

TERMS OF SERVICE FOR KONZERTMEISTER AND LÖSCHMEISTER

Valid from: 28.07.2023

Provider of the applications "Konzertmeister" and "Löschmeister" ("**App**") for the smartphone and the browser is KM Konzertmeister GmbH ("**Provider**" or "**we**"), Gartengasse 16, 3743 Röschitz, Austria.

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1. SCOPE OF APPLICATION AND CONTRACTING PARTY

- 1.1 The app can be used in the browser as a "**web app**" and on the smartphone under iOS and Android as a "**smartphone app**". Web app and smartphone app are jointly referred to as "**app**". In order to use

the app, you must download it from "Google Play" or from the "Apple App Store" or open it in the browser and accept the terms of service of the app. When using Google Play or the Apple App Store, the terms of use of Google or Apple apply. Furthermore, an account must be opened in order to use the app. The app can be accessed or downloaded from the following web links:

- 1.1.1 Konzertmeister Web App: <https://web.konzertmeister.app>
 - 1.1.2 Konzertmeister Android App:
<https://play.google.com/store/apps/details?id=rocks.konzertmeister.Production>
 - 1.1.3 Konzertmeister iOS App: <https://itunes.apple.com/at/app/konzertmeister/id1114620982>
 - 1.1.4 Löschmeister Web App: <https://web.loeschmeister.app>
 - 1.1.5 Löschmeister Android App:
<https://play.google.com/store/apps/details?id=rocks.loeschmeister.Production>
 - 1.1.6 Löschmeister iOS App: <https://apps.apple.com/at/app/loeschmeister/id6450110155>
- 1.2 When opening an account to use the app ("**registration**"), the validity of the terms of service in the respective current version is agreed between you ("**user**") and the provider. Use of the App is permitted exclusively on the basis of these terms of service.
- 1.3 When purchasing premium subscriptions (point 2) for an association, it is first necessary to create an association in the app. The association created in the app can be a legally existing association or another legal entity (in the case of the app "Löschmeister" e.g. a fire brigade as a public corporation) ("**real association**") or a legally non-existing association of a group of users ("**fictitious association**"). By creating a real or fictitious association, the respective user becomes the "association administrator". If the user creates a real association in the app, he/she confirms that he/she is authorised to represent the association externally. When purchasing premium subscriptions, the contract for the use of the premium subscription is concluded between the real association, represented by the user as association administrator, and the provider for use. In the case of fictitious associations, the contract for the use of the premium subscription is concluded between the user as association leader and the provider. **Whenever "association" is mentioned in these terms of service, the respective provision refers either to the real association or to the association leader in the case of fictitious associations.**
- 1.4 By creating an association, the order processing contract is concluded between the provider and the association in accordance with Annex B. This contract is independent of the contract for the use of the app between the provider and the user. This is independent of the contract for the use of the app between the provider and the user.

2. FUNCTIONS OF THE APP

- 2.1 The app enables optimal appointment management in connection with concerts, choirs and other musical events, and provides an innovative and simple overview of appointments.

- 2.1.1 optimal appointment management in connection with concerts, choirs and other musical and cultural events, as well as exercises, training sessions, missions, operations and events of all kinds, and provides an innovative and simple appointment overview and
- 2.1.2 the maintenance of a publicly accessible website, with which, among other things, information about the association and its events can be published.
- 2.2 The use of the app by the association first requires the creation of an "association" in the app in order to be able to create appointments and invite members to appointments and keep the public website accessible. These functions are only available to users with the role of "association leader". By creating an association, the user becomes the association administrator and can later transfer this role to another user.
- 2.3 The app provides the association with different functions depending on the respective subscription. Both a free subscription ("Basic") and paid "**Premium Subscriptions**" (currently: "Pro 30", "Pro 60", "Pro Unlimited") are offered. The functions included in the respective subscription depend on the subscription. The scope of services and the prices are shown in the order process. All prices are stated in euros and, unless stated separately, are gross prices including any statutory value added tax.

