project44 A/S, a wholly-owned subsidiary of project44, Inc.

DATA PROCESSING AGREEMENT

This Data Processing Agreement shall apply to Personal Data delivered to project44 by Carriers and project44’s processing of such Personal Data.

The overall scope of this Data Processing Agreement may be outlined as follows with respect to the rights of Carrier:

- project44 will only process and share Personal Data provided by Carrier to project44 in accordance with the instructions of Carrier.
- project44 provides an adequate level of technical and organisational security in accordance with the European General Data Protection Regulation (“GDPR”).
- project44 will assist Carrier with Carrier’s obligations under the GDPR.
- Carrier will have control with project44’s processing of Personal Data on behalf of Carrier.
- The Data Processing Agreement will help both Carrier and project44 to conform with the GDPR.

The above outline must be read and understood in conjunction with the specific terms and conditions set out below.

Between **Carrier** (the "**Carrier”/”Controller**");

and

project44 A/S, a company incorporated in Denmark (registration number DK37439541) having its registered office at Stroemmen 6, DK-9400 Noerresundby, Denmark and any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity (“**project44”/the “Processor**”).

The Carrier and project44 hereinafter referred to as “Party” and jointly referred to as “Parties”;

Capitalized terms not otherwise defined in this Data Processing Agreement (“**DPA**”) shall have the meanings set forth in the Services Agreement or if not defined in neither this DPA, nor the Services Agreement (jointly the “Agreement”), capitalized terms shall have the meaning set forth in the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the “**GDPR**”). In the event of a conflict between the terms of the Services Agreement and the terms of this DPA, the terms of this DPA shall prevail.

WHEREAS:

A. Carrier acts as Data Controller and project44 acts as Data Processor on behalf of the Carrier in relation to project44’s processing of personal data as set out in the GDPR (hereinafter “**Personal Data**”); for which reason

B. The Parties have entered into the following DPA regarding project44’s processing of Personal Data on behalf of the Carrier in connection with the provision of services as specified in the Services Agreement;

C. This DPA has been designed to ensure the Parties’ compliance with Article 28, sub-section 3 of the GDPR:

1 Processing of Personal Data

1.1. As part of the Processor’s provision of the Services to the Controller and the Controller’s customers, the Processor will, on behalf of the Controller, process Personal Data relating to the Controller’s employees and employees of the Controller’s subcontractors (see Appendix 1) (hereinafter the “**Data Subjects**”).

1.2. In general the Processor processes, on behalf of the Controller, the following categories of Personal Data concerning the Data Subjects:

- Special categories of Personal Data: No special categories of Personal Data are processed.

- General categories of Personal Data: Specified in Appendix 1.
- Criminal record: No data concerning criminal record is processed.
- National identification no.: No national identification no. is processed.

1.3. The Processor processes, on behalf of the Controller, the Personal Data for the following purposes: To enable the Controller to access, utilize, benefit from and provide Controller’s customers with the Services as described in the Services Agreement and allow for the Processor to utilize and process the Personal Data to enable, prepare and provide Services as described in the Services Agreement to the Controller, its customers and other designated third parties.

1.4. The Processor is responsible for storing the Personal Data within the EU/EEA and not transferring the Personal Data to countries outside the EU/EEA without the prior instruction of the Controller. Such instructions may be given by the Controller through the Controller’s settings in the Services and this Agreement. By executing this DPA, the Controller instructs the following transfers of the Personal Data to Third Countries:

1.4.1. in case the Controller accesses the Processor’s Services from any Third Country, the Controller is deemed to have given adequate instruction to such transfer in accordance with section 1 of this Agreement.

1.4.2. to the extent the Controller instructs the Processor to forward the Personal Data to any Customer or third party located in any Third Country, including through the Controller’s settings in the Services.

1.4.3. the Processor may transfer the Personal Data to Sub Processors located in Third Countries.

