General Terms and Conditions

Version 1.5 20-12-2017

General Terms and Conditions SpeakIntelligence

Version: 1.5
Date: 20 December 2017

Module A. General

Article A.1. Scope, priority and definitions

A.1.1. These General Terms and Conditions and the General Module are applicable to all offers by SpeakIntelligence in relation to the Services and form an integral part of every Agreement.

A.1.2. The specific modules shall be applicable if the Services requested or offered fall within the scope described in the module. If a specific module is applicable, this shall take precedence over the General Module.

A.1.3. Stipulations or terms and conditions of Contractor that differ from or do not appear in these General Terms and Conditions shall only be binding on SpeakIntelligence if and insofar as they have been expressly accepted by SpeakIntelligence in Writing.

A.1.4. Specific commitments shall only take precedence over these General Terms and Conditions if they are in Writing and if this is expressly stipulated or was unmistakeably the intention of both parties.

A.1.5. The definitions of terms with an initial capital can be found at the end of the General Module and are applicable to all modules.

A.1.6. In case of conflict between stipulations of the Agreement, General Terms and Conditions or annexes thereto, the following order of priority shall apply:

  a)   the Agreement;

  b)   any Service Level Agreement that has been concluded;

  c)   any supplementary terms and conditions, for example terms and conditions stated via the SpeakIntelligence website when offering the Service.

  d)   these General Terms and Conditions;

Article A.2. Inception of the Agreement

A.2.1. A contract can be entered into with SpeakIntelligence or a third, by or on behalf of Contractor, using a method authorised by SpeakIntelligence. Alternatively, an amendment to an existing contract can be agreed. The contract may, for example, be entered into when Contractor approves a contract offered online by SpeakIntelligence by means of a web form, or when Contractor approves new or amended agreements with Contractor in a manner stipulated by SpeakIntelligence.

A.2.2. To Agreements concluded or to be concluded between Contractor and SpeakIntelligence the articles 227b paragraph 1 and article 227c of the Dutch Civil Code do not apply.

A.2.3. Contractor represents that the e-mail address provided to SpeakIntelligence (for example on the moment of concluding the Agreement) is correct and is authorized and supervised by Contractor. Furthermore, Contractor agrees to receive all relevant information relating to the Agreement on the provided e-mail address. The e-mail sent by SpeakIntelligence shall be deemed to have been received at the time it reaches the server of Contractor. Contractor is solely responsible for the configuration of his (mail)server, including but not limited to spam or authorizations of the e-mail accounts.

A.2.4. SpeakIntelligence is at all times entitled to refuse Contractor.

Article A.3. Duration and termination

A.3.1. The Agreement is entered into for the period stated on the SpeakIntelligence website (hereinafter: the contract period). The said contract period shall run from the day when the Services are ordered by Contractor (activation date). If the contract period is not stipulated, it shall be deemed to have been entered into for a contract period of 12 months from the date on which the Services were activated by SpeakIntelligence as agreed. Unless agreed to the contrary, the Agreement, in the absence of termination in Writing reaching the other party at least two months before the end of the contract period, shall be tacitly extended for an indefinite period of time, subject to one month's notice. Contractor shall receive (electronic) confirmation of the beginning of the contract period. If different Services are purchased under an Agreement, these shall have separate start dates and also contract periods which may run concurrently and may be extended for different periods. The Agreement shall, in that case, be classified as a master agreement. If a Service is terminated under the master agreement, the remaining Services shall continue.

A.3.2. SpeakIntelligence is authorised to dissolve or suspend the Agreement either in full or in part, with immediate effect, without the intervention of a court, by letter, fax or e-mail and without any obligation to pay compensation or provide indemnity, if:

a) Contractor fails to meet the obligations in the Agreement in a full and timely manner;

b) Circumstances that come to the knowledge of SpeakIntelligence after concluding the Agreement provide good grounds for concern that Contractor will not meet the obligations;

c) Contractor has been requested, in accordance with article Article A.4. to provide security for performance of its obligations arising from this Agreement and the said security has not been provided or is insufficient;

d) Due to delays on Contractor's side, SpeakIntelligence can no longer be expected to perform the Agreement under the originally agreed conditions;

e) Contractor dies, requests suspension of payments or files for bankruptcy;

f) Any part of Contractor's assets are seized;

g) Circumstances arise which are such that SpeakIntelligence cannot possibly be required to comply with the Agreement or cannot reasonably be required to uphold the Agreement unchanged.

A.3.3. If the Agreement is dissolved on the grounds set out in article A.3.2., the debts owed to SpeakIntelligence by Contractor shall be claimable immediately.

A.3.4. If SpeakIntelligence suspends compliance with the obligations, it shall retain its claims under the law and the Agreement.

A.3.5. If Contractor fails to meet any of its obligations under an Agreement, SpeakIntelligence shall be entitled simultaneously to suspend performance of all Agreements concluded with

Contractor without notice of default, notification or action by a court being required and without prejudice to the right of SpeakIntelligence to compensation for damages, loss of profits and interest.

A.3.6. If Contractor is culpable for the dissolution, SpeakIntelligence shall be entitled to compensation for the damage that have occurred directly and indirectly as a result. This is deemed in every case to consist of periodical charges that Contractor would have been obliged to pay if the Agreement had continued in force.

A.3.7. If notice is served to terminate the Agreement or it is terminated or dissolved for any reason whatsoever, SpeakIntelligence is entitled, immediately after the date when the Agreement expires, to terminate or suspend the Services and any Accounts belonging to the said Agreement and to delete or render inaccessible all data stored in SpeakIntelligence systems for Contractor. SpeakIntelligence is not hereby obliged spontaneously to provide Contractor with a copy of such data. Prior to termination, Contractor may, however, request a copy.

Article A.4. Security

A.4.1. If SpeakIntelligence has justified doubts concerning performance of Contractor's payment obligations, SpeakIntelligence is entitled to request a bank guarantee or surety or to demand payment of a deposit. The amount of this will be no higher than the amount reasonably payable by Contractor in six (6) months.

Article A.5. Performance of the Agreement

A.5.1. After the Agreement takes effect SpeakIntelligence shall perform it to the best of its ability and with due care and expertise. It shall be guided in this firstly by the SLA, if applicable, and secondly by the product information and/or technical annexes that are valid at the time when the Agreement takes effect, as provided or made available via the SpeakIntelligence website or elsewhere as indicated by SpeakIntelligence.

A.5.2. SpeakIntelligence depends for the supply of certain Services on third parties such as Operators and any Chain Parties. SpeakIntelligence can only influence the correct processing of consumption of Services within the technical and legal limitations imposed by said third parties.

A.5.3. The application and use of a Number are subject to the statutory regulations of the country in which a Number is issued. These statutory regulations may be amended by the competent authorities and may be open to interpretation. Although SpeakIntelligence endeavours to gear the application process and the allocation of a Number as closely as possible to the statutory regulations and to provide the Contractor with as much information about this as possible, SpeakIntelligence is unable to guarantee that an application for a Number will always be accepted or that a Number will always remain available. The Contractor is obliged to adequately inform himself about the use of the Number in the relevant countries and within the scope of the applicable statutory regulations.