3. REGISTRATION

- 3.1 Registration as a user
 - 3.1.1 In order to use the app, registration by means of a user name and password is required when accessing the app for the first time, during which these terms of service must be accepted.
 - 3.1.2 The user confirms that the data used for registration are correct and that he/she is at least 14 years old. Minor users must be represented by their legal guardian. Anonymous or pseudonymous use of the app is not permitted.
 - 3.1.3 The app is offered for use by the provider in certain countries of the European Union and in certain third countries. The list of supported countries can be found in the app. The user confirms that he or she has his or her habitual residence in one of these countries.
 - 3.1.4 The user confirms that he/she does not use the app for business purposes and is therefore a consumer within the meaning of the Consumer Protection Act (KSchG).
 - 3.1.5 Each user may only register once. The user confirms that he/she is not already registered or has not deleted any older account.
- 3.2 Create an association
 - 3.2.1 After registering, the user can create an association (see also point 1.3) in the app and thus becomes an association administrator. The creation of an association is a prerequisite for the use of all functions of the "Premium Subscriptions".
 - 3.2.2 The association administrator confirms that he/she is at least 18 years old and that he/she is authorised to represent the association, provided that it is a real association.

- 3.2.3 The association confirms that the data entered when the association was created, in particular the address for invoicing, is correct. It is obliged to update the data in the current contractual relationship.
- 3.2.4 The user is obliged to provide written proof of his authorisation to represent the association to the provider upon request.

4. DUTIES OF THE USER

- 4.1 The User is not entitled to use the App or other services of the Provider in a businesslike manner, to sell access to third parties, to charge usage fees or to use the App in any other way that contradicts these terms of service.
- 4.2 The user commits himself with regard to the new creation of an association,
 - 4.2.1 not to assign a racist, insulting, discriminatory, defamatory, sexual, violence-glorifying or otherwise illegal association name.
 - 4.2.2 to research whether the desired association name is already in use.
- 4.3 The user further undertakes,
 - 4.3.1 provide correct information when registering or not registering another person in the app without permission;
 - 4.3.2 to keep its data up to date and correct at all times;
 - 4.3.3 not to disclose his login data (user name or password), not to allow other persons to access his account and to protect his account from unauthorised use;
 - 4.3.4 not to transfer his account to another person;
 - 4.3.5 not to collect other users' login information or access an account belonging to another user;
 - 4.3.6 not to create a new account after his account has been blocked;
 - 4.3.7 to regularly back up its data entered into the app itself;
 - 4.3.8 not to store, publish, transmit or distribute any racist, offensive, discriminatory, defamatory, sexual, violent or otherwise unlawful content and not to bully, intimidate or harass other users;
 - 4.3.9 not to upload any malicious code and not to make any disruptive interventions in the App, in particular hacking attempts, brute force attacks, denial of service attacks, introduction of viruses/worms/Trojans;
 - 4.3.10 not to post advertisements or unsolicited messages (spam) on the app or send them to other users;