1.5. The Processor and the Controller agrees to apply the transfer mechanisms listed below, which shall apply in the order of precedence as set out below to any transfers of Personal Data under this DPA from the European Union, the European Economic Area and/or their member states and Switzerland to countries which do not ensure an adequate level of data protection within the meaning of the GDPR of the foregoing territories, to the extent such transfers are subject to such GDPR and the mechanism is available. The transfer may only be conducted if at least one of the below mechanisms is available:

1.5.1. An adequacy decision issued by the European Commission in accordance with art. 45 of the GDPR, if available;

1.5.2. A validated set of binding corporate rules in accordance with art. 47 of the GDPR.

1.5.3. The Standard Contractual Clauses set forth in Schedule Appendix 2 to this DPA.

1.5.4. In relation to the United Kingdom in the event the United Kingdom is deemed a Third Country, in order of precedence:

a. An adequacy decision issued by the European Commission in accordance with art. 45 of the GDPR, if available;
b. Any alternate mechanism agreed between the United Kingdom and the European Commission under Chapter V of the GDPR, if available; or
c. The method designated in section 1.5.2.-1.5.3. of this DPA.

1.6. Should the Controller instruct the transfer of Personal Data as per section 1.4.2, the Controller hereby agrees to and allows for the Processor to enter into the European Commission’s Standard Contractual Clauses provided in Appendix 3 with any such third party located in a Third Country on behalf of the Controller, naming the Controller the “data exporter” and the third party “data importer”.

1.7. The accept of this Agreement through the Controller’s access to the Processor’s Services shall constitute due execution of the Standard Contractual Clauses.

1.8. It is explicitly understood that the Controller is ultimately responsible for the lawfulness of any instructed Processing of Personal Data under this DPA and the Services Agreement, including, but not limited to, obtaining adequate legal grounds for transfers to Third Countries, to the greatest extent provided by the GDPR. To the extent Data Processor provides assistance in relation to the Controller’s compliance efforts, this does not transfer any such responsibility to the Processor.

2 Instructions and Confidentiality

2.1. The Processor may only process the Personal Data in compliance with documented instructions from the Controller, including transfer of Personal Data to any Third Country or international organisation. This Agreement serves as a documented instruction along with the Controller’s settings in the Services.

2.2. If the Processor is required to process Personal Data, including transferring Personal Data to a Third Country or an International Organisation, and this does not follow from the instructions of the Controller but is pursuant to a legal obligation to which the Processor is subject, then the Processor must notify the Controller of such legal requirements before commencing the processing, unless such notification is prohibited on important grounds of public interest.

2.3. The Processor may not process the Personal Data for its own purposes, unless explicitly agreed to in this Agreement.

2.4. The term of data processing is not a fixed period of time and shall last until the discontinuation of this Agreement.

2.5. In the event the Controller issues an instruction which is likely to jeopardize or render impossible the performance of the Processor’s Services under the Services Agreement, the Processor’s failure to comply with such instruction does not constitute a breach of this DPA or other agreements between the Parties. On the contrary, the Parties will endeavor to find a solution which ensures the performance of the Processor.

2.6. The Processor is bound by confidentiality and may not, without instruction or authorisation, copy, disclose or use the Personal Data. The Processor must ensure that employees authorised to process Personal Data have assumed a contractual confidentiality obligation or are subject to a statutory obligation of secrecy.

2.7. The Processor must ensure that access to the Personal Data is limited to employees with a work-related need.

3 Security

3.1. To protect the Personal Data, the Processor must implement appropriate technical and organisational measures in such a manner that the processing meets the requirements set out in the GDPR and any implementation of such EU Regulation in Danish law. Such measures are determined and adjusted on a regular basis with due consideration for the current technical level, expenses, and the nature, scope, context and purposes of the processing and the risks to the rights of natural persons.

3.2. The Processor must ensure that the Personal Data is deleted or anonymized when continued storage no longer serves a fair purpose and as instructed by the Controller. The Processor shall in no event continue storage for a period of more than 180 days from reception of the Personal Data, unless the Controller, EU or member state law prescribes requirements for the continued storage of the Personal Data or the Personal Data becomes part of a shipment disclosed to another controller (in accordance with the Controller’s instructions).