A.5.4. If the statutory regulations of the country take the form of directory law, these General Terms and Conditions will take precedence wherever possible.

A.5.5. The Number will be issued to the Contractor under the license obtained by SpeakIntelligence from its suppliers (Operators or Intervening contracting parties). The license for the Number is non-transferrable and is issued by SpeakIntelligence or directly by the Operator to the Contractor for the period of the Agreement, with due observance of the provisions of paragraph 1 of this article. The license can be withdrawn if the Number is withdrawn for any reason by the competent (possibly foreign) authorities (including regulatory authorities) or can no longer be maintained in compliance with the statutory regulations. SpeakIntelligence will make every effort to ensure that the Contractor can continue to use the Number, but will not be liable to the Contractor for compensation if the Number is withdrawn. If the Number is withdrawn SpeakIntelligence will reimburse any advance payments for the remaining term of the Agreement unless the Contractor has culpably failed to meet his obligations under the Agreement.

A.5.6. The Number will not be registered in the Contractor's name. SpeakIntelligence will enable a Contractor to port the Number exclusively if SpeakIntelligence or the Operator is obliged to port the Number under statutory regulations or by the competent (regulatory) authorities.

A.5.7. In the event of the Agreement being prematurely terminated (through porting, for example), SpeakIntelligence will have the right to charge the lost income for the remaining term of the Agreement to the Contractor.

A.5.8. Despite the customer having a license for the Number, the Contractor is fully responsible for the use of the Number and compliance with the relevant statutory regulations. The Contractor indemnifies SpeakIntelligence and the Operator against all claims of third parties, including regulatory authorities, and will fully compensate SpeakIntelligence in this regard.

A.5.9. Contractor will defray all (additional) costs related to taking the Number into use. Costs charged to SpeakIntelligence by suppliers will be charged on immediately to the Contractor and must be paid in accordance with the payment terms laid down in these Chop Terms and Conditions.

Article A.6. Delivery

A.6.1. Delivery times stated by SpeakIntelligence are always indicative, unless expressly stated in Writing that they are deadlines. SpeakIntelligence is only in default, even where a deadline has been agreed, after Contractor has served notice upon it in Writing, subject to the situations prescribed by law in which it shall automatically be in default.

Article A.7. General Terms and Conditions of Use

A.7.1. Contractor is obliged to do whatever is reasonably necessary and desirable in order to make the timely and correct performance of the Agreement possible. In particular, Contractor shall ensure that all details and documents that SpeakIntelligence indicates are necessary, or which Contractor should reasonably understand to be necessary for performance of the Agreement, are provided in good time to SpeakIntelligence. Such details and documents may include, without limitation, company details, proof of address (copy of utility bill no older than 6 (six) months), company registration certificate and/or copy of valid passport or ID.

A.7.2. Unless expressly agreed otherwise, Contractor is itself always responsible for the correct functioning of peripherals on which Services are received and Contractor must itself take responsibility for connecting its own peripherals and/or infrastructure to those of SpeakIntelligence.

A.7.3. Contractor and Users must not engage in Abuse or Improper use of the Services. In general this means that the Services must not be used in a way that is contrary to the relevant legislation and that they must not infringe the subjective rights of End users and third parties. For the various Services more detailed specific cases may be described that constitute Abuse or Improper use. There are also various codes of conduct that apply to the use of the Services.

A.7.4. Contractor indemnifies SpeakIntelligence against all claims by End users and third parties based on the assumption that Contractor, its Users or (end) customers have not, using the Services, performed a valid obligation – either legal, on the basis of the Agreement or otherwise – or infringed any subjective right of any other party.

A.7.5. Although SpeakIntelligence shall make efforts to keep Contractor informed about any licenses that Contractor may need for the Services, no guarantee is given that this is complete. Contractor shall, at all times, remain fully responsible for requesting and obtaining in time all necessary licenses and shall do so at its own expense and risk. Contractor indemnifies SpeakIntelligence against all damages that may arise from the lack of licenses that Contractor may be obliged by the government to obtain in relation to the Services.

A.7.6. If Contractor may reasonably expect that the use of the Services will exceed the expected use at a specific time, or the expected quantity of data traffic will be larger than expected during a specific period, or that the use of the Services through or via Contractor may cause harm to telecommunications traffic, Contractor is obliged to inform SpeakIntelligence of this without delay. For specific Services more detailed rules may be defined in this connection in the specific modules and/or in the applicable SLA.

A.7.7. If Contractor in any way fails to comply with the obligations set forth in this article, then Contractor will forfeit an immediately due and payable penalty of 10.000 euro and 1.000 euro for each day the breach continues, without any further act or formality being required. The foregoing shall be without prejudice to all other rights of SpeakIntelligence, including the right to claim performance and/or compensation for the damage actually suffered by it, insofar as this exceeds the penalty forfeited.

Article A.8. Service Level Agreements

A.8.1. Depending on the applicable Services, the level of service for the Services shall be governed by an SLA.

A.8.2. Unless the SLA expressly stipulates the contrary, its stipulations shall have a lower priority than the stipulations of these General Terms and Conditions.

A.8.3. Unless the applicable SLA expressly stipulates the contrary, the performance standards set out in it, for example concerning the quantity of Uptime or Downtime, constitute indications and not guarantees.

Article A.9. Personal details

A.9.1. The details provided by Contractor when requesting the Services from SpeakIntelligence, and the details that are automatically processed and, where applicable, stored when using the Services, contain personal details. SpeakIntelligence shall comply with the relevant regulations in relation to the processing and security of personal data.

A.9.2. Contractor unambiguously gives its permission for the details shown in its application to be recorded, processed and used by SpeakIntelligence. This permission also extends to the use of connection data data (calling number, called number, date and time of start and end of call), which are stored until 7 years after termination of the Agreement and may be used by SpeakIntelligence for:

   a)   Billing and payment;

   b)   Dispute resolution;

   c)   Network management;

   d)   Provision of information to Contractor;

   e)   Tracing Abuse and Improper use;

   f)   Market research and sales of its own Services.

A.9.3. Contractor gives its permission for personal details, if necessary in connection with the performance or maintenance of the Agreement, to be transferred to third countries, even outside the EU.

A.9.4. In the event of a delay in payments, SpeakIntelligence shall be entitled to transfer all details referred to in the previous paragraph to persons or bodies instructed by SpeakIntelligence to collect debts.

A.9.5. SpeakIntelligence shall ensure an appropriate level of security in relation to the risks involved in processing and the nature of the data that is to be protected. This, however, is only if and insofar as such data is within the systems or infrastructure of SpeakIntelligence.

A.9.6. If, using the Services, communication takes place which is confidential by its nature, SpeakIntelligence shall respect its confidentiality. This communication shall not be subject to eavesdropping, tapping, interception or control without prior permission from the User(s) involved, unless this is required by law.