- 4.3.11 not to collect content or information from users by means of automated mechanisms (such as bots, robots, spiders or scrapers) and not to access the App in any other automated way;
 - 4.3.12 not to copy, distribute, publish or modify content and data accessible within the framework of the app without the express consent of the respective rights holder;
 - 4.3.13 not to operate any illegal structural sales, e.g. pyramid schemes, with the aid of the app or to invite participation in sweepstakes, pyramid schemes, chain letters, pyramid games or comparable campaigns;
 - 4.3.14 not to spread inaccurate warnings about viruses, app malfunctions or the like;
 - 4.3.15 not to infringe any industrial property rights, copyrights, personal rights, property rights or other rights of third parties;
 - 4.3.16 not to enter, save or send hyperlinks or content to which he is not authorised, in particular if these hyperlinks or content are illegal;
 - 4.3.17 not to support or encourage violations of these terms of service and to report any violations discovered to the Provider immediately;
 - 4.3.18 as association leader, not to invite users to an association whom he knows or must assume do not wish to be invited to the association or to register in the app.
- 4.4 In order to ensure the proper functioning of the App, the Provider reserves the right to (i) issue warnings in the event of violations of these terms of service by the User, (ii) delete the User's content, (iii) temporarily block the User or (iv) terminate the contractual relationship with immediate effect for good cause and permanently exclude the User from the Services (permanent block). The choice of sanction depends on the intent, severity or nature of the user's offence.
- 4.5 The user is obliged to indemnify and hold the provider harmless for violations of these terms of service if claims are made against the provider by other users or third parties for these violations.
- 4.6 The provider provides its users with opportunities on its platforms to post content such as photos, texts, graphics, videos, etc. ("content") and thus publish it in an interested forum or transmit it to another user. The provider has no access to the published content. The respective user is responsible for the content. With regard to this content, the provider has the role of a purely technical distributor/host who has no influence on the content distributed by the user and does not supervise it. Pursuant to § 16 (1) ECG, the provider can only be held liable if he/she is aware of illegal content and does not remove/block it immediately after becoming aware of it.
- 4.7 The User grants the Provider a geographically and factually unrestricted, transferable, non-exclusive right of exploitation, use and processing of the Content published by him/her, in particular for purposes of retrieval, publication and distribution via the Platform, for the duration of the applicable statutory term of protection.
- 4.8 The provider is not obliged to keep the content available. The provider may reject the user's content at any time, publish it elsewhere, shorten it or delete it.

- 4.9 The user expressly guarantees the provider not to post any content whose provision, publication or use violates applicable law or infringes the rights of third parties (in particular copyrights and personal rights). The posting of racist, pornographic, inhuman, insulting and immoral content is expressly prohibited.
- 4.10 If a third party plausibly claims that its rights have been infringed by the content, the provider is entitled, but not obliged, to disclose the contact details stored about the user.

5. DATA PROTECTION

- 5.1 Information on data protection and on the personal data processed by the provider or the association can be found in the [privacy policy](#).
- 5.2 The provider is only the responsible person in the sense of Art. 4 item 7 GDPR for the purposes stated in item 3 of the data protection declaration.
- 5.3 The real association or the user as association manager in the case of fictitious associations shall be subject to obligations towards the other users (see point 4 Data protection declaration) as the person responsible for the association in accordance with the applicable data protection law. The association or the user as the association leader is obliged to comply with the data protection obligations towards the persons concerned in accordance with the GDPR and the national data protection law to which the association or the user as the responsible person is subject (right to information, right to deletion, etc.). The association or the head of the association as the responsible party shall indemnify and hold the provider harmless for violations of data protection law.

6. RIGHTS OF USE

- 6.1 The App and all content published in the App (texts, images, audios, videos, trademarks, graphics, logos, photographs, music, layouts) are the intellectual property of the Provider and are protected by copyright and trademark rights or other protective rights in favour of the Provider or third parties who have granted the Provider corresponding rights of use.
- 6.2 The Provider grants the User the non-exclusive, spatially unlimited, non-transferable right to use the App and the content published by the Provider for the duration of the contractual relationship, but limited to the purpose of the contract. This right of use exclusively covers the use of the app in accordance with these terms of service and the use of the content within the framework and for the functions of the app. The user is therefore not permitted to edit, reproduce, distribute, publish, translate, distribute, rent or transfer the right of use to third parties.
- 6.3 Notwithstanding any other provision of these terms of service, information, brand names and other content of the App may not be modified, copied, reproduced, sold, rented, used, supplemented or otherwise exploited.
- 6.4 Apart from the rights of use or other rights expressly granted herein, the User shall not be granted any further rights of any kind whatsoever, in particular to the company name and to industrial property rights such as patents, utility models or trademarks, nor shall the Provider be under any corresponding obligation to grant such rights to the User.