3.3. The Processor must inform and train relevant employees on confidentiality relating to the processing of Personal Data and must ensure that the processing is in compliance with the purposes of this Agreement and the instructions of the Controller.

4 Sub Processers

4.1. The Processor is, subject to clause 4.3, hereby authorised to use processors of its own (“Sub Processors”) without further written approval from the Controller.

4.2. The Processor will notify the Controller in case of changes concerning supplement, replacement, or discontinuation of the use of Sub Processors related to processing of Personal Data under this Agreement, by updating the list of Sub Processor available at [LINK] giving the Controller an option to object to such changes based on reasonable grounds relating to data protection law. The Processor must receive the reasoned

objection no later than seven (7) calendar days after making the updates available to the Controller. The Processor and the Controller will work together in good faith to address the Controller’s objection, if any. Should the potential objection from the Controller prove unresolvable, this will constitute termination in accordance with the Agreement, giving rise to no further remedies.

4.3. It is a condition for appointing a Sub Processor that the Processor and the Sub Processor agree in writing that the Sub Processor shall be subject to the same principal data protection obligations as set out in this Agreement, including that the Sub Processor shall implement appropriate technical and organisational measures in such a manner that the processing of the Personal Data meets the requirements of the GDPR or any Danish implementation of such EU regulation.

4.4. The Processor shall be liable to the Controller for any actions and omissions of Sub Processors in the same manner as the Processor shall be liable for its own actions and omissions for the processing of Personal Data according to this Agreement.

5 Assistance to the Controller

5.1. Taking into account the nature of the processing, the Processor must reasonably assist the Controller to ensure that all obligations under Art. 32-36 of the GDPR and other applicable data protection and information security legislation are met. Such assistance shall be defrayed by the Controller.

5.2. Taking into account the nature of the processing, the Processor must, to the extent possible and by means of appropriate technical and organisational measures, assist the Controller in meeting the Controller’s legal obligations to respond to requests for exercising the individuals’ rights laid down in Chapter III of the GDPR.

5.3. The Processor must notify the Controller of any Personal Data security breaches concerning the processing of Personal Data under this Agreement after the Processor becomes aware of such security breaches without undue delay and if possible no later than 72 hours.

5.4. The abovementioned notification under section 5.3 shall - in consideration of the nature of the processing and information available to the Processor – contain information regarding:

5.4.1. The nature of the breach on security of Personal Data, such as the categories and approximate amount data subjects and Personal Data concerned, if possible.

5.4.2. Probable consequences arising from the security breach regarding security of Personal Data.

5.4.3. Precautions made or suggested to handle the security breach and if relevant to mitigate possible adverse impact in relation to data subjects and Personal Data.

5.5. The Processor must immediately notify the Controller if the Processor believes that an instruction violates the GDPR or other data protection provisions in other EU law or member states’ national law.

6 Demonstration of Compliance and Audits

6.1. The Processor must, upon request, make all information necessary available to the Controller to demonstrate compliance with the obligations of this Agreement and the GDPR. Regarding such requests, the Controller shall remedy the expenses of the Processor.

6.2. The Processor may subject itself to yearly audits by an independent third-party auditor (hereinafter referred to as the “**Auditor**”). In such cases the Auditor may produce a report regarding the Processor’s compliance with data protection and security matters, which can be made available to the Controller in a sufficient manner. The Controller hereby authorises and mandates any Auditor appointed by the Processor. The Auditor must be subject to confidentiality obligations, either under an agreement with the Processor or by law.

6.3. The Controller or a representative of the Controller will further have access to conduct physical inspections at the Processors premises, under the precondition that such inspections is duly announced by the Controller to the Processor with 30 workdays notice and proper non-disclosure obligations are assumed under a written

contractual agreement between the Controller/Controllers representative and the Processor. All expenses related to such inspections, including expended resources by the Processor, is to be defrayed by the Controller.