A.9.7. Insofar as SpeakIntelligence has access to personal data for which Contractor is responsible, SpeakIntelligence shall only process the said personal data as instructed by Contractor. If Contractor wishes SpeakIntelligence to process the said personal data for specific purposes, Contractor must enter into a data processing agreement with SpeakIntelligence for that purpose in which the required data processing activities are described in detail. A.9.8. Contractor undertakes only to process personal data using the Services in a way that is entirely lawful.

A.9.9. If Contractor, in connection with a legal obligation, for example on the basis of the Law on the protection of personal data, has to amend, delete or surrender data stored in the SpeakIntelligence systems, SpeakIntelligence shall assist with this as far as possible. The costs of the work involved in this will be billed separately to Contractor.

Article A.10. Account

A.10.1. SpeakIntelligence will provide an Account to Contractor and/or Users. Unless otherwise agreed the Account will be accessible by entering a username and password.

A.10.2. Every action that is carried out through the Account of Contractor or of a User, is deemed to have taken place under Contractor's responsibility and at his risk. If Contractor suspects or should reasonably suspect that abuse of an Account is taking place, Contractor must inform SpeakIntelligence of this as quickly as possible so that the latter can take action.

Article A.11. Prices

A.11.1. The prices charged by SpeakIntelligence are divided into the following:

   a)   One-time charges;

b) Periodical charges;

c) Use dependent charges.

A.11.2. Use dependent charges are payable by Contractor in arrears on the basis of the actual registered use. In so far as SpeakIntelligence provides an online reporting system, this is for information purposes only and is not binding. The actual registered use as determined by SpeakIntelligence, the suppliers of SpeakIntelligence (including, for example, Operators) or Chain Parties shall, unless reliably proven by Contractor to the contrary, constitute full proof of the use and of the charges payable by Contractor. For any telephone traffic from a payphone, a surcharge of 1 euro per minute applies.

A.11.3. SpeakIntelligence is entitled to adapt the periodical and use dependent charges on the basis of changes in market prices, as well as taxes, duties or import duties imposed by the government that increase the price, and also due to changes in the prices charged by Operators, Chain Parties or other suppliers on whom provision of the Services depends. Contractor shall be informed in good time, in principle one month before it comes into force, of a price change that is to be introduced.

A.11.4. Unless expressly stated to the contrary, all prices disclosed by SpeakIntelligence exclude turnover tax and other duties charged by the government. SpeakIntelligence has the right to invoice in other currencies or to convert these currencies into euros, using a current exchange rate and the costs thereof will be included in the invoicing.

A.11.5. All prices in every offer or tender and on the SpeakIntelligence website are subject to programming and typographical errors.

A.11.6. If a price in an offer or tender is based on details provided by Contractor and if these data turn out to be incorrect, SpeakIntelligence is entitled to change the prices accordingly, even after the Agreement has already taken effect. Any Outpayments received by SpeakIntelligence will be transferred by means of a credit note, unless parties agree another billing method in Writing.

A.11.7. If and insofar as content is supplied using the Services for which Contractor, its counterparties or the content provider aims to receive Outpayments, SpeakIntelligence shall only be obliged to transfer Outpayments to Contractor if these are received by SpeakIntelligence. If, for any reason whatsoever, SpeakIntelligence does not receive or does not fully receive the Outpayments, or if these are reclaimed in full or in part, SpeakIntelligence shall not be obliged to pay Contractor for the part that is not received or that is reclaimed. SpeakIntelligence shall never have an independent payment obligation with respect to Outpayments. If a sum is reclaimed, Contractor is obliged to pay the reclaimed amount to SpeakIntelligence at the first request by SpeakIntelligence.

A.11.8. If the Outpayments are not paid by the Operator or the End user for any reason whatsoever, Contractor shall still be obliged to pay the one-time, periodical and use dependent charges in connection with the relevant telephone traffic. Any penalties, compensation for damages or costs charged by the Operator and/or a Chain Party to SpeakIntelligence in connection with unpaid and/or non-delivered Content and/or Content wrongly charged to the End user and/or related to Abuse or Improper use, are for the risk and account of Contractor and Contractor indemnifies SpeakIntelligence for claims in this respect from Operators, Chain Parties and third parties.

Article A.12. Terms and conditions of payment

A.12.1. Payments can be made as indicated on the SpeakIntelligence website (SpeakIntelligence Shop). Periodical charges may be billed in advance by SpeakIntelligence unless otherwise agreed.

A.12.2. Unless otherwise agreed, by entering into the Agreement Contractor authorises SpeakIntelligence to automatically collect payment for the charges payable by the Contractor, by means of a direct debit on the bank account of Contractor.

A.12.3. Contractor shall ensure that an adequate balance is available in the bank account intended for the direct debit at all times. If a direct debit cannot take place Contractor shall pay the amounts billed by SpeakIntelligence before the due date by other means.

A.12.4. The due date is (14) days after the billing date.

A.12.5. Contractor will be in default automatically from the date when the bill falls due, without prior notice of default being required. SpeakIntelligence is then entitled to bill for the full amount payable to Contractor plus interest of 1% per month, or the statutory interest, whichever is higher, from the due date.

A.12.6. Without prejudice to the above, all costs associated with collection of outstanding debts – in or out of court (including costs of lawyers, bailiffs and collection agencies) – shall be payable by Contractor. SpeakIntelligence shall be entitled in any case to charge out of court costs of 15% of the outstanding amount, with a minimum of EUR 250 (two hundred and fifty euro).

A.12.7. SpeakIntelligence is entitled to suspend and/or temporarily block the use of Services if:

a) Contractor withdraws the direct debit mandate that it has provided;

b) Contractor repeatedly fails to make timely payment of bills submitted by SpeakIntelligence;

c) Contractor's solvency deteriorates so as to cast reasonable doubt on Contractor's ability to pay and creditworthiness;

d) Abuse or Improper use is noticed.

A.12.8. SpeakIntelligence may charge administrative costs for blocking and possible unblocking. Contractor shall remain obliged to pay any periodical charges during the blocked period.

A.12.9. Abuse or Improper use of the Services by End users or other third parties shall not affect any obligation by Contractor to make payment to SpeakIntelligence.

Article A.13. Offsetting

A.13.1. SpeakIntelligence is entitled to offset whatever is payable to Contractor by SpeakIntelligence, and whatever Outpayments SpeakIntelligence has collected, against any debt owed to SpeakIntelligence by Contractor, whether claimable or not.

A.13.2. Contractor is not entitled to offset any of Contractor's obligations to pay against any amount owed by SpeakIntelligence on any ground whatsoever.

Article A.14. Retention of title

A.14.1. If and insofar as the Agreement stipulates any transfer of title from SpeakIntelligence to Contractor, all goods supplied shall remain the property of SpeakIntelligence until SpeakIntelligence has received full payment of the entire relevant agreed amount. In the case of intellectual property, including copyright, transfer by SpeakIntelligence to Contractor shall never occur unless expressly agreed to the contrary in Writing.

Article A.15. Intellectual property rights

A.15.1. All intellectual property rights related to all Materials developed or made available in relation to Services are retained exclusively by SpeakIntelligence or its licensors. The Agreement shall not be deemed to stipulate transfer of intellectual property rights from SpeakIntelligence to Contractor unless the Agreement unambiguously stipulates this and cannot be interpreted differently.