7. CONTENTS

- 7.1 The app may contain hyperlinks to third-party content (websites, etc.). The provider assumes no responsibility for the content of these websites, as the provider does not control the linked information and does not create the content and information provided there. The use of this content is at the user's own risk.
- 7.2 The provider will immediately remove the hyperlinks concerned as soon as it has become aware of any illegal activity or information.

8. WARRANTY AND LIABILITY

- 8.1 In the case of free use, the provider does not provide any guarantee for the functioning of the app or the correctness of the content available free of charge in the app.
- 8.2 However, the above point does not apply if the user or the association acquires paid content or functions within the framework of the app. In this case, the statutory warranty for defects in the app shall apply.
- 8.3 The provider is not responsible for the functioning of the internet connection or the user's smartphone. It therefore provides no warranty for hardware and software outside its sphere.
- 8.4 The provider is not liable in cases of slight negligence for property damage resulting from errors in the app or the content provided. The provider's liability for personal injury remains unaffected.

9. CONTRACT TERM AND TERMINATION

- 9.1 The contract is concluded for an indefinite period.
- 9.2 In the case of free use, the user can terminate the contract at any time by deleting the account in the app under "Profile" - "Delete account". Deleting the account terminates the contract.
- 9.3 After deletion of the account and thus termination of the contract by the user, all data linked to the user's account will be deleted by the provider after the deletion period has expired. If an association administrator wishes to delete his/her account, he/she must appoint a user who is a member of the association as the new association administrator of the respective association in the app before the deletion. This user will be informed about the appointment as association administrator and must agree to it, thereby assuming all rights and obligations of the former association administrator. Only when the user agrees to his appointment as association administrator will he be assigned the role of association administrator and the previous association administrator can delete his account. However, the association administrator has the option to delete the association at any time if no user can be found as a new association administrator. The members of the association will not be informed of the deletion.
- 9.4 The Provider may terminate the contract at any time without stating reasons by giving 2 weeks' notice to the last day of the month. Notification to the user of the discontinuation of the app or a specific version of the app shall be deemed termination.
- 9.5 After the expiry of the notice period, the User will no longer have access to his/her account and the Provider will delete the data associated with the User's account after the expiry of the deletion period.

9.6 Both parties have the right to terminate the contract with immediate effect for good cause. Among other things, the provider is entitled to terminate the contract for cause if the user violates these terms of service.

10. RIGHT OF WITHDRAWAL

10.1 As a consumer within the meaning of the KSchG, the user has the right to revoke this contract within fourteen days without giving reasons. The revocation period is fourteen days from the day of the conclusion of the contract. In order to exercise the right of revocation, the user must send a clear declaration (e.g. by post, e-mail or telephone) of the decision to revoke this contract to the address given in point 12 or by telephone to the number given in the imprint. For this purpose, the user may use the attached model withdrawal form (see appendix), which is, however, not mandatory. To comply with the withdrawal period, it is sufficient for the user to send the notification of the exercise of the right of withdrawal before the expiry of the withdrawal period.

10.2 Without prejudice to other possibilities for revocation, the deletion of the account by the user within the revocation period shall be deemed to be a revocation. In this case, the Provider shall immediately send a confirmation of receipt of such revocation.

10.3 If the user revokes the contract, the provider must reimburse all payments received from the user without delay and at the latest within fourteen days of receipt of the notice of revocation. For this repayment, we shall use the same means of payment that the user used for the original transaction, unless expressly agreed otherwise with the user. Under no circumstances will the user be charged for this repayment.

10.4 The right of withdrawal expires for the delivery of digital content not stored on a physical data carrier if the user has expressly agreed and taken note of the fact that the provider is to begin delivery before the expiry of the withdrawal period and the user loses his right of withdrawal in this case, and the provider has provided him with a confirmation of the contract on a durable data carrier (e-mail) at the latest upon delivery, which also contains a confirmation of the user's agreement and acknowledgement.

