

---

---

## General Business Terms of retarus (Asia) Pte. Ltd.

All deliveries of Deliverables (the "Deliverables") and services (the "Services") of retarus (Asia) Pte. Ltd. (whose principal trading address is at 60, Tras Street #03-02, Singapore 078999, Republic of Singapore) ("Retarus") to business customers ("Customer(s)") shall be governed by the following terms and conditions (subject to any special terms and conditions contained in an individual service agreement (the "Individual Service Agreement") entered into between Retarus and Customer (hereafter from time to time referred to as "Party" or collectively as "Parties") named therein, and any of Retarus' Special Business Terms (the "SBT") included by reference in the Individual Service Agreement.

### 1 Scope of the GBT, Conclusion of Individual Service Agreements

- 1.1 These General Business Terms (the "GBT") shall apply to the provision of Services or deliveries by Retarus and shall prevail over any inconsistent terms or conditions contained in or referred to in Customers' purchase orders, confirmations of orders, or specifications or any other documentation, or implied by law, trade custom, practice or course of dealing.
- 1.2 Any quotation is valid for a period of 30 days only, and Retarus may withdraw a quotation at any time by notice to Customer. Each order or acceptance of a quotation for Services or Deliverables by Customers shall be deemed to be an offer by Customers subject to these conditions. No binding contract shall come into existence between Retarus and a Customer unless and until Retarus issues a written order acknowledgement, upon which a contract in the form of an Individual Service Agreement shall be deemed to have been entered into.
- 1.3 Customer shall be responsible to Retarus for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by Customer and for giving Retarus any necessary information relating to the Deliverables and/or Services within a sufficient time to enable Retarus to perform its contractual obligations in accordance with its terms.
- 1.4 If any process is to be applied to the Deliverables or in the performance of the Services by Retarus in accordance with a specification submitted by Customer, Customer shall indemnify Retarus against all loss, damages, costs and expenses awarded against or incurred by Retarus in connection with or paid or agreed to be paid by Retarus in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from Retarus' use of Customer's specification. If any allegation of infringement is made by a third party, Retarus is not obliged to enquire into the merits of the allegation but is entitled to terminate the Individual Service Agreement and claim compensation for all loss (including loss of profit) costs (including the cost of all labour and materials used) damages charges and expenses incurred by Retarus up to the time of termination.
- 1.5 If a licence or consent of any third party (including without limitation any governmental or other authority) is required in connection with (a) Customer's purchase or use of the Deliverables or (b) the performance of Services at Customer's premises, Customer shall obtain the licence or consent at its own expense and produce evidence of it to Retarus on demand. Failure to obtain any licence or consent does not entitle Customer to withhold or delay payment of the price. Any additional expenses or charges incurred by Retarus resulting from such failure shall be paid by Customer.
- 1.6 Side letters, supplementary agreements, specifications, warranties, guarantees, representation and other agreements between Retarus and Customer shall be valid only if made in writing and if expressly incorporated by reference in the Individual Service Agreement.
- 1.7 Any typographical, clerical or other error or omission in any sales literature quotation price list acceptance of offer invoice or other document or information issued by Retarus shall be subject to correction without any liability on the part of Retarus.

### 2 Deliverables

- 2.1 The subject matter, scope, features or configurations of the Retarus Services shall be those set forth in the Individual Service Agreement. In the event of any conflicts or inconsistencies in any Individual Service Agreement, the components of the Individual Service Agreement shall take precedence as follows (in order of decreasing importance):
  - the Individual Service Agreement,
  - the Special Business Terms, SBT,
  - the General Business Terms, GBT.
- 2.2 Retarus reserves the right to make technologically required changes and modifications to the agreed Services and Deliverables, provided that the performance specifications and configuration description set forth in the Individual Service Agreement are met or exceeded.
- 2.3 No concluded contract may be modified or cancelled by Customer except with the agreement in writing of Retarus and on terms that Customer shall indemnify Retarus in full against all loss (including loss of profit), costs (including the cost of all labour and materials used) damages charges and expenses incurred by Retarus as a result of the modification or cancellation, as the case may be.
- 2.4 Partial deliveries are permissible.
- 2.5 Goods delivered for testing and demonstration purposes remain the property of Retarus. Customers are obliged to ensure their proper storage and insurance and have to safeguard against third-party access. Customers may only use such goods for purposes other than testing and demonstration after having obtained the written consent from Retarus.