A.15.2. Contractor shall only acquire the rights of use and authorisations explicitly granted in these General Terms and Conditions, the Agreement or otherwise in Writing and apart from this Contractor shall not reproduce or publish any software or other Materials made available by SpeakIntelligence. An exception to the above-mentioned shall be allowed in the case of unmistakeably erroneously failure to grant such a right explicitly to Contractor.

A.15.3. Contractor is not permitted to remove or alter any statement concerning copyright, trademarks, trade names or other intellectual property rights from the Materials, including statements concerning the confidential nature and secrecy of the Materials.

A.15.4. SpeakIntelligence is permitted to take technical measures to protect the Materials. If SpeakIntelligence has protected the Materials by means of technical safeguards, Contractor is not permitted to remove or circumvent such security measures.

A.15.5. Any use, reproduction or publication of the Materials that falls outside the scope of the Agreement or the usage rights conferred shall constitute an infringement of SpeakIntelligence' intellectual property. Contractor shall pay SpeakIntelligence a penalty of 1,000 euro per infringement, payable immediately, and 10,000 euro per intentional infringement, without prejudice to SpeakIntelligence' right to claim compensation for damages that it has suffered due to the infringement or otherwise to take legal action to stop the infringement and/or claim for the damages. After a single working day has passed since SpeakIntelligence has notified Contractor of an infringement, Contractor must also pay a penalty of 5,000 euro per day on which the infringement is not stopped.

Article A.16. Promotion

A.16.1. To promote its service, SpeakIntelligence is entitled to show third parties that it provides Services to Contractor and to specify which ones, unless Contractor's reasonable interests would make this unacceptable or unless otherwise agreed in Writing.

Article A.17. Customer Care

A.17.1. The Customer Care department aims to respond materially within thirty (30) days after receipt of a complaint in Writing, unless this is not reasonably possible, for example because an investigation is needed that cannot be completed within 30 days. In that case Contractor shall be informed in Writing within this period when it will be informed of the decision.

Article A.18. Liability

A.18.1. The exclusions and limitations stipulated in this article shall not apply if and insofar as the damage results from intent or conscious recklessness on the part of the management of SpeakIntelligence.

A.18.2. The liability of SpeakIntelligence for direct damage to Contractor resulting from culpable failure by SpeakIntelligence to meet its obligations under the Agreement, on any ground whatsoever, expressly also including any failure to comply with a guarantee obligation agreed with Contractor, or any unlawful action on the part of SpeakIntelligence, its employees or third parties which it deploys, is limited for each event or series of associated events to an amount equal to the sums paid to SpeakIntelligence by Contractor under the Agreement during the six months preceding the event causing the damages (excluding

VAT). If the event causing damages is associated with a specific Service, the above-mentioned shall only consist of the amount paid for that specific Service. The total sum payable for direct damages, however, can never exceed 5,000 euro per event or 50,000 euro per year (excluding VAT).

A.18.3. The total liability of SpeakIntelligence for death or physical injury or for material damage to property can never under any circumstances exceed 500,000 euro per event causing damage, whereby a series of related events shall count as a single event.

A.18.4. SpeakIntelligence shall not be liable for indirect damages, including consequential damage, loss of profits or sales, missed savings, distortion or loss of (commercial) data and damage due to failure of commercial growth.

A.18.5. SpeakIntelligence is never liable for any damages or defects arising from or related to technical or physical requirements imposed by suppliers (including for example Operators) or Chain Parties.

A.18.6. SpeakIntelligence is not liable for damages caused by or related to third party software applications or resulting from the use of applications contrary to the license conditions or for purposes for which the relevant application is not intended.

A.18.7. SpeakIntelligence shall only be liable for culpable failure to comply with the Agreement if Contractor serves proper and timely notice of default on SpeakIntelligence in Writing, giving a reasonable period to remedy the defect, and SpeakIntelligence has, even after that period, culpably failed to meet its obligations. The notice of default must contain the most detailed possible description of the defect so that SpeakIntelligence is able to respond appropriately.

A.18.8. Any entitlement to compensation requires Contractor to report the damage within 30 days of its occurrence in Writing to SpeakIntelligence.

A.18.9. Contractor indemnifies SpeakIntelligence for all third party claims for liability due to a defect in a Service provided to third parties by Contractor and which (partly) consist of a Service from SpeakIntelligence. Contractor indemnifies SpeakIntelligence for all third party claims for noncompliance with obligations by Contractor and/or third parties (including Users and supervisors, such as ACM) which are under the responsibility of Contractor.

Article A.19. Breakdowns and force majeure

A.19.1. Neither party shall be obligated to meet any obligation when prevented from doing so due to force majeure.

A.19.2. Force majeure for SpeakIntelligence is defined as any circumstance outside the will of SpeakIntelligence as a result of which it is fully or partly hindered from meeting its obligations to Contractor or as a result of which SpeakIntelligence cannot reasonably be expected to meet such obligations, regardless of whether that circumstance could be anticipated at the time when the Agreement took effect. Such circumstances shall, in every case, include:

   a)   Emergency situations (such as extreme weather conditions, fire and lightning);

   b)   Breakdowns in telecommunication infrastructure and the internet that are beyond the control of SpeakIntelligence;

   c)   Failures by parties on whom SpeakIntelligence depends to provide Services;

   d)   Imperfection of goods, hardware, software or Materials which Contractor has required SpeakIntelligence to use;

   e)   Government action, for example due to the absence of required permits.

A.19.3. If a situation of force majeure has existed for longer than one month, each of the parties may dissolve the Agreement in Writing. Work already done under the Agreement shall in that case be charged proportionately, but no other payment shall be due by one party to the other.

A.19.4. In case of force majeure Contractor is not entitled to any compensation or payment, even if SpeakIntelligence has any advantage as a consequence of the force majeure.

Article A.20. Personnel

A.20.1. Contractor shall provide all necessary support to employees of SpeakIntelligence carrying out work for the provision of Services at the premises of Contractor so that they can carry out their work.

A.20.2. Contractor is not permitted, as long as the relationship between Contractor and SpeakIntelligence exists, and for one year after it comes to an end, to recruit employees of SpeakIntelligence or otherwise to allow them to work for it directly or indirectly, without prior permission in Writing from SpeakIntelligence. Employees of SpeakIntelligence are defined in this situation as persons employed by SpeakIntelligence or one of the associated companies of SpeakIntelligence or employed by SpeakIntelligence or one of the associated companies of SpeakIntelligence no more than 6 (six) months ago.

Article A.21. Confidentiality

A.21.1. Parties shall treat information that they provide to each other before, during or after performance of the Agreement, as confidential if said information is marked as confidential or if the party receiving it knows or should reasonably suspect that the information was intended to be confidential. Parties shall also place this obligation on their employees and third parties deployed by them to perform the Agreement.