11. CHANGES

11.1 Amendments to these terms of service shall be notified to the user by the provider at least two months before the proposed date of their entry into force with reference to the provisions affected. The user's consent shall be deemed granted if the provider does not receive a written objection from the user by e-mail or post before the proposed date of entry into force. The provider shall point this out to the user in the amendment offer.

11.2 Without prejudice to the foregoing, the User's right to terminate the contract shall remain unaffected.

11.3 If the user rejects an amendment to the terms of service in good time, this shall not affect the provider's right to terminate the contract with the user without notice.

11.4 When a new version of the App is published, the Provider is entitled to apply amended terms of service, which must be accepted by Users in order to be able to use the new version of the App. This contract therefore does not cover the use of new versions of the app.

- 11.5 Notwithstanding any other provision of these terms of service, the Provider shall be entitled to amend the terms of service to the extent necessary to take account of any change in the law or any change in case law.

12. CONTACT AND COMMUNICATIONS

- 12.1 The provider may send legally effective notices to the user to the last notified e-mail address. The user is obliged to notify the provider immediately of any changes to his/her e-mail address (provided during registration).

- 12.2 The user can send legally effective notices to the provider by e-mail or by post to the following address or e-mail address:

KM Konzertmeister GmbH

Gartengasse 16

3743 Röschitz

Austria

E-mail: support@konzertmeister.app

13. SPECIAL PROVISIONS FOR THE USE OF PREMIUM SUBSCRIPTIONS

The following special provisions of this clause 13 shall apply to the use of Premium Subscriptions pursuant to clause 2 by associations:

- 13.1 Premium subscriptions can only be purchased for an association by the association administrator. The contract for the use of the premium subscriptions is concluded between the association (represented by the association administrator) and the provider, in the case of fictitious associations between the association administrator and the provider. The contract for the use of the app between the user and the provider remains independent of this.
- 13.2 In order to use a premium subscription, the user must (i) register, (ii) create an association and (iii) purchase the premium subscription for the association in the app. The purchased premium subscription can only be used by the respective association. Each association can only use its own premium subscription. The simultaneous use of several Premium Subscriptions by the association is not possible. When creating the association, a valid billing address and an e-mail address for the delivery of invoices must be selected.
- 13.3 The premium subscriptions are offered as a monthly subscription with a monthly payment period or as an annual subscription with an annual (i.e. 12-month) payment period. The association administrator can freely choose between monthly and annual subscriptions, whereby only one premium subscription can be used per association. When purchasing a premium subscription, a contract for an indefinite period of time is concluded between the association (represented by the association administrator), in the case of fictitious associations between the association administrator and the provider, and the provider, and a mutual waiver of termination is agreed for the duration of the prepayment period.

