will the Service Provider be liable for any indirect, special, incidental, or consequential damages under any form or theory or action whatsoever, whether in contract, tort, negligence, strict liability, equity or otherwise, including without limitation, loss of profits, overhead,

damages for loss of goodwill, work stoppage, computer failure or malfunction, or any and all other commercial damages or losses, even if advised of the possibility thereof.

13.2 **Liability cap**: The Customer agrees that the sole and exclusive remedy for unsatisfactory Service shall be the termination of the Service and a refund of any amount already paid by the Customer. Notwithstanding anything contrary in this Agreement, the aggregate liability of the Service Provider, its Affiliates, officers, employees, agents, suppliers or licensors, for all claims arising out of this Agreement or relating the Service is limited to the amounts paid by the Customer to the Service Provider with respect to the Customer's Subscription for the past twelve months of the Service in question, prior to the first event or occurrence giving rise to such liability. The limitation of liability provided above applies in aggregate to any and all claims by the Customer and its Affiliates and shall not be cumulative.

Nothing in this Agreement shall exclude or limit the liability for (i) for intentional and gross negligence, (ii) for any damages arising from injury to life, body or health, or (iii) any other liability to the extent the same may not be excluded or limited by applicable law.

13.3 **Risk allocation:** Each provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages represents an agreed allocation of the risks of this Agreement between the Parties. This allocation is an essential element of the basis of the bargain between the Parties. Each of these provisions is severable and independent of all other provisions of this Agreement, and each of these provisions will apply even if the warranties in this Agreement have failed in their essential purpose.

13.4 **Content of messages:** The Service Provider shall not be liable for loss or damage caused to the Customer or third parties by the content of a message, in particular viruses. If third parties make claims directly against the Service Provider for loss or damage arising as a result of the content of electronic messages sent by the Customer or as a result of the Customer using IncaMail in breach of contract or illegally, the Customer undertakes to fully indemnify the Service Provider. The Service Provider shall inform the Customer immediately if such claims are asserted. The Service Provider furnishes no warranty as to the functionality or fitness for the purpose of third-party products not used by it. It shall not be liable for the proper functioning of third-party systems, such as the internet, the software used by the Customer or other email platforms (specified by the recipient).

14. FREE SERVICES

14. 1 **Free Services**: If the Customer registers for a free trial, or services offered for free of charge (hereinafter referred to as the "**Free Service**"), then Customer may need to accept additional terms and conditions upon registration. Any such additional terms and conditions are hereby incorporated into this Agreement by reference and are legally binding. The applicable provisions of this Agreement will also govern those Free Services.

14. 2 **Beta Services**: From time to time, the Service Provider may release products and features that are still subject to testing and evaluating ("**Beta Service**"). Despite anything to the contrary in this Agreement: (a) the Customer chooses to use Beta Services at its sole discretion and use the Beta Services at its own risk; (b) the Beta Services may not be supported and may be changed at any time without notice; (c) the Beta Services may not be as reliable or available as the Services; (d) the Beta Services have not been subjected to the same security measures and auditing to which the Services have been subjected.

14. 3 **Disclaimer**: The Free Services and the Beta Services are provided "as is" and "as available" without any warranty that may be set forth in this Agreement, and the Service Provider disclaims any implied warranties, including without limitation, merchantability or fitness for a particular purpose, and the Service Provider's total liability for the Free Services and the Beta Services is limited to direct damages finally awarded up to CHF 100.

15. SUSPENSION

15.1 **Suspension for cause**: the Service Provider may suspend access to the Services or restrict its functionality, if (i) the Customer fails to timely pay any amount owed to the Service Provider; or (ii) the Customer or a Company Administered User breaches any provision of this Agreement or the documents referred to in this Agreement; or (iii) the Service Provider has a reason to believe that the Customer is in breach of any applicable law or regulation; or (iv) the Service Provider is requested or directed to do so by any

competent court of law, government authority, public agency, or law enforcement agency; or the (v) the Customer is or becomes subject to any bankruptcy or similar proceedings; or (vi) if, in its sole discretion, the Service Provider believes that the continued use of the Services by the Customer or its Company Administered Users creates legal risk for the Service Provider or presents a threat to the security of the Services or other customers.