7 Obligations of the Controller

7.1. The Controller is solely liable and responsible for compliance with the provisions of the European and national data protection laws, in particular, but not limited to:

7.1.1. the lawfulness of the communication and transfer of Personal Data to and from the Processor, including any instructed transfer of or access to Personal Data from the Processor’s services from a Third Country;

7.1.2. the lawfulness of the instructed processing of Personal Data, e.g. the purpose, scope and extend of the processing of Personal Data under this Agreement; and

7.1.3. the Controller’s prior and subsequent use of the Personal Data.

7.2. In the event, that the provision of Personal Data under this DPA is ruled unlawful by a competent authority and no appeal is lodged or possible, the Controller must indemnify the Data Processor for any and all third-party claims arising from the unlawful provision of Personal Data under this Agreement.

8 Term and Termination

8.1. This Agreement shall take effect when entered into and shall be in force until it is terminated by one of the Parties.

8.2. Upon termination of this Agreement, the Processor must return, anonymize or destroy all Personal Data under this Agreement, unless otherwise prescribed by EU or member state law or agreement. This agreement shall remain valid and in force until the processing of Personal Data under this Agreement has come to an end.

8.3. This Agreement and the additional contractual basis for the provision of services to the Controller is interdependent and cannot be terminated separately. This Agreement may be replaced by another Data Processing Agreement.

9 Miscellaneous

9.1. Any provisions which is not regulated in this Agreement is subject to the terms specified in project44’s “Services Agreement” for Provision of Data”.

9.2. project44 reserves the right to amend this Data Processing Agreement by notifying Carrier.

Appendix 1: General Categories of Processed Personal Data

This Appendix 1 constitutes the categories of data subjects and Personal Data processed relating to the Processor’s processing of Personal Data for the Controller under this Agreement, and is an integrated part of the Data Processing Agreement.

1. Categories of data subjects:

1.1. The Controller’s employees

1.1.1. Users set up in project44’s Services

1.1.2. Drivers

1.2. The Controller’s subcontractors’ employees

1.2.1. Users set up in project44’s Services

1.2.2. Drivers

2. Categories of Personal Data:

Re 1.1.1.: Name, e-mail, phone number, username and password

Re 1.1.2.: License plate number and location-, sensor- and/or vehicle information (in some cases drivers’ names may be processed due to concrete request).

Re 1.2.1.: Name, e-mail, phone number, username and password

Re 1.2.2.: License plate number and location-, sensor- and/or vehicle information (in some cases drivers’ names may be processed due to concrete request).

Appendix 2: Standard Contractual Clauses – Controller to Processor

STANDARD CONTRACTUAL CLAUSES (PROCESSORS) For the purposes for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

DATE OF DATA TRANSFER AGREEMENT shall be the Effective Date of this DPA.

Between

1) Carrier, having its principal place of business at the address designated in the Carrier’s user profile.

(each such entity being known as “**data exporter**”)

and

2) project44 A/S, having its principal place of business at Strømmen 6, 9400 Nørresundby, Denmark

(the “**data importer**”)

each a “party”; together “the parties”,
HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

Definitions

For the purposes of the Clauses:

(a) *'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject'* and *'supervisory authority'* shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

(b) '*the data exporter'* means the controller who transfers the personal data;

(c) *'the data importer'* means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) *'the subprocessor'* means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) '*the applicable data protection law'* means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) *'technical and organizational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2

Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organizational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organizational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

  (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,

  (ii) any accidental or unauthorised access, and

  (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

   The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

   (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

   (b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8

Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

Clause 9

Governing Law

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10

Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11

Subprocessing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12

Obligation after the termination of personal data processing services

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

On behalf of each data exporter:

Carrier
Name (written out in full):
Position:
Address:
Other information necessary in order for the contract to be binding (if any):

Signature……..

(stamp of organization)

On behalf of the data importer:
project44 A/S
Name (written out in full):
Position:
Address:
Other information necessary in order for the contract to be binding (if any):

Signature……..

(stamp of organization)

APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties.

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

Data exporter

The data exporters are (please specify briefly your activities relevant to the transfer):

[The data exporters are the Carrier from time to time within the European Economic Area and Switzerland that process personal data relating to transportation efforts.]