- 13.4 The price for the premium subscription determined in accordance with point 2 shall be paid at the beginning of the payment period. The provider shall send the invoice to the association at the beginning of each payment period to the e-mail address specified when the association was created. The invoice amount is due within 15 days of receipt of the invoice and is to be transferred to the provider's account stated on the invoice.
- 13.5 In the event of default in payment, the Provider shall be entitled, without prejudice to other claims, to withhold its contractual services or to terminate the Premium Subscription contract with immediate effect for good cause without the need for a prior reminder.
- 13.6 A monthly subscription can be cancelled at any time at the end of the monthly payment period. Cancellation of a monthly subscription is on time if it is received by the provider within the current payment period. An annual subscription can be cancelled at any time at the end of the annual payment period. The cancellation of the annual subscription is on time if the cancellation is received by the provider within the current payment period. The subscription can be cancelled via the app or in writing. If an association administrator transfers his administrator role to another user, the new administrator has the option to take over the existing subscription or to cancel the current subscription at the time of taking over the administrator role. If a new association administrator is appointed, he/she has the option of taking out a new subscription for the association or changing an existing subscription. The deletion of an association by the association administrator results in the immediate cancellation of the subscription, as all information associated with the association is also deleted with the deletion (except for invoices issued to the association in the course of the premium subscriptions). Any credit balance from a current Premium subscription or from previous Premium subscriptions is lost when an association is deleted, is non-transferable and will not be refunded.
- 13.7 A change from a monthly subscription to an annual subscription is possible at any time and takes place with immediate effect on the day of the change. Unused days within the current monthly payment period will be credited to the association on a pro rata basis and deducted from the invoice for the new annual subscription.
- A reverse change from an annual subscription to a monthly subscription is also possible at any time within the current annual payment period. Unused days within the current annual payment period will be credited to the association on a pro rata basis. The existing credit will be used for the payment of the following invoices of the monthly subscription. If the new monthly subscription is cancelled before the credit is used up, no refund of the unused credit will be made. Unused credit can only be used to purchase premium subscriptions for the association. It is not possible to transfer unused credit to another association.
- It is also possible to switch between the Premium subscriptions again at any time and with immediate effect on the day of the switch.
- 13.8 The Provider may terminate a monthly subscription at any time at the end of the monthly payment period. An annual subscription may be terminated by the Provider at any time at the end of the annual payment period. The announcement of the discontinuation of the App or a specific version of the App shall be deemed to be a termination within the meaning of the above provisions.

14. SPECIAL PROVISIONS FOR ENTREPRENEURS

For associations that are entrepreneurs within the meaning of § 1 of the Austrian Commercial Code (UGB), the following special provisions of this Item 14 apply in connection with the use of Premium Subscriptions:

- 14.1 It is clarified that point 10 of these terms of service concerning the right of withdrawal does not apply.
- 14.2 Special properties or a special usability of the app are not guaranteed. The association must adequately examine the functionality of the purchased premium subscription within 3 working days (Monday to Friday) and immediately notify the provider of any defects in writing or by e-mail. If the deadline is missed, any warranty claims or claims for damages for any defects shall be time-barred. In any case, it is left to the provider to either improve (by releasing a bug-fix version of the app) or reduce the price for any defects. The other warranty remedies, namely replacement or rescission, are excluded in any case. The improvement of a defect does not restart the warranty and compensation period.
- 14.3 The provider shall only be liable within the framework of the existing statutory provisions, irrespective of the legal grounds (pre-contractual, contractual, non-contractual), if damage has been caused by the provider through gross negligence or wilful intent. Liability on the part of the provider for consequential damage, mere financial loss, loss of profit and for damage arising from third-party claims against the association is excluded.

15. OTHER PROVISIONS

- 15.1 Amendments or supplements to these terms of service must be made in writing. Verbal collateral agreements do not exist.
- 15.2 Should individual provisions of these terms of service be or become invalid, the remaining provisions shall remain unaffected. The invalid or missing provisions shall be replaced by the respective statutory provisions.
- 15.3 The Provider's failure to insist that the User perform its obligations under these terms of service or the Provider's failure to enforce its rights against the User or to do so promptly shall not constitute a waiver by the Provider of such rights and shall not relieve the User of its obligations under these terms of service.
- 15.4 If the Provider waives its rights in respect of any default or breach by the User, the Provider does so only in writing and this does not mean that the Provider also waives its rights in respect of any future default or breach by the User.
- 15.5 These Terms and Conditions of Use shall be governed exclusively by Austrian substantive law to the exclusion of its conflict of law rules. Mandatory consumer protection regulations remain unaffected by this.
- 15.6 The place of performance for the Provider's services under the contract is the Provider's registered office.