15.2 **Notice**: The Service Provider will use commercially reasonable efforts to notify the Customer and the relevant Company Administered User (if applicable) prior to any such suspension, unless the Service Provider reasonably believes that: (i) it is prohibited from doing so under applicable law; or (ii) it is necessary to delay notice in order to prevent imminent harm to the Services, the Service Provider or a third party. If notice is delayed, the Service Provider will provide the notice if and when the related restrictions in the previous sentence no longer apply.

15.3 **Effects of suspension**: If the Service Provider's Services are suspended in accordance with clause 15.1 above, the Customer remains responsible and liable for all fees and charges which have incurred during the term of suspension as well as for any fees for any Service to which the Customer or its Company Administered Users continue to have access. As a result of suspension, Customer Content will not be deleted unless specified otherwise in this Agreement or Customer explicitly requests their deletion.

16. TERM AND TERMINATION

16.1 **Term**: The Parties agree that the commencement date of the Agreement shall be the date when this Agreement is accepted by the Customer on the IncaMail website. The acceptance of this Agreement by the Customer via the website will not create an obligation for the Service Provider to provide the Services. This Agreement will continue in effect for quarterly Subscription Terms and automatically renew quarterly, unless otherwise agreed by the Customer and the Service Provider.

16.2 **Termination for cause**: Either party may terminate this Agreement with a 30-day written notice period. The Customer may terminate this Agreement within its account or by sending an email to support@incamail.ch.

16.3 **Extraordinary termination**: Either Party may terminate this Agreement with notice if the other Party materially breaches this Agreement and such breach is not cured within 15 days after the non-breaching Party provides notice of the breach. In case of termination for cause by the Customer, the Service Provider will provide the Customer with a pro-rata refund of any pre-payment. Service Provider may terminate the Agreement immediately and without advance notice to the Customer if (i) the Customer fails to timely pay any amount owed to the Service Provider; or the Service Provider reasonably believes that (ii) the Services are being used by the Customer or its Users in violation of applicable law, or (iii) continued use of the Services by the Customer (or its Company Administered Users) creates legal risk for the Service Provider or presents a threat to the security of the Services or other customers; or (iv) the Customer or a Company Administered User breaches any provision of this Agreement or the documents referred to in this Agreement.

16.4 **Effects of termination**: If this Agreement is terminated, the rights and licenses granted by Service Provider to the Customer will cease immediately. The Customer acknowledges and agrees that, unless Customer initiates the deletion of Company Administered User Accounts prior to the termination of this Agreement, the Service Provider may convert any Company Administered User Accounts into free personal accounts. After expiry of the notice period, the options of accessing the IncaMail account and decrypting the messages and acknowledgements of receipt shall lapse. The Customer is therefore responsible for ensuring that it saves all encrypted messages and acknowledgements of receipt in good time in unencrypted form before the expiry of the notice period, if it wishes to access them even after this.

16.5 **Survival**: The following sections will survive expiry or termination of this Agreement: 4 (Fees); 6 (Customer's responsibility); 9 (Third-party Requests); 10 (Intellectual Property Rights); 11 (Confidentiality); 13 (Limitation of liability); 16 (Term and termination); 17 (Governing law, dispute resolution); and 18 (Miscellaneous).

17. GOVERNING LAW, DISPUTE RESOLUTION

17.1 **Governing law**: This Agreement and all matters (including, without limitation, any contractual or non-contractual obligations) arising from or connected with it are governed by, and will be construed in accordance with, the laws of Switzerland. Swiss law shall apply, excluding the conflict of laws provisions of international private law and excluding the United Nations Convention on the International Sale of Goods of 11 April 1980 (CISG).

17.2 **Dispute resolution**: In the event of a dispute, the Parties undertake to negotiate in good faith to settle the dispute between them promptly and amicably and without resort to any legal process, if feasible within thirty (30) days following the receipt of a written notice by one Party to the other Party of the existence of such dispute. If the Parties are not successful in resolving the dispute through amicable discussions by the end of such 30-day period, then the Parties shall submit their dispute to the competent courts of Bern, Switzerland. Exclusive place of jurisdiction is Bern, Switzerland. (Partially) mandatory places of jurisdiction remain reserved.

18. MISCELLANEOUS

18.1 **Changes in terms**: The Service Provider may revise the terms of this Agreement, in particular due to changes in the Services or applicable laws and regulations. If, in the Service Provider's sole discretion, an amendment is material, the Customer will be notified in writing with a 30-day notice. If the Customer does not agree to the amended terms, the Customer may terminate this Agreement with 30 days' notice. By continuing to access or use the Services after the amendment enters into effect, the Customer agrees to be bound by the revised Agreement. Despite this clause, changes to this Agreement which are (i) more favorable to the Customer; (ii) required by law; or (iii) related to the addition of a new service, extra functionality to the existing Service; or (iv) changes which neither reduce the Customer's rights nor increase the Customer's responsibilities, will come into effect immediately if they are stated in the change notice.