---

### 3 Date of Delivery and Delay in Delivery

- 3.1 Time lines and due dates (“**Delivery Dates**”) are non-binding targets and reference points and approximate only and are not “of the essence” to the performance unless they are expressly agreed to as fixed Delivery Dates in the Individual Service Agreement. Where the Parties have agreed on fixed Delivery Dates, Retarus shall only be considered to be in delay of delivery under the following conditions: (i) delivery is due and (ii) Retarus has requested a reasonable extension which must have been granted by Customer in writing and Retarus fails to deliver within such reasonable extension period; and (iii) such delay has been caused solely by Retarus’ default.
- 3.2 Compliance with fixed Delivery Dates by Retarus requires that Customer timely and fully fulfils Customer’s own obligations to co-operate, to fully comply with the terms of payment and all other obligations of Customer hereunder. Should these obligations not be met on time by Customer for any reason, then without prejudice to any rights or remedies that may be available to Retarus, the agreed Delivery Date shall be extended accordingly.
- 3.3 Should the non-compliance with any agreed Delivery Date be attributable to a Force Majeure Event as defined in Clause 7.1 below, the agreed Delivery Date shall be extended by a period equal to the delay caused by such Force Majeure Event.
- 3.4 In the event of delay in accordance with para 3.1, as its exclusive remedy Customer may terminate the Individual Service Agreement immediately upon written notice. If Customer does not exercise such termination right within 5 business days following the missed fixed Delivery Date, Customer shall be deemed to have waived its right of termination.
- 3.5 Provided that the Parties have not agreed otherwise in the Individual Service Agreement, Retarus is not liable for delays resulting from incorrect, defective or delayed delivery by Retarus’ suppliers, and Retarus is entitled to terminate the affected Individual Service Agreement in such event. Retarus will in any event immediately inform Customer of any incorrect, defective or delayed delivery by Retarus’ suppliers.
- 3.6 If Customer fails to take delivery of the Deliverables or fails to give Retarus adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond Customer’s reasonable control or by reason of Retarus’ fault) then without prejudice to any other right or remedy available to Retarus, Retarus may:
- i. store the Deliverables until actual delivery and charge Customer for the reasonable costs (including insurance) of storage; or
  - ii. sell the Deliverables at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to Customer for the excess over the price under the Individual Service Agreement provided the price has been paid in cleared funds in full or charge Customer for any shortfall below the price under the Individual Service Agreement; or
  - iii. terminate the Individual Service Agreement and claim damages.
- 3.7 If Retarus, being ready willing and able to perform the Services, is prevented by Customer from doing so, then Retarus shall be entitled to declare itself released from the performance of such Services, by notice in writing to Customer, and to claim compensation for all loss (including loss of profit) costs (including the cost of all labour and materials used) damages charges and expenses incurred by Retarus up to the time of the giving of such notice.

### 4 Prices, Terms of Payment

- 4.1 The price of the Deliverables and/or Services shall be the price stated in Retarus’ offer which has been accepted by Customer, or where the price has not been explicitly mentioned, the price listed in Retarus’ published price list current at the date of conclusion of the Individual Service Agreement. The agreed prices are ex works (EXW) pursuant to Incoterms 2010 in Singapore Dollars excluding packaging, delivery expenses and statutory GST.
- 4.2 Retarus may from time to time adjust its prices by written notice to Customer. If Customer does not object in writing within four weeks’ time upon receipt of such notice, then such adjustments shall be deemed accepted. If Customer objects in writing in time, Retarus may, at its option, either terminate the affected Individual Service Agreement within four weeks upon receipt of Customer’s written objection, or proceed to fulfil the Individual Services Agreement at the original price. Retarus will in each case inform Customer in the notices on price increases about Customer’s right to object and the possible consequences of any such objection as outlined above.
- 4.3 By default, Retarus maintains a credit insurance policy to cover payment claims Retarus may have against its customers. Services or Deliverables not insured shall be delivered against advance payment (credit card), cash on delivery or against the provision of another adequate security. In case the financial situation of Customer significantly deteriorates in the opinion of the insurance company or of Retarus, Retarus is entitled to provide all further deliveries only upon advanced payment, to declare all unpaid balances as due and to demand payment in cash or the provision of securities against return of all cheques or bills accepted on account of payment.
- 4.4 Where Retarus does not deliver against payment in advance or cash on delivery, invoices shall be paid within the payment term set forth in the Individual Service Agreement. When there is no payment clause in the Individual Service Agreement, invoices shall be paid within 8 days of the invoice date. Invoices will be issued simultaneously with the delivery of Deliverables or the provision of the Services, pursuant to the relevant Individual Service Agreement. Time shall be of the essence with regard to Customer’s payment obligations.