APPENDIX A: MODEL CANCELLATION FORM

(If you wish to cancel the contract, please fill in and return this form)

To

KM Konzertmeister GmbH

Gartengasse 16

3743 Röschitz

Austria

By e-mail to: support@konzertmeister.app

1. I/we (*) hereby revoke the contract concluded by me/us (*) for the purchase of the following goods (*)/the provision of the following service (*):

2. ordered on (*)/received on (*)

3. name of the consumer(s)

4. address of the consumer(s)

5. signature of the consumer(s) (only in the case of paper communication)

Date

(*) Delete as applicable.

APPENDIX B: ORDER PROCESSING CONTRACT PURSUANT TO ART. 28 GDPR

CONTROLLER:

PROCESSOR:

KM Konzertmeister GmbH
Gartengasse 16
3743 Röschitz
Austria

Name and address

PREAMBLE

This Annex B sets out in concrete terms the obligations of the Association as controller within the meaning of Article 4(7) of the GDPR ("**Controller**") and the Provider as processor within the meaning of Article 4(8) of the GDPR ("**Processor**") as parties to this Agreement pursuant to Article 28 of the General Data Protection Regulation (**GDPR**) arising from the processing of Users' personal data (see Section 4 of the Privacy Policy).

It shall apply to all activities which are related to the processing of personal data pursuant to point 4 of the Privacy Policy and in which employees of the Processor or sub-processors engaged by the Processor process personal data on behalf of the Controller.

1. PURPOSE AND SCOPE OF COMMISSIONED PROCESSING

- 1.1 The contract between the Provider as processor and the Association as controller applies to the operation of the App by the processor in accordance with point 4 of the Privacy Policy, which includes the processing of personal data of the Users and therefore constitute commissioned data processing under the GDPR.
- 1.2 The subject of the contract is the provision of the following IT services by the Processor:
 - 1.2.1 Operation of the App to provide the Association's scheduling and rehearsal planning (for the scope of functions, see point 2 of the terms of service and, with regard to data processing, point 4 of the Privacy Policy);
 - 1.2.2 The maintenance of a publicly accessible website, with which, among other things, information about the association and its events can be published.

1.3 The following categories of data subjects are subject to the processing:

1.3.1 Users of the app.

1.4 The following categories of personal data are covered by the processing:

1.4.1 See point 4.2 of the privacy policy.

2. DURATION

2.1 The duration of the commissioned processing corresponds to that of the underlying contract for the use of the app and can be terminated in accordance with its terms (see points 9 and 13 of the terms of service).

2.2 The Processor shall have the right to terminate this contract with immediate effect at any time for good cause. Good cause shall be deemed to exist, inter alia, if the Controller fails to comply with its legal obligations, in particular under the GDPR.

3. AUTHORITY OF THE RESPONSIBLE

3.1 The Processor may only process Personal Data on the documented instructions of the Controller, unless the Processor is obliged to process by the relevant statutory provisions.

3.2 The controller is entitled, within the scope of the subject matter of the contract, to issue instructions to the processor with regard to the collection, processing and use of the personal data.

3.3 All instructions shall be given by the responsible person via the functions of the app or in writing, if the respective instruction cannot exceptionally be given via the app, to the processor.

4. TECHNICAL AND ORGANISATIONAL MEASURES

4.1 The Processor shall take all necessary technical and organisational measures to protect personal data in accordance with Article 32 of the GDPR.

4.2 The technical and organisational measures are subject to technical progress and further development. The processor is therefore permitted to implement alternative adequate measures if this is technically or organisationally necessary. The consent or notification of the controller is not required for this.