18.2 **Force Majeure:** the Service Provider will not be liable to the Customer or to any other third party for inadequate performance or any delay in the performance of the Service due to fire, flood, war, riot, strike, explosion, lock out, injunction, natural disaster, pandemic, interruption of transportation, acts of war, terrorism, labour disputes, acts of civil or military authority, power blackouts, computer viruses, or any other event beyond Service Provider's reasonable control.

18.3 **Assignment**: The Customer may not assign or transfer this Agreement or any rights or obligations under this Agreement without the Service Provider's written consent. The Service Provider may not assign this Agreement without providing notice to the Customer. However, the Service Provider may freely assign its rights and obligations under this Agreement in its entirety to an Affiliate or in connection with a merger, acquisition, corporate reorganization or sale of all or substantially all of its assets provided that any such successor agrees to fulfil the Service Provider's obligations under this Agreement.

18.4 **Waiver, remedy**: The failure of either Party to enforce a provision of this Agreement is not a waiver of its right to do so later. The waiver by the Service Provider of any breach shall not be deemed a waiver of any subsequent breach of the same or any other term of this Agreement. Any remedy made available to the Service Provider by any of the provisions of this Agreement is not intended to be exclusive of any other remedy.

18.5 **Expiration of Claims**: Both Parties agree that except for claims related to the indemnification obligations above, all claims arising under or related to this Agreement must be brought within two years after the date the cause of action arose.

18.6 **Severance**: The provisions of this Agreement apply to the maximum extent permitted by law. If any court or relevant authority decides that any part of this Agreement is unlawful, unenforceable, or invalid, the remaining clauses will remain in full force and effect.

18.7 **Entire Agreement:** This Agreement, including its annexes, constitutes the entire agreement and understanding of the Parties and supersede any previous agreement between the Parties (whether written or oral) relating to the subject matter of this Agreement. In the case of any conflict or inconsistency between the following documents, the order of precedence will be (i) the Order Form, (ii) the Data Processing Agreement, (iii) this Agreement; (iv) the IncaMail Terms of Service. If the Customer requires the use of a purchase order, no provision of any such document used by the Customer will

supersede or supplement this Agreement, and the terms and conditions of any such purchase order will have no legal effect.

18.8 **Notices, language**: Notifications, enquiries, cancellations and all types of notices must be made in writing, whereby simple written form (simple electronic signature) is sufficient for digital solutions. The contact e-mail address provided by the Customer on the Order Form must be used. A deadline is deemed to have been met if the notice is posted on the last day of the deadline (time stamp for an e-mail, postmark for postal items, receipt for personal delivery). Any notices addressed to the Service Provider shall be sent via e-mail to support@incamail.ch. A Party shall not attempt to prevent or delay the service on it of a notice connected with this Agreement.

18.9 This Agreement is drawn up in the German language. Any notice given under or in connection with this Agreement shall be in German. Service Provider may provide translations of this Agreement or other terms or policies in English, French and Italian languages. Translations are provided for informational purposes only. If there is any inconsistency or conflict between a translation and the German version, the German version will apply.

19. DEFINITIONS

In this Agreement:

Administrator means selected Company Administered User(s) designated by the Customer, who administers the Services on behalf of the Customer. Administrators may have the ability to monitor, restrict or terminate access to accounts relating to the Customer' Subscription.

Affiliate means a legal entity in which a party has a direct or indirect interest of more than 50% and which it directly or indirectly controls.

Account Activation Date means the date when the Customer validates its subscription order request via email verification.

Subscription Activation Date means the date when the Subscription Term starts, after the 30 days' setup period has expired for the Customer and the Customer has confirmed that it wishes to use the Service.

Agreement means this business customer agreement, as may be amended from time to time in accordance with its terms, together with the applicable Order Form, any Feature-Specific Terms, the Service-Level Agreement and the Data Processing Agreement (if applicable).

Authorized Affiliate means the Affiliates of the Customer notified to the Service Provider and acknowledged by the Service Provider to use the Services.

Beta Services means products and features that are released by the Service Provider and are still subject to testing and evaluating.