Data importer

The data importer is (please specify briefly activities relevant to the transfer):

[A provider of services to the data exporter.]

Data subjects

The personal data transferred concern the following categories of data subjects (please specify):

[Carrier’s employees, Carrier’s subcontractors’ employees, users set up in project44 Services]

Categories of data

The personal data transferred concern the following categories of data (please specify):

[Name, e-mail, phone number, username and password, license plate number and location-, sensor- and/or vehicle information.]

The personal data transferred concern the following special categories of data (please specify):

[N/A]

Processing operations

The personal data transferred will be subject to the following basic processing activities (please specify):

[Obtaining, developing, producing, collecting, recording, organizing, structuring, accessing, using, adapting, altering, modifying, retrieving, copying, reproducing, analyzing, disclosing, disseminating, making available, aligning, combining, blocking, restricting, transmitting, transferring, storing, retaining, destroying, deleting, anonymizing or erasing such data]

ON BEHALF OF EACH DATA EXPORTER
Carrier

Name:……
Authorised Signature ……

DATA IMPORTER
project44 A/S

Name:……
Authorised Signature ……

APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties.

Description of the technical and organizational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

As per the Agreement.

Appendix 3: Standard Contractual Clauses – Controller to Controller

STANDARD CONTRACTUAL CLAUSES

Standard contractual clauses for the transfer of personal data from the Community to third countries (controller to controller transfers). Implemented in accordance with section 1.6 of this DPA.

Name of the data exporting organisation: project44 on behalf of Carrier

Address: designated in the Agreement and the Carrier’s user profile respectively

Tel. **fax** **e-mail:**

Other information needed to identify the organisation:

('the data **exporter')**

and

Name of the data importing organisation: Customer having its principal place of business at the address designated in the Carrier’s user profile.

Address: Designated in the Customer’s user profile.

Tel. **fax** **e-mail:**

Other information needed to identify the organisation:

('the data **importer')**

HAVE AGREED on the following contractual clauses ('the Clauses') in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1:

Clause 1

Definitions

For the purposes of the Clauses:

a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervi- sory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 199 5 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ('hereinafter the Directive');

b) the 'data exporter' shall mean the controller who transfers the personal data;

c) the 'data importer' shall mean the controller who agrees to receive from the data exporter personal data for further processing in accordance with the terms of these clauses and who is not subject to a third country's system ensuring adequate protection.

Clause 2

Details of the transfer

The details of the transfer, and in particular the categories of personal data and the purposes for which they are transferred, are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

The data subjects can enforce this Clause, Clause 4(b), (c) and (d), Clause 5(a), (b), (c) and (e), Clause 6(1) and (2), and Clauses 7, 9 and 11 as third-party beneficaries. The parties do not object to the data subjects being represented by an association or other bodies if they so wish and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data by him has been and, up to the moment of the transfer, will continue to be carried out in accordance with the relevant provisions of the Member State in which the data exporter is established (and where applicable has been notified to the relevant authorities of that State) and does not violate the relevant provisions of that State;

(b) that if the transfer involves special categories of data the data subject has been informed or will be informed before the transfer that this data could be transmitted to a third country not providing adequate protection;

(c) to make available to the data subjects upon request a copy of the Clauses; and

(d) to respond in a reasonable time and to the extent reasonably possible to enquries from the supervisory authority on the processing of the relevant personal data by the data importer and to any enquiries from the data subject concerning the processing of this personal data by the data importer.