- 
- 4.5 Unless the Individual Service Agreement states otherwise, Retarus may prepare one aggregate invoice for Customer if Customer orders multiple or different Services or Deliverables from Retarus.
  - 4.6 All invoices regarding usage-based accounts shall be deemed approved by Customer unless Customer raises any specific objection within three weeks of the invoice date. Any such objection shall not relieve Customer from payment of any non-disputed element of the invoice.
  - 4.7 All payments by Customer shall be made in full without any set-off or counter-claim or deductions whatsoever to the bank account identified by Retarus. Retarus accepts bills or cheques only if beforehand agreed and only on account of payment. Any discount, banking charges, taxes or similar expenses are on Customer's account.
  - 4.8 The day of receipt of cleared funds into Retarus' bank account shall be decisive for calculating whether payment has been made when due.
  - 4.9 Without prejudice to any rights or remedies that may be available to Retarus in the event of late payment, Retarus may
    - i. suspend performance of the Services and Deliverables for as long as Customer is in delay of payment, and/or
    - ii. charge interest on the overdue amount payable by Customer immediately from issuing a demand, as from the due date up to the date of actual payment, after as well as before judgment, at the rate of 1 ½ per cent per annum above the base rate for the time being of the Development Bank of Singapore, DBS. Such interest shall accrue on a daily basis and be compounded quarterly.
    - iii. terminate the relevant Individual Service Agreement.

## 5 Protection of Personal Data, Data and IT- Security

- 5.1 If and to the extent Retarus gains access to personal data of Customer or its clients, Retarus will comply with all applicable data protection regulations. If Customer demands information or reports about Retarus' efforts in order to comply with such regulations or a written certification regarding such compliance in writing, Retarus will offer this against adequate reimbursement of all costs emerging from such demand.
- 5.2 If Customer requires Retarus to comply with special data or IT-regulatory standards which are not met by the standards practiced by Retarus, Retarus may at its option comply with such standards at Customer's cost. The same shall apply if Customer demands reports or written certifications regarding Retarus' compliance with such standards.

## 6 Sub-contracting

- 6.1 Retarus may sub-contract the performance of its obligations and duties (fully or partially) to its affiliates or any other third party. If such third parties are engaged by Retarus, they shall be contractually obliged to meet all requirements regarding confidentiality, data protection and data security of these GBT.
- 6.2 On written request of Customer Retarus shall inform Customer about the subject matter of the contract with the third party and the compliance of that sub-contractor with the relevant provisions concerning data protection against adequate reimbursement of all costs from incurred by this. Customer has the right to access the relevant contracts only if such personal access is necessary.

## 7 Force Majeure, Limited Liability of Retarus, Limitation of Customer Claims

- 7.1 In the event of Retarus being delayed in, or prevented from, performing Services under the Individual Service Agreement due to circumstances beyond Retarus' reasonable control including without limitation acts of God, governmental actions, war or national emergency, riot, terrorism, civil commotion, fire, explosion flood, epidemic, lock-outs, strikes or other labour disputes, power outages, failures in telecommunication links or equipment ("**Force Majeure Event**"), Retarus shall not be liable for any loss, damage or expenses incurred by Customer and if a Force Majeure Event continues for a continuous period of more than three (3) weeks, either Party may cancel or suspend the Individual Service Agreement without incurring any liability arising therefrom, provided that Customer shall at all times pay for Services already performed under the Individual Service Agreement.
- 7.2 Subject to following para 7.2.5, Retarus' liability under or in connection with each Individual Service Agreement shall be subject to the limitations set out in this Section.
  - 7.2.1 Retarus shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent) or otherwise for:
    - i. loss of profits, or
    - ii. loss of business, or
    - iii. depletion of goodwill or similar losses, or
    - iv. loss of revenue or anticipated savings, or
    - v. loss of goods, or
    - vi. loss of contract, or
    - vii. loss of production or use, or
    - viii. loss or corruption of data or information, or