Company Administered User means an individual, whether an employee, business partner, contractor, or agent of a Customer, who is being invited and permitted by the Customer to use the Services subject to this Agreement.

Company Administered User Accounts mean the accounts relating to the Customer' Subscription established for Company Administered Users.

Company Personal Data means Personal Data processed by the Service Provider on behalf of the Customer in connection with the provision of the Services as specified in Annex 1 of the Data Processing Agreement.

Customer means any company or authority that has access to or uses the Services.

Customer Content means any electronically transmitted message sent, uploaded and/or shared through the Services.

Discloser means a Party that discloses Confidential Information to the other Party.

Feature-Specific Terms means additional terms that apply to certain services and functionalities, available at the www.incamail.com website.

Fee means all applicable fees paid by Customer for the Service Provider for the Services.

Free Service means any free trial, or other type of limited offer for use of the Services free of charge.

Intellectual Property Rights means all rights, title and interest in and to all its respective patents, inventions, copyrights, trademarks, domain names, databases, trade secrets, know-how and any other intellectual property and/or proprietary rights.

Non-Service Provider Services means third party products, applications, services, software, networks, websites, databases, and information to which a Service links, or which the Customer may connect to or enable in conjunction with a Service.

Open-Source Component mean third-party components which the Software may contain and which is released under a license that is considered as free software license by the Free Software Foundation (https://support.incamail.com/hc/en-us/categories/20094510996114-Legal-Information).

Order Form means an order submitted by the Customer online or via an ordering document, referencing to this Agreement.

Personal Data shall have the same meaning as under the (Swiss) Federal Act on Data Protection (FADP) and the General Data Protection Regulation (Regulation (EU) 2016/679).

Receiver means the Party that receives Confidential Information from the other Party.

Setup period means the 30-day period following the confirmation of the Customer of its order of the chosen subscription during which the Customer needs to setup and test the Service.

Services means all products and services owned and offered by Service Provider and its third-parties, including applications, websites and technologies or functions and relating Software, which are used or ordered via an Order Form referencing this Agreement.

Service Data means information collected by the Service Provider (and may contain Personal Data), in order to operate and provide the Services.

Subscription Term means the period for which the Customer has agreed to subscribe to the Service.

Software means the software provided by Service Provider (either by download or access through the website) that allows the Customer and its Company Administered Users (where applicable) to use any functionality in connection with the relevant Service.

Sub-processors mean the entities within the Service Provider group and authorized service providers, which are engaged by Service Provider in providing the Services, to process Service Data.

Suggestions means any feedback, ideas, comments, enhancement requests, recommendations or suggestions Customer sends or shares with the Service Provider.

Third-party Request means any request from a third-party relating to a User's use of the Services, including Service Data.

User means any individuals using or accessing the Service Provider's Services.

ANNEX 1.

SERVICE LEVEL AGREEMENT (SLA)

This Annex 1. to the IncaMail Agreement with Business Customers details the operational service provision of the Service Provider and the corresponding "Care" support package.

SERVICES IN STANDARD OPERATION

Service level parameters	Target values "Care"	Comment
Operating times	24/7	Except pre-announced maintenance windows
Service times	Mon – Fri 8.00 am – 5:00 pm (CET), excluding general holidays in Switzerland	Outside these times, see stand-by time
Stand-by time	Complementary to the service times	
Support times: **Business Customers Support**	Monday to Friday: 8:00 am – 5:00 pm (CET) via phone; 8:00 am – 24:00 pm (CET) via our website: https://support.incamail.com/hc/requests/new or in e-mail: business@incamail.ch (excluding general Swiss public holidays)	e.g. issues with sending; connection to IncaMail, etc.
Support times: **Recipient Support**	Call-back support for issue and questions sent via our website: https://support.incamail.com/hc/requests/new or in e-mail: support@incamail.ch **Switzerland & international:** Monday to Friday: 7:00 am – 5:00 pm (except general holidays) **Germany:** Monday to Friday: 8:00 am – 5:00 pm (except national holidays)	e.g. issues with opening an IncaMail-Message; forgotten password, etc.
Guaranteed system availability	98.08% Except pre-announced maintenance windows	Measuring period: 1 calendar year.
Pre-announced maintenance windows	Between 12:15 am and 7:00 am (CET) or on weekends Advance notice at least 3 days beforehand	According to catalogue of criteria VeÜ-ZSSV (*Ordinance from 18 June 2010 on Electronic Transmission for Civil and Criminal Trials and for Debt Collection and Bankruptcy Proceedings (VeÜ-ZSSV*)
Extraordinary maintenance windows	Are at the expense of system availability and are announced as early as possible.	