A.21.2. SpeakIntelligence shall not obtain knowledge of data stored by Contractor and/or distributed via SpeakIntelligence systems, unless this is necessary for proper performance of the Agreement or SpeakIntelligence is obliged to do so under a legal stipulation or by order of a court. In that case SpeakIntelligence shall make efforts to limit the knowledge of said data as far as possible, as far as this is within its power.

A.21.3. The confidentiality obligation shall persist after termination of the Agreement on any grounds whatsoever, for as long as the party providing information can reasonably claim that the information is confidential in nature.

Article A.22. Expiry under limitation

A.22.1. All legal claims of Contractor under the Agreement shall expire under limitation – except where prescribed by law – after one year from the date when compliance with obligations arising from the Agreement between the parties became claimable. This article is without prejudice to the regular period of expiry under limitation of claims by SpeakIntelligence.

Article A.23. Amendment of the Agreement

A.23.1. If Contractor wishes to amend the Agreement, it may submit a request to that effect. The procedure and conditions for amendment are identical to those for inception of the Agreement, unless stated to the contrary.

A.23.2. Any change in name, residence or registered office, billing address or legal form must be immediately disclosed to SpeakIntelligence in Writing. SpeakIntelligence may impose additional conditions for acceptance of the consequences of a change in legal form.

A.23.3. SpeakIntelligence reserves the right unilaterally to alter or supplement the Services, these General Terms and Conditions and SLAs, even with respect to existing Agreements. Contractual changes shall also apply to Agreements already in effect after a period of 30 days after notification of the change on the SpeakIntelligence website or by electronic message. Changes of subsidiary importance can be made at any time.

A.23.4. If the said change(s) has (a) significant negative influence(s) on the (use of) Services or on Contractor's position, Contractor may serve notice to terminate the Agreement, provided notification to that effect is received by SpeakIntelligence before the date when the change takes effect. Contractor has no entitlement to compensation for damages arising directly or indirectly from the change in the Services.

Article A.24. Assignment of rights, use by others

A.24.1. Contractor is not authorised to assign the rights and obligations under the Agreement to a third party or to allow third parties to use the Services without permission in Writing from SpeakIntelligence.

A.24.2. Contractor gives SpeakIntelligence in advance a right, without requiring express permission from Contractor, to assign the Agreement between the parties in full or in part to parent, associated and/or subsidiary companies or to a third party in the event of merger or acquisition. SpeakIntelligence shall notify Contractor in Writing if such assignment has taken place.

A.24.3. SpeakIntelligence shall not be liable to the Contractor together with the party to whom the rights and obligations under the Agreement have been transferred for compliance with the obligations under the Agreement.

A.24.4. If Contractor allows employees or third parties to use the Services, such use shall be viewed for the purpose of defining Contractor's obligations as use by Contractor. Contractor is responsible for ensuring that such persons (entities) are placed under the same obligations as Contractor and Contractor is fully liable to SpeakIntelligence for their actions.

Article A.25. Final stipulations General Module

A.25.1. The laws of the Netherlands shall exclusively apply to the Agreement and all legal relationships arising from or associated with it.

A.25.2. Unless otherwise required by law, all disputes arising from or associated with this Agreement shall be submitted to the court of first instance (rechtbank) of Amsterdam, with the understanding that SpeakIntelligence is also entitled to submit the dispute to any court that is competent on other grounds.

A.25.3. If any stipulation of this Agreement is found to be invalid, this shall not affect the validity of the entire Agreement. Parties shall in that case define (a) new stipulation(s) to replace it, which shall as far as legally possible express the intention of the original Agreement and these General Terms and Conditions.

A.25.4. Information and disclosures on the SpeakIntelligence website are subject to programming and typographical errors. If there is any inconsistency between the SpeakIntelligence website and the Agreement, the Agreement takes precedence.

A.25.5. The version of any communication received or stored by SpeakIntelligence (including log files and Call Detail Records) is considered to be authentic unless proven to the contrary by Contractor.

Definitions

The terms used in these General Terms and Conditions, the Agreement, Service Level Agreement and similar documents shall be defined as follows:

1. Abuse & Improper use: Abuse or Improper use exists in every case where:

   a)   the Operator takes the view that Abuse or Improper use exists;
   b)   the use is contrary to statutory obligations;
   c)   it is viewed as such in the telecommunications sector or in society, for example but not necessarily set down in codes of conduct and the Covenant to counter the Improper use of Information numbers;
   d)   there is:
   I.   traffic to a specific Number that results in high consumption by the same mobile or fixed number, or from the same geographical location;
   II.   traffic that has not resulted in the correct tariffs being charged to End users;
   III.   traffic that can be identified as traffic whereby the identity of the End user does not correspond to the personal details provided by the End user to the telecommunications provider;
   IV.   a large number of "calls" shorter than 10 seconds to a Number.

2. Account: The right to access a user interface whereby Contractor can manage and configure (specific aspects of) the Services, as well as the stored configuration(s) itself (themselves).

3. ACM: The "Autoriteit Consument en Markt" (the Dutch Authority for Consumers and Markets) or a comparable body (including in countries outside the Netherlands) or a possible successor.

4. Affiliate Materials: All materials made available by SpeakIntelligence to Contractor (acting as an affiliate partner), including banners, widgets and/or a URL consisting of the (business) name of Contractor as a subdomain.

5. Agent: A specific type of User, namely a call center employee of Contractor.

6. Agreement: Every agreement between SpeakIntelligence and Contractor that arises from an offer or tender produced by SpeakIntelligence for Services.

7. Chain Party: One or more Chain Parties exist if SpeakIntelligence does not directly enter into a contract directly with an Operator for the supply of the infrastructure required for the Services or other Services.

8. Contractor: The person or entity with whom SpeakIntelligence has entered into an Agreement. This also refers to those who enter into or are in negotiations with SpeakIntelligence in this connection, as well as their representative(s), proxy (proxies), beneficiary (beneficiaries) and heirs.

9. Downtime: The period during which a Service which is delivered as continuously as possible via the internet or another ICT network – such as hosting – is interrupted or suspended.

10. End user: The person or entity who purchases (information or content) services from Contractor, which Services Contractor provides (partly) by using the SpeakIntelligence services.

11. End user Agreement: any agreement between Contractor (acting as distributor/reseller) and End user for which SpeakIntelligence supplies one or more Services to Contractor.

12. General Terms and Conditions: The stipulations of this document.

13. In Writing: In these terms and conditions, in Writing means, in addition to text on paper given or delivered by or on behalf of Contractor to SpeakIntelligence, also e-mail and fax communications, provided the identity of the sender and the integrity of the message are sufficiently certain.

14. Keyword: A combination of letters or digits used to request content services.

15. Materials: All websites, Affiliate Materials, (web) applications, house styles, logos, folders, brochures, leaflets, lettering, advertisements, marketing and/or communication plans, designs, images, texts, drawings, documentation, recommendations, reports and other intellectual products that are related to the Services, including preparatory materials for these and the data carriers on which the Materials are recorded.

16. SpeakIntelligence: A trade name of the company MCXess B.V., registered in Amstelveen with the Chamber of Commerce under registration number 34162380.