- ix. any type of special, indirect, consequential or pure economic loss, costs, damages, charges or expenses (including loss or damage suffered by Customer as a result of an action brought by a third party) even if such loss were reasonably foreseeable or Retarus had been advised of the possibility of Customer incurring the same)

7.2.2 Retarus' total, maximum and cumulative liability (including any liability for act and omissions of its employees, agents and sub-contractors) in respect of any and all claims in contract, tort (including negligence or breach of statutory duty), defective performance, indemnity, misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance or non-performance of the Individual Service Agreement shall be limited to, in any 12-month period during which the Individual Service Agreement remains in force, of the full (100%) price paid by Customer to Retarus during that 12-month period or fifty Thousand (50,000) Singapore Dollars, whichever amount is lower. If a number of events give substantially to the same loss, they shall be regarded as giving rise to only one claim under these GBT.

7.2.3 No action shall be brought by Retarus later than 12 months after the date it became aware of the circumstances giving rise to a claim or the date when it ought reasonably to have become aware, and in any event, any legal action shall be barred unless suit is commenced within two (2) years after the date the cause of action occurs.

7.2.4 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Individual Service Agreement and Retarus GBT. No condition is made or to be implied nor is any warranty given or to be implied as to the life or wear of Deliverables or Services supplied or that they will be suitable for any particular purpose or use under any specific conditions, notwithstanding that such purpose or conditions may be known or made known to Retarus.

7.2.5 Nothing in these GBT exclude or limit the liability of Retarus for death or personal injury caused by Retarus' gross negligence or fraudulent misrepresentation.

## 8 Confidentiality and Protection of Intellectual Property

8.1 Either Party agrees that it shall (i) keep strictly confidential the subject matter of the Individual Service Agreement and any other data disclosed or made accessible (no matter in which form), especially access or login data, software, technical know-how or other confidential information ("**Information**"), and (ii) only use such Information for the intended purpose and not use such Information without the prior written consent of the other Party – neither in whole nor in part – for its own purposes, and each Party shall so advise its employees and other third parties obtaining access to such Information of their obligations with respect to the other Party's Information.

8.2 The provisions set forth in para 8.1 above shall not apply in case and to the extent that such Information (i) is or becomes available without restriction to the general public by acts not attributable to the Parties, (ii) was rightfully in the respective Party's possession without limitation on disclosure before disclosure hereunder, (iii) is rightfully disclosed by a third party without restrictions on disclosure, (iv) was verifiably independently developed by the Party concerned, (v) has to be made accessible to public authorities by law, or (vi) is allowed in writing to be made accessible by the disclosing Party.

8.3 Notwithstanding the confidentiality obligations set forth in preceding para 8.1, Retarus may use Customer's name and the designation of the service rendered by Retarus in order to conduct appropriate reference customer advertising.

8.4 Any and all intellectual property rights (which, without prejudice, shall include copyrights, design rights, patents, trademarks and know-how, whether registered or not in drawings, designs, specifications) in samples, tools, the Deliverables and the Services shall remain vested in Retarus or its licensors only. Customer has a limited, non-exclusive, non-transferable licence to use such intellectual property rights strictly for the purpose of making use of the Services or Deliverables for its own internal business purposes. Save as aforesaid, Customer has no right, interest or title in such intellectual property rights.

## 9 Termination

9.1 Without prejudice to any other right or remedy available to Retarus, Retarus may immediately terminate the Individual Service Agreement, stop any Deliverables in transit, or suspend any further deliveries of Deliverables and/or Services under the Individual Service Agreement without liability to Customer if:

- i. an order is made or a resolution is passed for the winding up of Customer, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to Customer; or
- ii. an order is made for the appointment of an administrator to manage the affairs, business and property of Customer; or
- iii. a receiver is appointed of any of Customer's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of Customer, or if any other person, including but not limited to an encumbrancer takes possession of or sells Customer's assets; or
- iv. Customer makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt; or
- v. Customer ceases, or threatens to cease, to trade; or
- vi. Customer takes or suffers any similar or analogous action to any of the foregoing in any jurisdiction in consequence of debt; or
- vii. Customer has committed a material breach of the Individual Service Agreement and, where such breach is capable of remedy, has failed to remedy that material breach within fourteen (14) days of the issue of a notice by Retarus requesting such remedy.