Clause 5

Obligations of the data importer

The data importer agrees and warrants:

(a) that he has no reason to believe that the legislation applicable to him prevents him from fulfilling his obligations under the contract and that in the event of a change in that legislation which is likely to have a substantial adverse effect on the guarantees provided

by the Clauses, he will notify the change to the data exporter and to the supervisory authority where the data exporter is established, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) to process the personal data in accordance with the mandatory data protection principles set out in Appendix 2;

or, if explicitly agreed by the parties by ticking below and subject to compliance with the mandatory data protection principles set out in Appendix 3, to process in all other respects the data in accordance with:

the relevant provisions of national law (attached to these Clauses) protecting the fundamental rights and freedoms of natural persons, and in particular their right to privacy with respect to the processing of personal data applicable to a data controller in the country in which the data exporter is established, or

the relevant provisions of any Commission Decision under Article 25(6) of Directive 95/46/EC finding that a third country provides adequate protection in certain sectors of activity only, if the data importer is based in that third country and is not covered by those provisions, in so far as those provisions are of a nature which makes them applicable in the sector of the transfer;

(c) to deal promptly and properly with all reasonable inquiries from the data exporter or the data subject relating to his processing of the personal data subject to the transfer and to cooperate with the competent supervisory authority in the course of all its inquries and abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(d) at the request of the data exporter to submit its data processing facilities for audit which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(e) to make available to the data subject upon request a copy of the Clauses and indicate the office which handles complaints.

Clause 6

Liability

1. The parties agree that a data subject who has suffered damage as a result of any violation of the provisions referred to in Clause 3 is entitled to receive compensation from the parties for the damage suffered. The parties agree that they may be exempted from this liability only if they prove that neither of them is responsible for the violation of those provisions.

2. The data exporter and the data importer agree that they will be jointly and severally liable for damage to the data subject resulting from any violation referred to in paragraph 1. In the event of such a violation, the data exporter or the data importer or both.

3. The parties agree that if one party is held liable for a violation referred to in paragraph 1 by the other party, the latter will, to the extent to which it is liable, indemnify the first party for any cost, charge, damages, expenses or loss it has incurred. (*).

Clause 7

Mediation and jurisdiction

1. The parties agree that if there is a dispute between a data subject and either party which is not amicably resolved and the data subject invokes the third-party beneficiary provision in clause 3, they accept the decision of the data subject:

(a) to refer the dispute to mediation by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that by agreement between a data subject and the relevant party a dispute can be referred to an arbitration body, if that party is established in a country which has ratified the New York convention on enforcement of arbitration awards.

3. The parties agree that paragraphs 1 and 2 apply without prejudice to the data subject's substantitve or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8

Cooperation with supervisory authorities

The parties agree to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under national law.

Clause 9

Termination of the Clauses

The parties agree that the termination of the Clauses at any time, in any circumstances and for whatever reason does not exempt them from the obligations and/or conditions under the Clauses as regards the processing of the data transferred.

Clause 10

Governing Law

The Clauses shall be governed by the law of the Member State in which the Data Exporter is established, namely

Clause 11

Variation of the contract

The parties undertake not to vary or modify the terms of the clauses.

On behalf of the data exporter:

Name (written out in full):
.....

Position:
.....

Address:
.....

Other information necessary in order for the contract to be binding (if any):
.....

(signature)

(stamp of organisation)

On behalf of the data importer:

Name (written out in full):
.....

Position:

Address:

Other information necessary in order for the contract to be binding (if any):
.....

(signature)

……

(stamp of organisation)

Appendix 1

to the standard contractual clauses

Data Exporter

The data exporter is (please specify briefly your activities relevant to the transfer):

[The data exporters are the Carrier from time to time within the European Economic Area and Switzerland that process personal data relating to transportation efforts.]

Data Importer

The data exporter is (please specify briefly your activities relevant to the transfer):

[The data importers are customers of the data exporter utilizing either directly or indirectly the services of the Processor]

Data Subjects

The personal data transferred concern the following data subjects (please specify):

[Carrier’s employees, Carrier’s subcontractors’ employees, users set up in project44 Services]

Purposes of the transfer

The transfer is necessary for the following purposes (please specify):

[To allow the data exporter’s customers to receive the Services and utilize this for the customers’ and other third parties benefit]

Categories of data

The personal data transferred fall within the following categories of data (please specify):

[Name, e-mail, phone number, username and password, license plate number and location-, sensor- and/or vehicle information.]