18. Numbers: Service numbers or telephone numbers for the purpose of providing Voice (Response) Services & Solutions.

19. Operator: An operator of fixed and/or mobile telecommunications networks.

20. Outpayments: Number-dependent and/or Operator-dependent charge billed by the Operator to the End user for the use of content services offered by or through the Contractor with the use of a Service, which – if and in so far as received by SpeakIntelligence – will be transferred to Contractor.

21. Services: One or more product(s) or service(s) provided to or for Contractor by or on behalf of SpeakIntelligence.

22. Service Level Agreement (SLA): The document, entitled Service Level Agreement, SLA, or something similar to this, in which SpeakIntelligence links standards to the Services as concretely and measurably as possible.

23. Shortcode: A shortened number used for content which acts as a destination for or sender of messages.

24. Uptime: The period during which a Service which is delivered as continuously as possible via the internet or another ICT network – such as hosted (call center) solutions – is not interrupted or suspended.

25. User: The person who uses the software / application / Service provided by SpeakIntelligence to Contractor. For example: Contractor's employees.

Module B. Services

This module is applicable to every Agreement in which SpeakIntelligence provides Services (including Voice (Response) Services & Solutions and flat-fee SMS Services) to Contractor. Installation and delivery of the Services is described in the SLA.

Voice (Response) Services & Solutions

Article B.1. Scope

With respect to Voice (Response) Services & Solutions SpeakIntelligence makes a distinction between the following product groups.

B.1.1. Free and Paid Telephone Numbers: SpeakIntelligence provides to Contractor the use of free and paid service numbers in a large number of countries, plus where applicable value-added services and connection of calls to a final destination.

B.1.2. Local and Business Numbers: SpeakIntelligence provides to Contractor the use of local and business numbers in a large number of countries, plus where applicable value-added services and connection of calls to a final destination.

B.1.3. Universal Freephone: SpeakIntelligence provides to Contractor the use of free international service numbers (UIFN or 00800 service numbers) in a large number of countries, plus where applicable value-added services and connection of calls to a final destination.

B.1.4. Mobile numbers: SpeakIntelligence provides to Contractor the use of mobile telephone numbers in a large number of countries.

Article B.2. Characteristics and requirements

B.2.1. Contractor may ask SpeakIntelligence to activate Numbers for Contractor which SpeakIntelligence, after approval, will activate within the national number database of the COIN association in the Netherlands and, if applicable, in an equivalent registration system abroad.

B.2.2. Unless agreed to the contrary the Numbers will remain activated for the Contractor for the duration of the Agreement.

B.2.3. SpeakIntelligence offers Contractor the option to make a Number portable insofar as this is compulsory by law and under the regulations. SpeakIntelligence is authorised to change a Number if this is considered necessary by SpeakIntelligence, an Operator, the ACM or any other authority in the Netherlands or abroad.

B.2.4. Insofar as this arises from the Services, Contractor must request one or more Numbers for the use of the Services from the ACM or any other authority in the Netherlands or abroad. SpeakIntelligence cannot influence and is not liable for whether or not Numbers are allocated by the ACM or any other authority in the Netherlands or abroad. Contractor has no entitlement to obtain a specific Number.

B.2.5. SpeakIntelligence cannot, when transferring details that Contractor has provided for the purpose of possible publication in telephone directories or number information services, be held liable for the correctness, completeness and lawfulness of the information provided by Contractor.

Article B.3. Terms and conditions of use

B.3.1. Contractor shall ensure, and is responsible for, strict compliance with the legislation and regulations set out in the (Dutch) Telecommunications Act, similar legislation and regulations abroad, and codes of conduct and agreements that exist within the Telecommunications sector, such as the Memorandum of Understanding to counter the Improper use of

Information numbers and other regulations, whether or not they are imposed by the government, such as the Code of Conduct for Promotional Games of Chance, such as shall be in force at any time. Contractor shall also comply with foreign legislation and regulations if applicable to the Services.

B.3.2. If Contractor uses Services from SpeakIntelligence to provide (content) services to End users, Contractor shall inform SpeakIntelligence of this in good time beforehand whereby SpeakIntelligence shall be entitled and Contractor shall be obliged to inform third parties, including End user, of the costs of the (content) services and, in the case of periodical charges, the possibility of terminating / blocking this subscription.

B.3.3. SpeakIntelligence shall, insofar as the Services lend themselves thereto and unless the Contractor has expressly excluded this in its request, make the name, address, company and/or profession available to Operators to allow these details to be included in public directories and for use in their information services.

SMS Services & Solutions

Article B.4. Scope

B.4.1. This module is applicable to every Agreement under which SpeakIntelligence makes it possible for Contractor to receive SMS messages via 4-digit Short codes in the Netherlands and abroad and whereby Contractor can send Premium and Flat fee SMS messages in the Netherlands and whereby Contractor can make use of Premium and Flat fee SMS services abroad. Contractor also has access to the SMS Manager service in the Netherlands, whereby a simple click-torun system makes it possible to set up and manage various interactive SMS services.

Article B.5. Short codes and Keywords

B.5.1. SpeakIntelligence offers Contractor the opportunity to make a Short code portable insofar as this is compulsory by law and under the regulations. SpeakIntelligence is authorised to change a Short code or Keyword if this is considered necessary by SpeakIntelligence, an Operator, the ACM or any other authority in the Netherlands or abroad.

B.5.2. SpeakIntelligence is authorised to allow a Keyword or reservation for a Keyword to expire if the Services are not used during a period of two months or if less than 50 messages per month are sent using the Keyword in question. Operators or Chain Parties may impose further obligations on the use of Keywords, in which case the said further obligations shall be applicable and the Keyword may lapse on the grounds of the said further obligations.

B.5.3. When using a shared Keyword, Contractor is not permitted to (allow or cause) actions to take place that may influence the amounts that would, in the absence of such actions, be payable by one party to another party, or the information tariffs that are payable for the use of content services or for consulting an information service. SpeakIntelligence or a Chain Party is and remains the owner of the Keywords.

Article B.6. Terms and conditions of use

B.6.1. Contractor shall ensure, and is responsible for, strict compliance with the regulations set out in the (Dutch) Telecommunications Act and codes of conduct and agreements that exist within the telecommunications sector, such as the Code of Conduct on SMS Services and other regulations, whether or not they are imposed by the government, such as the Code of Conduct on Promotional Games of Chance, such as shall be in force at any time. Contractor shall also comply with foreign legislation and regulations if applicable to the Services.

B.6.2. Contractor assumes full responsibility for the content of SMS messages sent by itself, its employees and third parties at its request. Contractor shall comply with all laws and regulations applicable to the content and intent of SMS messages and which are described in the Code of Conduct for SMS services. Contractor must refrain from sending SMS messages with aggressive, violent, discriminatory or any other illegal content. Contractor must do its absolute best to ensure that SMS messages are sent only to End users who have registered by means of so-called opt-in methods. Contractor is liable for all consequences and costs that may result from infringement of such laws and regulations and indemnifies SpeakIntelligence for claims or fines by supervisory authorities (including the ACM or similar bodies abroad).