Upon the occurrence of any of the events set out hereinabove, if the Deliverables and Services have been delivered but not paid for, the price shall become immediately due and payable, notwithstanding any previous agreement or arrangement to the contrary.

- 9.2 Termination of the Individual Service Agreement, however arising, shall not affect or prejudice the accrued rights of the Parties as at termination or the continuation of any provision expressly stated to survive or implicitly surviving termination.

## 10 General Provisions

- 10.1 The assignment or transfer of an Individual Service Agreement by Retarus to third parties do not require the prior approval of Customer in cases of the assignment or transfer (i) to affiliated companies of Retarus or (ii) to a company that acquires all or substantially all of the assets of Retarus or the business unit of Retarus providing the Services under the Individual Service Agreement, provided Retarus informs Customer of such assignment or transfer.
- 10.2 In case a provision of this GBT is or becomes invalid or unenforceable, the effectiveness of the remaining provisions of these GBT shall not be affected. The Parties shall replace the invalid or unenforceable provision by such valid and enforceable provision as comes closest to the Parties' intention at the time of the conclusion of the Individual Service Agreement.
- 10.3 Customer will respect all applicable export or import regulations. All costs resulting from cross-border deliveries, especially customs duties, tolls or other charges are on Customer's expenses. Customer shall be solely responsible for the organisation and handling of all administrative procedures concerning cross-border deliveries unless expressly agreed otherwise in the Individual Service Agreement.
- 10.4 Each Individual Service Agreement constitutes the entire agreement between the Parties relating to its subject matter. Each Party acknowledges that, in entering into the Individual Services Agreement, it does not rely on any statement, representation, assurance or warranty ("**Representation**") of any person (whether a Party to this agreement or not) other than as expressly set out in the Individual Services Agreement.
- 10.5 The Individual Services Agreement is made for the benefit of the Parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else (Contracts (Rights of Third Parties) Act, Cap. 53B).
- 10.6 Alterations or modifications of the Individual Service Agreement shall only be valid if agreed upon in writing. The Individual Services Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of Singapore.
- 10.7 The Parties irrevocably agree that the courts in Singapore shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Individual Services Agreement or its subject matter or formation (including non-contractual disputes or claims). The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any Individual Sale Agreement for the sale of Deliverables or Services.

### **Special Business Terms and Conditions (SBT) of retarus (Asia) Pte. Ltd. for the provision of Communication Services**

All communication services ("Service" or "Services") performed by retarus (Asia) Pte. Ltd. whose principal trading address is at 60, Tras Street #03-02, Singapore 078999, Republic of Singapore ("Retarus") to business customers ("Customer(s)") shall be governed by the following terms and conditions, unless Retarus and Customer (hereafter from time to time referred to as "Party" or collectively as "Parties") agree otherwise in writing on a case-by-case basis (the "Individual Service Agreement"):

#### 1 Subject Matter of the Services

- 1.1 The subject matter and scope of Services to be performed shall be set forth in the Individual Service Agreements. Individual Service Agreements shall be concluded as provided for in Retarus' General Business Terms (hereafter "GBT").
- 1.2 Services will include the on-going delivery of communication services (hereinafter "On-going Services") and may additionally include the one-time delivery of set-up services (hereinafter "Set-Up Services") as a precondition for the delivery of On-going Services. The provision of On-going Services requires individual service requests to be issued by Customer in the agreed format describing individual communications tasks to be performed by Retarus on behalf of Customer.
- 1.3 Only if and to the extent Set-Up Services are explicitly set forth in the respective Individual Service Agreement will Retarus provide Set-Up Services to Customer. As part of these Set-Up Services Retarus will install the Retarus System (as defined below) as interface to Customer's data communications system or a public communications network and/or maintain such for the duration of the Individual Service Agreement.
- 1.4 Any technical devices installed by Retarus at Customer's premises or sent to Customer for self-installation ("Devices") shall remain the property of Retarus unless agreed otherwise. Customer shall have no right to retain any of the Devices provided by Retarus, specifically not after termination of the Individual Service Agreement.
- 1.5 Retarus shall be responsible for operating the Retarus System as defined below and renders On-going Services within the technical and operational limits set forth in Clause 3 hereof, always under the proviso that third party deliveries are supplied correctly, in a timely manner and free from any deficiencies and defects. The "Retarus System" shall mean those parts of the data communication