Service level parameters	Target values "Care"	Comment
Delivery period	First delivery attempt within 12 hours after receipt of the message during operating times. The delivery is attempted for a maximum of 72 hours.	
Delivery	The delivery of the messages depends on various external factors (e.g. existing e-mail address, availability of receiving mail system, etc.) and cannot be guaranteed.	
Message status	The sender can find out about the status of the delivery (logbook).	
Receiving capacity	EAI: Maximum of 100 messages per customer per minute. MGI: Maximum of 100 messages per customer per minute.	EAI = enterprise application integration MGI = mail gateway integration
Reporting	Optional monthly reports: Delivery statistics per user account of the customer Account list	Can be requested by the customer Account list = list of all registered e-mail addresses within the customer domain
Advance notice of new deliveries	The customer informs the Service Provider of the delivery with 5,000 or more messages three working days in advance. Regular delivery is to be announced once and with its periodicity.	Announcement to: **Switzerland & international** via email: support@incamail.ch **Germany:** support@incamail.de The announcements are absolutely necessary for providing the support capacities.

INCIDENT MANAGEMENT

Service level parameters	Target values	Comment
Information times	If it takes longer than the defined rectification time to rectify the incident, Service will inform about this at least 2 hours before the end of the rectification time. Update announcements about disruptions are sent every 8 hours until a solution is found.	
Recovery point objective/ maximum data loss	24 hours	
Rectification times	8 hours as target figure	
Incident response times	For fault reports: 120 minutes from receipt of announcement during service times	
Support response times	The working day after the next working day	

DEFINITIONS

Term	Definition
Operating time	The operating time is the time span in which the Service Provider operates the solution (cf. also support times). The basis is an operating time of 7 x 24 hours.
Service times	The service time is the time span during which the Service Provider proactively operates the solution (the service time is complementary to the stand-by time, both together give the operating time).
Stand-by time	The stand-by time is the time span during which the service is maintained with stand-by organisation (the stand-by time is complementary to the service time, both together give the operating time).
Support time	Support time is the time span in which the Service Provider receives announcements by telephone and processes these. Announcements can therefore be received by telephone solely during the support time.
System availability	The ratio of the period in which the system is operatively available to the agreed times. Announced maintenance windows are not included in the calculation of availability. Exceptions are made for disruptions which are beyond the control of the Service Provider or are caused by force majeure. The Service Provider can also offer no guarantee for the availability of the internet. Availability = total time – down time [without maintenance windows] / total time Measuring period: 1 calendar year.
Maintenance	The maintenance window is the time span in which technical, application-based or similar work is carried out on the system, and the system is not available during this time. Planned maintenance and maintenance at short notice (e.g. on account of announced security holes) are not service level-relevant.
Delivery period	Period, after receipt of the message, in which the Service Provider makes at least one delivery attempt.
Delivery	Comprises the process of the delivery of messages to the recipient after receipt.
Message status	Status of the individual messages.
Receiving capacity	Number of messages which the Service Provider guarantees to receive.
Reporting	Reports which business customers can regularly receive.
New delivery	Larger customer delivery (from 5,000 messages) which has not yet been announced.
Information time	If the solution time is longer than the rectification time, the Service Provider informs about this in the information time before the end of the target length.
Recovery point objective (RPO):	Maximum data loss. This defines the maximum time span for how long two data backups may be apart.
Rectification time	The rectification time is the time span within which the fault has to be repaired. The rectification time begins after the end of the response time.
Incident response time	The troubleshooting of incidents is begun within the incident response time.

Term	Definition
Support response time	A first response is given to an enquiry within the support response time. With receipt of an announcement outside of the support time, the response time begins with the start of the support time of the next working day
Measuring period	To determine the availability, the calendar year is used as a basis in each case at the Service Provider.
Incident	An incident is an unplanned interruption to a service, or reduction in the quality of a service. Incidents are discovered by monitoring or can be announced to the support team.
EAI	Enterprise application integration describes the connection type with which a specialist application is connected via an interface to IncaMail for sending and/or receiving IncaMail messages.
MGI	Mail gateway integration describes the connection type with which the mail infrastructure of a customer is connected via a secure connection (enforced TLS) to IncaMail for sending and receiving IncaMail messages.