B.6.3. If Contractor uses Services from SpeakIntelligence to provide (content) services to End users itself, Contractor shall inform SpeakIntelligence of this in good time beforehand whereby SpeakIntelligence shall be entitled and Contractor shall be obliged to inform third parties, including End user, of the costs of the (content) services and, in the case of subscriptions, the possibility of terminating / blocking this subscription.

Article B.7. SMS sending

B.7.1. Contractor realises that SpeakIntelligence is reliant upon IT companies, telecommunications companies and Operators for the sending of SMS messages. For that reason SpeakIntelligence can only influence the provision and transmission of SMS messages within the technical limitations imposed by the said companies.

B.7.2. SpeakIntelligence shall do its utmost to deliver the message to the recipient as quickly as possible.

Module C. Reselling

Article C.1. Scope of application

C.1.1. This module is applicable to Contractors classed as distributors/resellers of the Services, unless a separate reseller agreement has been entered into with Contractor (other than the reseller agreement of which these General Terms and Conditions form an integral part). In that case, the reseller agreement will take precedence at all times.

Article C.2. Reseller arrangements

C.2.1. SpeakIntelligence offers Contractor the opportunity to purchase and resell the Services.

C.2.2. Contractor will be given a license to offer the Services, including Numbers, as specified in the Agreement or the (online) application form, to End users at Contractor's expense and risk. SpeakIntelligence is not a party to the End user Agreements.

C.2.3. Contractor does not have any exclusive right with respect to the existing and potential group of End users.

C.2.4. Contractor will provide its End users with an adequate level of support when they use the Services. SpeakIntelligence may formulate additional guidelines in consultation with Contractor for the purpose of providing this level of support, to which guidelines Contractor will conform. If Contractor, within the scope of its support obligations, is unable to provide sufficient support to a Customer, then Contractor will approach SpeakIntelligence to provide second-line support.

C.2.5. Contractor is only permitted to inform End users and third parties that it is a reseller for SpeakIntelligence with respect to the Services and to inform them of the legal implications of this relationship.

C.2.6. SpeakIntelligence has the right to refuse to deliver Services to the End user or to suspend the Services if SpeakIntelligence wishes to do so due to competition concerns. SpeakIntelligence will undertake to inform Contractor timely if SpeakIntelligence anticipates that new orders placed by Contractor cannot be complied with, and that Contractor consequently cannot conclude or fulfil End user Agreements.

C.2.7. Contractor undertakes to strictly fulfil its obligations vis-à-vis its End users as described in the End user Agreement and in conformity with these General Terms and Conditions.

C.2.8. Contractor is obliged to provide honest and sincere advice about the Services to potential and existing End users. Contractor will refrain from providing any information about the Services that could be misleading or difficult to prove.

C.2.9. In offering the Services, Contractor will adhere to all relevant statutory provisions and regulations, as well as the rules of conduct generally accepted in the sector (e.g. the Code of Conduct for SMS services and the Covenant to counter the Improper use of Information Numbers).

C.2.10. Contractor will comply with all recommendations and reasonable requests of SpeakIntelligence to the extent that these relate to the performance of the Agreement and an order and do not prejudice Contractor's independence.

C.2.11. If SpeakIntelligence makes a system accessible to Contractor (provides an account), any actions taking place using the account will be regarded as taking place under the responsibility and at the risk of Contractor. Contractor declares that it will keep the access details to Contractor's account strictly confidential. In the event of suspected misuse of an account, SpeakIntelligence must be notified as soon as possible to enable it to take measures.

C.2.12. Before purchasing the Services for End users, Contractor will follow the procedures of SpeakIntelligence and pass on the conditions for the relevant Services to the End user. If an order is placed for a specific End user Agreement, Contractor is expected to ensure the duration and termination date of the End user Agreement coincides with the duration and termination date of the order.

C.2.13. Failure to pay on the part of End user does not discharge Contractor from any of its payment obligations vis-à-vis SpeakIntelligence.

C.2.14. Progress on the objectives of the Contractor will be discussed by the Parties periodically and will serve as a basis for evaluating the collaboration and for taking appropriate follow-up steps.

C.2.15. SpeakIntelligence is entitled to request and inspect the End user Agreements. In the event of termination of the Agreement, SpeakIntelligence is entitled to approach End users of Contractor with the aim of continuing to supply them with the Services.

C.2.16. At the first request of SpeakIntelligence, Contractor will address any End users acting in violation of the General Terms and Conditions or otherwise improperly using a Service. If legal measures prove to be necessary, in the first instance it is up to Contractor to take such measures. If Contractor fails to take the legal measures referred to above, Contractor is obliged to transfer the legal claim to SpeakIntelligence upon first request.

C.2.17 During the term of the Agreement, Contractor shall not develop a Pricing Portal or use it for benchmarking purposes. The same applies to the MCIN engineering interface and the Online Shop for Business Communication Services. This includes providing third parties with confidential information about the Services with the aim of facilitating these third parties to develop competing services. Additionally, Contractor will refrain from any active acquisition among End users for competing Services during the Agreement.

Article C.3. Processing of personal data

C.3.1. Contractor processes personal data through the Services. For this reason both Contractor and SpeakIntelligence fall within the scope of the Personal Data Protection Act ("Wbp"), whereby Contractor is the 'controller' and SpeakIntelligence the 'processor' within the meaning of the Wbp.

C.3.2. Pursuant to Section 14 of the Wbp the controller and the processor are required to conclude an agreement relating to the personal data processed by Contractor or SpeakIntelligence. The provisions in this section apply as a data processing agreement as defined in the Wbp.

C.3.3. SpeakIntelligence will ensure an appropriate level of security considering the risks involved in processing the data to be protected and the nature thereof. This will however only apply if and insofar as this data is located in SpeakIntelligence' infrastructure.

C.3.4. SpeakIntelligence also guarantees that all persons acting under the authority of SpeakIntelligence, insofar as they have access to personal data for which the controller is responsible, will only process such data on SpeakIntelligence' instructions.

Module D. Affiliate

Article D.1. Scope of application

D.1.1. This module is applicable to Contractors acting as an affiliate partner for the Services and Contractors using the Affiliate Materials made available by SpeakIntelligence, unless a separate affiliate agreement has been entered into with Contractor (other than the affiliate agreement of which these General Terms and Conditions form an integral part). In that case, the affiliate agreement will take precedence at all times.

Article D.2. Affiliate arrangements

D.2.1. Contractor undertakes to present the Affiliate Materials in the best possible manner and Contractor will refrain from any act that damages (or might possibly damage) the goodwill created by SpeakIntelligence and/or the security of the intellectual property rights of SpeakIntelligence.

D.2.2. Contractor will communicate under its own name and for its own account and risk when promoting the Affiliate Materials. Contractor may not present itself as being a part of, agent for or employee of SpeakIntelligence, unless explicitly agreed otherwise in writing.

D.2.3. Contractor will follow any recommendations and reasonable requests made by SpeakIntelligence insofar as these relate to the performance of the Agreement.