system and the IT- and telecommunication infrastructure which (i) are owned by Retarus, (ii) are necessary for performing the Services, and (iii) can directly be accessed and controlled by Retarus without involving any (sub-contracting) third party service provider. Therefore, the internet and internet-switch-components operated by the respective internet-service providers are not part of the Retarus System, since they are neither owned nor controlled by Retarus. Retarus is not responsible for technical infrastructure or devices or networks that are outside the Retarus System or that are operated by the Customer or any third party or any adverse effect that these devices or technical infrastructure may have on the Services.

- 1.6 Manuals for any software, Devices or other deliverables will be provided to Customer only if and to the extent explicitly set forth in the Individual Service Agreement. Such manuals will be provided in the English language (unless otherwise agreed in the Individual Service Agreement) and shall be treated as confidential Information according to section 8. of the GBT..
- 1.7 Unless otherwise agreed in the Individual Service Agreement and subject to Clause 5.1 below, the Service term ("Service Term") stated in the Individual Service Agreement starts with the date on which Set-Up Services are completed and Retarus has notified to Customer in writing, via fax or e-mail, that Retarus is ready to start delivery of On-going Services ("Readiness Notification").
- 1.8 Retarus does not provide any representation or warranty that any message or group of messages will be successfully received or transmitted and any liability therefor is expressly excluded. Without limiting what is stated in para 1.5 above, Retarus shall be obligated to
  - (i) apply commercially reasonable efforts to maintain readiness to receive messages and data for and on behalf of Customer, and/or
  - (ii) apply commercially reasonable efforts to store temporarily messages and data up to the moment Customer or the respective addressees designated by Customer have sufficient opportunity to take delivery of these messages and data, and/or
  - (iii) render the agreed or, if not explicitly agreed, a reasonable number of attempts to transfer messages and data to the addressees designated by Customer or from the sender to Customer, and/or
  - (iv) render all reasonable services as may be necessary for converting messages and data between receipt and transfer in the automated and non-automated process for and on behalf of Customer.
- 1.9 Customer acknowledges, that Retarus only acts as transmitter of the messages and does not vet or audit their content for legal, substantive, logical, grammatical, spelling or any other purpose. . Only to the extent that Retarus is undertaking a non-automated message and data conversion between receipt and transfer shall Retarus apply reasonable efforts to immediately inform Customer of obvious defects to and incompleteness of data and messages.
- 1.10 When converting Customer's messages and data as part of the On-going Services, Retarus reserves the right to change form, colour and size of such messages and data, provided any such change is not of significant nature.
- 1.11 Retarus shall be entitled to suspend, block or retain Services individually or in whole, if and to the extent (i) the addressee of the information or data is listed in an officially issued and publicly recognised black list (e.g. Spamhaus), or (ii) it is or becomes necessary for reasons of public safety, for the safety of the communications network, for the interoperability of the Services with other services or networks, for reasons of data protection or for reasons of defending against spam or computer viruses, or (iii) Retarus has good reasons to believe that Customer is in breach of any of its obligations under Clause 4 below, in particular of the obligations under para 4.8 or any breach or suspected breach of applicable laws or regulations. This does, however, not establish a duty on the part of Retarus to compare Customer's address database with publicly recognised black lists. Any of Retarus' notification duties under Clause 3.3 of these SBT are unaffected by this para 1.11.
- 1.12 Any Service request originating from the telecommunications system of Customer which is received by the Retarus System is deemed to be a communication task that has been fully authorised by Customer, unless Retarus knew before or learned about, at the time of performing the communication task, that the Service request was issued by mistake or is/was based on misapplication.
- 1.13 Any use of the Services by third parties (including companies affiliated with Customer) and any re-sale activities on the part of Customer with respect to the Services require Retarus' prior written consent (not to be withheld unreasonably). In case Customer fails to seek such prior consent, Retarus may terminate the respective Individual Service Agreement with immediate effect. If Customer is permitted to allow the Services to be used by third parties, Customer must ensure that such third party uses the Services in accordance with these SBT, the GBT and other applicable provisions in the Individual Service Agreement. Customer shall remain responsible and liable for all acts and omissions of the third party to the same extent as Customer is liable for its own acts and omissions hereunder.
- 1.14 Retarus does not provide permanent storage of incoming and outgoing messages unless expressly agreed upon and set out in an Individual Service Agreement (e.g. in the form of Enterprise E-Mail Archive services) which shall detail the additional costs payable in respect of the storage services. Retarus shall provide storage in respect of messages sent to/from the Customer via the Retarus System in accordance with the service specifications set out in the related Individual Service Agreement. Retarus shall delete all stored messages after the expiry of the underlying Individual Service Agreement.