5. OBLIGATIONS OF THE PROCESSOR

- 5.1 The Processor is obliged to process data and processing results exclusively within the scope of the written orders of the Controller. If the Processor receives an official order to release data which it processes on behalf of the Controller, the Processor shall - to the extent permitted by law - immediately inform the Controller thereof and refer the authority to the Controller. Processing of the data for the processor's own purposes is only permitted with an explicit written order.
- 5.2 The Processor shall be obliged to impose a confidentiality obligation on all persons entrusted with the Data Processing before they commence their activities, unless they are subject to an appropriate statutory confidentiality obligation. The confidentiality obligation of the persons entrusted with the data processing shall remain in force even after termination of their activity and leaving the Processor.
- 5.3 The Processor shall take the technical and organisational measures to enable the Controller to fulfil the data subject's rights under Chapter III of the GDPR (information, access, rectification and erasure, data portability, objection, as well as automated decision-making in individual cases) within the legal time limits and shall provide the Controller with all necessary information for this purpose upon request. If a request from a data subject is mistakenly addressed to the processor, the processor shall forward the request to the controller and inform the applicant accordingly.
- 5.4 The processor is obliged to support the controller in complying with the obligations set out in Articles 32 to 36 of the GDPR and to include the processing activity covered by the contract in its processing directory pursuant to Article 30 of the GDPR.
- 5.5 With regard to the processing of the data provided by the Processor, the Processor shall have the right to inspect and control the data processing facilities, including through auditors commissioned by the Processor. The Processor shall be obliged to provide the Controller with the information required to monitor compliance with the obligations set out in this Agreement. However, the Processor shall be entitled to reject an auditor for objective reasons, in particular if the auditor is professionally unsuitable or if the auditor is a direct or indirect competitor of the Processor.
- 5.6 Upon termination of this Agreement, the Processor shall be obliged to delete all Personal Data processed in the context of the commissioned processing, unless the Processor is obliged by national regulations or Union law to continue to store them.
- 5.7 The Processor shall inform the Controller without undue delay if it considers that an instruction given by the Controller infringes European Union or Member State data protection provisions.

6. SUB-PROCESSOR

- 6.1 The Controller hereby grants the Processor general authorisation to use additional sub-processors. The Processor shall inform the Controller of any intended change in the use or replacement of a Sub-Processor by e-mail in good time for the Controller to be able to prohibit it if necessary. The notification of the intended use or replacement shall be deemed to be timely if it is made at least one month before the planned date.
- 6.2 The controller may only refuse a sub-processor on objective grounds if there is a high risk that this would jeopardise the processing of the data in accordance with the GDPR.
- 6.3 In the event of rejection of a sub-processor by the controller, the right of the processor to terminate the contract with due notice shall remain unaffected.
- 6.4 The Processor shall conclude the necessary agreements within the meaning of Article 28(2) of the GDPR with the Sub-Processor. In doing so, it shall be ensured that the sub-processor enters into the same obligations as those incumbent on the processor under this agreement.

7. REMUNERATION

- 7.1 The Controller shall remunerate the Processor's support services which are not owed on the basis of the subject matter of the contract referred to in clause 1 of this contract on a time and material basis in accordance with an hourly rate of EUR 100 (excluding VAT), unless they are due to gross negligence or wilful misconduct on the part of the Processor.
- 7.2 This applies in particular to the support of the controller for the fulfilment of the obligations incumbent on him under Articles 32 to 36 of the GDPR and on him under Section III of the GDPR.

8. DUTIES OF THE RESPONSIBLE PERSON

- 8.1 The controller must make all data available to the processor electronically via the app so that the processor can carry out the processing.
- 8.2 The controller shall ensure that it processes the personal data of data subjects lawfully, in particular that it has obtained the necessary consents.

9. FINAL PROVISIONS

9.1 This Appendix B forms an integral part of the terms of service.

9.2 If any provisions of this Appendix B conflict with any provisions of the terms of service, in particular clause 5 of the terms of service, the provisions of the terms of service shall take precedence over this Appendix B.

FOR THE CONTROLLER:

FOR THE PROCESSOR:

Röschitz, 28.07.2023

.....
Place, date

.....
Place, date

.....
Name of the signatory


 **KM Konzertmeister GmbH**
Gartengasse 16
A-3743 Röschitz
office@konzertmeister.app
<https://konzertmeister.app>

.....
Signature / stamp

.....
Signature / stamp