D.2.4. Contractor is not permitted to:

   a)   violate applicable laws and regulations via the Affiliate Materials;

   b)   promote the partnership between Contractor and SpeakIntelligence without consulting and without the approval of SpeakIntelligence;

   c)   to register or operate trade names, trademarks, brand names, domain names or service user names (such as names on Facebook, Twitter or other third party services) which contain a brand and/or a trade name belonging to SpeakIntelligence or which display a confusing resemblance to such;

   d)   to display promotional communications in a way that is damaging or could reasonably be considered damaging to SpeakIntelligence' reputation;

   e)   make any expressions concerning the Service that are inaccurate or that infringe relevant and applicable laws and regulations.

D.2.5. If SpeakIntelligence has a reasonable suspicion that Contractor is acting contrary to the provisions in this article, it will notify Contractor of such. In this case, Contractor will cease and not resume the act in question as soon as possible but not later than 48 hours after receiving said notice. Following such notice, SpeakIntelligence has the right to suspend the Affiliate Materials and the commission, and if the Contractor fails to cease the relevant action within 48 hours, SpeakIntelligence may cancel the Agreement with immediate effect.

Article D.3. Commission

D.3.1. During the term of the Agreement, Contractor has the right to commission on the transactions (hereinafter: "Transaction") generated through the Affiliate Materials as indicated on the SpeakIntelligence website and/or in the Agreement, or any annex thereto. Exceptions to Transactions as the basis for the commission for Contractor are collection costs, Outpayments, chargebacks and surcharges. SpeakIntelligence is entitled to amend the amount of commission in the interim. Amendments also apply to Agreements already concluded with due observance of a term of thirty (30) days following notification of the amendment on the SpeakIntelligence website or by electronic communication. In the event Contractor does not wish to accept the amended Commission, it may terminate its affiliate partnership up to the date on which the new Commission takes effect. The foregoing termination shall not affect any other Agreements which are in place.

D.3.2. Contractor is not entitled to any commission other than the commission as described in the Agreement.

D.3.3. If a Transaction is cancelled, Contractor can make no claim for the commission in respect of that Transaction.

D.3.4. SpeakIntelligence may refuse to pay commission for well-founded reasons, such as fraud.

Article D.4. Reporting

D.4.1. For the purpose of determining the results and commission, SpeakIntelligence shall provide Contractor with detailed reports once a month.

D.4.2. The results reported by SpeakIntelligence are decisive, unless Contractor is able to produce convincing evidence to the contrary.

Article D.5. Payment

D.5.1. Contractor is responsible for supplying the correct bank details for payment of commission. If Contractor has provided no details or if the details are incorrect, then SpeakIntelligence has the right to postpone payment.

D.5.2. SpeakIntelligence is authorized at all times to offset what it owes to Contractor with any amount that SpeakIntelligence is entitled to claim from Contractor on whatever basis.

D.5.3. Contractor is responsible for the payments of any possible taxes or social security contributions that are owed on all payments that are made to it by SpeakIntelligence.

Article D.6. Privacy

D.6.1. In the performance of the Agreement, SpeakIntelligence acquires personal data of customers through the Affiliate Materials or otherwise. Contractor is not permitted to intercept personal data or to acquire these in any other way for any purpose other than the performance of the Agreement.

D.6.2. If Contractor acquires the personal data by other means and for other purposes, then it should be aware that it bears full responsibility for this. When processing the personal data, Contractor must comply with applicable laws and regulations.

Service Level Agreement

Version 1.4 13-09-2017

Service Level Agreement

This Service Level Agreement (SLA) is part of the Agreement between SpeakIntelligence and Contractor concerning the delivery of Services. This SLA describes the availability of the Services as well as the associated procedures and processes. For additional terms and conditions applicable to the Services, please refer to the SpeakIntelligence General Terms and Conditions.

The definitions used in this SLA are described in the General Terms and Conditions. In addition, the following definitions will apply:

Availability:	The total length of time during which Contractor has actually been able to use the Services, expressed as a percentage of the total length of time measured during 1 (one) calendar year. The following are not included in the determination of availability: Scheduled Maintenance, force majeure, malfunctions caused by third parties, malfunctions caused by Contractor, improper use of a Service and the improper functioning of telecommunications equipment, in whole or in part (other than the Services).
Customer Care:	Telephone operators available to help Contractor resolve any questions and/or issues.
Scheduled Maintenance:	The performance of operations to the infrastructure of SpeakIntelligence, Operators and Intermediate Parties to the Contract, which takes place at a previously announced time.
Response Time:	The time between the moment at which a Malfunction is first reported and the moment at which SpeakIntelligence first contacts (or attempts to contact) Contractor.
Malfunction:	The improper functioning of the Services purchased from SpeakIntelligence, in whole or in part, compared to certain agreed upon specifications, resulting in an interruption of the provision of Services. "Malfunction" expressly excludes Scheduled Maintenance, the unavailability of Services due to any enhancements and additional customer wishes and any other items not contractually defined as such.

Article 1 - General Provisions

1.1   This SLA pertains to the Services delivered by SpeakIntelligence only. Telecommunications infrastructure of third parties, whether connected or not, including fixed connections and/or peripheral equipment, fall outside the scope of this SLA.

1.2   SpeakIntelligence will make every reasonable effort to achieve the service levels described in this document.

Article 2 - Term and Termination

2.1   The term of this SLA will coincide with that of the Agreement.

2.2   Termination of any SpeakIntelligence Service will be subject to the terms and conditions and the notice period stated in the Agreement and the General Terms and Conditions.

Article 3 - Malfunctions and Response Times

3.1   Malfunctions may be reported 24 hours per day, 7 seven days per week in any manner listed in Table 2: Contact Matrix.

3.2   Contractor will be charged for any costs associated with the handling of Malfunctions due to improper operation or use of the Service by Contractor.

Article 4 - Availability

4.1   The Availability of the Services will be subject to the percentages listed in Table 1 in this SLA.

Table 1: Summary of Availability, Malfunctions and Response Times.

Product Module	Services	
Availability	99,80%[1]	
Indicated delivery time	Indicated delivery time depends on product and country.	
Response Time	4 hours	
Expected time to correct interference	P1 - 8 hours[2]	
	P2 - 72 hours	
	P3 - NA	

Notes	
NA	Not applicable.
[1]	For value added services (such as IVR) an availability of 99,60% applies.
[2]	The expected time to correct the interference of Universal Freephone is based on best effort and may vary by country.
P1	Complete interrupted service due to interference.
P2	Partially interrupted service due to interference.
P3	Requests not reproducible interferences support. A P3 ticket is no interference with the consequence that there is no expected turnaround time.

Table 2: Contact Matrix

Support & Escalation	Position	Name	Email address (office hours)	Telephone number
Support	Support	Support	support@speakintelligence.com	+31 85 0014 431 (*)
Escalation Level 1	Service Manager	Frank Heijtlager	frank.heijtlager@speakintelligence.com	+31 85 0014 431 (**)
Escalation Level 2	Managing Director	Marcel Dijkstra	marcel.dijkstra@speakintelligence.com	+31 85 0014 431 (**)

Notes	
(*)	24x7
(**)	During office hours