## 2 Processing of Personal Data by Order of Customer

If and to the extent Retarus, Retarus' employees or third-party sub-contractors pursuant to Section 6 of the GBT process personal data of or provided by Customer (hereinafter: "Personal Data"), Retarus will:

- i. only carry out processing or continue the storage or use of any Personal Data based on Customer's instructions and in accordance with the Personal Data Protection Act (of 2012, Cap.26); and

- 
- ii. implement appropriate technical and organisational measures to protect any Personal Data against unauthorised or unlawful processing, unlawful access to and accidental loss or damage.

### 3 Start of Service Date; Capacity and Availability of the Retarus System

- 3.1 Unless the Individual Service Agreement provides otherwise and subject to Customer's Service requests, Retarus shall from the time of Customer's receipt of the Readiness Notification, perform communication tasks in the order in which Retarus has received individual communication tasks from all its customers – first-in, first-out- principle (“**fifo**”). In case the Parties have agreed on fixed performance dates in the Individual Service Agreement, Retarus shall be permitted to initiate communication tasks within a time window of +/- 60 minutes around this fixed performance date. Within each time window the fifo principle shall apply equally to all Retarus customers with whom similar performance times have been agreed.
- 3.2 From the start of Service date the Retarus System shall have an availability of no less than an average 98% during a calendar quarter. This means that the performance of communication tasks shall be possible for all customers during 98% of a calendar quarter (including day- and night time, Sundays and bank holidays). Temporary downtimes for maintenance reasons, downtimes due to force majeure and downtimes due to power failure shall not be taken into account when calculating non-availability.
- 3.3 Retarus will inform Customer about the kind, extent and duration of any discontinuation or restriction of the On-going Service. In case of foreseeable discontinuation or restrictions of the On-going Service, Retarus is further obligated to inform in advance such Customers that depend on the uninterrupted use or on a permanent accessibility, provided Retarus has been sufficiently informed of such dependency. The notification requirement regarding the beginning of the discontinuation does not arise if the advance notification (i) is objectively not possible in the circumstances or (ii) would delay the elimination of interruptions already having occurred. In case of a discontinuation or restriction of Services as well as a failure reaching the agreed capacity or the agreed availability, Retarus will use all commercially reasonable efforts to resume or restore the On-going Service or the agreed capacity and availability as soon as possible.

### 4 Customer's Obligations

Unless otherwise agreed between Retarus and Customer in the Individual Service Agreement, Customer shall –besides its payment obligations– fully comply with the following obligations:

- 4.1 Customer shall support Retarus in performing Services in such a way that Retarus can render Services in a complete and timely manner and in the agreed quality.
- 4.2 Customer shall further support Retarus as necessary to obtain approvals or give notifications to any applicable regulatory authority. Customer specifically understands that providing and taking delivery of the content data, address data and control data in the agreed format is deemed to be one of Customer's contractual main obligations.
- 4.3 Customer shall inform Retarus promptly upon recognition of any interruptions in the receipt or the use of the Service and of any impact arising in this context.
- 4.4 Devices given to Customer by Retarus in order to enable the performance of the Service remain the property of Retarus. These Devices may be exchanged against devices with comparable performance qualification by Retarus at any time during the term of the Individual Service Agreement and have to be returned to Retarus at the expiration or termination of the same. Customer must take reasonable steps to sufficiently protect the Devices from removal or damage. Customer is also responsible for providing at its own costs the operating resources for the operation of the Devices such as electricity and space/premises which are suitable for a safe and reliable operation and easy accessibility. Customer may not sell, rent out, pledge or otherwise encumber the Devices. Customer will not remove proprietary notices attached to the Devices and in case of an assertion of any pledges by third parties, Customer will point out to such third parties that the Devices are the property of Retarus. Any damage to or malfunction of the Devices are to be notified to Retarus immediately. In case Customer notifies of a malfunction or damage to the Device, or if Retarus notifies of pending control or maintenance works regarding the Device, Customer has to grant Retarus access to the Device immediately or set a reasonable alternative appointment therefor. If Customer incorrectly notifies Retarus of any damage or malfunction of a Device, Customer has to compensate Retarus for costs and expenses resulting from the error analysis in accordance with Retarus' price list for support services valid at the time of the error analysis.
- 4.5 Where necessary or practical to Retarus in order to remove or analyse interruptions, Customer will grant Retarus –or a third party commissioned by Retarus pursuant to Section 6 of the GBT– access to Customer's technical facilities.
- 4.6 In case of non-availability of Services, Customer will, in order to mitigate any negative effects in particular with respect to messages with contents critical to Customer's business, undertake all reasonable measures which are necessary to enable Retarus to resume the Services as soon as possible or undertake an alternative message transmittal.
- 4.7 Customer has to provide and maintain technical installations necessary for the receipt or use of the Services at its premises at its expense and is further required to provide the electric energy for the operation of these technical installations at its own expense.
- 4.8 Use or access authorisations (passwords) provided to Customer, if any, as well as data transfer and communications addresses are to be protected against unauthorised third-party use. The storage and management of use and access authorisations as well as data transfer and communications addresses is solely the responsibility of Customer. Customer is and will at all times remain responsible for all acts undertaken through the use of authorised passwords.

- 
- 4.9 Customer shall reimburse Retarus the costs incurred by Retarus in connection with (i) a control, investigation or error removal measure prompted by Customer, unless the error or the interruption was caused by the fault of Retarus, in accordance with Retarus' then current hourly rates. Customer will further compensate Retarus for all costs, expenses and charges (including administrative costs) arising from processing information on the status of the Services requested by Customer.
- 4.10 Customer shall not use the Service in an illegal, morally questionable or unfair manner, especially not for the purpose of transmitting spam or for any unfair or unlawful mass marketing activities. Customer agrees to indemnify, defend and hold Retarus harmless of all third-party claims, losses, damages, penalties or costs (including reasonable legal fees) arising out of Customer's (or any person or entity accessing the Services through Customer or Customer's account) based on Customer's (i) use of the Services (in particular so if claims arise out of proprietary, copyright or unfair trade disputes connected to the use of Services); (ii) violation of or alleged violation of any applicable laws or regulations with respect to the Services, including but not limited to, any claims that Customer's use of the Services violated the rights of any third party (particularly those claims relating to the content provided by Customer or any person or entity accessing the Services through Customer or Customer's account) or Retarus' use of distribution lists on behalf of Customer; (iii) claims relating to the transmission of unsolicited documents, or the attempted transmission of a document to a residence telephone or for any errors in data or distribution information provided by Customer; or (iii) infringement of any intellectual property rights of any third party.
- 4.11 From the moment the termination of the Service has come into effect as per Clause 5, Customer shall ensure that (i) no more Service requests are initiated from Customer's telecommunications system to the Retarus System and (ii), that Retarus is granted full access to the technical systems of Customer for the purpose of de-installation and collection of Devices, if any.

## 5 Termination of an Individual Service Agreement

If either (i) Customer wrongfully terminates the Individual Services Agreement or (ii) Retarus, being ready willing and able to perform the Services, is prevented by the Customer from doing so and Retarus terminates the Individual Service Agreement on this basis, or (iii) or if Customer ceases to use the Services prior to the expiration of the minimum term defined in the Individual Service Agreement for reasons not attributable to Retarus, the Customer shall be obliged to compensate Retarus for all fees for Services actually performed by Retarus and a genuine estimate of the fees, which would have been payable to Retarus for the minimum period as liquidated damages or a reasonable lump sum, as may be offered by Retarus in its sole discretion. This Section shall not limit any other rights and remedies Retarus may have under applicable law.

## 6 Application of the General Business Terms

Unless these SBT provide for otherwise, the GBT shall apply.