Sensitive data (if appropriate):

The personal data transferred fall within the following categories of sensitive data (please specify):

[N/A]

Recipients

The personal data transferred may be disclosed only to the following recipients or categories of recipients (please specify):

Customer, Tier End Customers and Service Providers.

Storage limit

The personal data transferred may be stored for no more than (please indicate):

Then timeframes designated in the applicable agreements.

Data exporter	Data importer
Name:	Name: .....
(Authorised signature)	(Authorised signature)

Appendix 2

to the standard contractual clauses

Mandatory data protection principles referred to in the first paragraph of Clause 5(b)

These data protection principles should be read and interpreted in the light of the provisions (principles and relevant exceptions) of Directive 95/46/EC.

They shall apply subject to the mandatory requirements of the national legislation applicable to the data importer which do not go beyond what is necessary in a democratic society on the basis of one of the interests listed in Article 13(1) of Directive 95/46/EC, that is, if they constitute a necessary measure to safeguard national security, defence, public security, the prevention, investigation, detection and prosecution of criminal offences or of breaches of ethics for the regulated professions, an important economic or financial interest of the State or the protection of the data subject or the rights and freedoms of others.

1. Purpose limitation: data must be processed and subsequently used or further communicated only for the specific purposes in Appendix I to the Clauses. Data must not be kept longer than necessary for the purposes for which they are transferred.

2. Data quality and proportionality: data must be accurate and, where necessary, kept up to date. The data must be adequate, relevant and not excessive in relation to the purposes for which they are transferred and further processed.

3. Transparency: data subjects must be provided with information as to the purposes of the processing and the identity of the data controller in the third country, and other information insofar as this is necessary to ensure fair processing, unless such information has already been given by the data exporter.

4. Security and confidentiality: technical and organisational security measures must be taken by the data controller that are appropriate to the risks, such as unauthorised access, presented by the processing. Any person acting under the authority of the data controller, including a processor, must not process the data except on instructions from the controller.

5. Rights of access, rectification, erasure and blocking of data: as provided for in Article 12 of Directive 95/46/EC, the data subject must have a right of access to all data relating to him that are processed and, as appropriate, the right to the rectification, erasure or blocking of data the processing of which does not comply with the principles set out in this Appendix, in particular because the data are incomplete or inaccurate. He should also be able to object to the processing of the data relating to him on compelling legitimate grounds relating to his particular situation.

6. Restrictions on onwards transfers: further transfers of personal data from the data importer to another controller established in a third country not providing adequate protection or not covered by a decision adopted by the Commission pursuant to Article 25(6) of Directive 95/46/EC (onward transfer) may take place only if either:

   (a) data subjects have, in the case of special categories of data, given their unambiguous consent to the onward transfer or, in other cases, have been given the opportunity to object.

   The minimum information to be provided to data subjects must contain in a language understandable to them:

   — the purposes of the onward transfer,

   — the identification of the data exporter established in the Community,

   — the categories of further recipients of the data and the countries of destination, and

   — an explanation that, after the onward transfer, the data may be processed by a controller established in a country where there is not an adequate level of protection of the privacy of

individuals; or

(b) the data exporter and the data importer agree to the adherence to the Clauses of another controller which thereby becomes a party to the Clauses and assumes the same obligations as the data importer.

7. Special categories of data: where data revealing racial or ehtnic origin, political opinions, religious or philosophical beliefs or trade union memberships and data concerning health or sex life and data relating to offences, criminal convictions or security measures are processed, additional safeguards should be in place within the meaning of Directive 95/46/EC, in particular, appropriate security measures such as strong encryption for transmission or such as keeping a record of access to sensitive data.

8. Direct marketing: where data are processed for the purposes of direct marketing, effective procedures should exist allowing the data subject at any time to ‘opt-out’ from having his data used for such purposes.

9. Automated individual decisions: data subjects are entitled not to be subject to a decision which is based soley on automated processing of data, unless other measures are taken to safeguard the individual's legitimate interests as provided for in Article 15(2) of Directive 95/46/EC. Where the purpose of the transfer is the taking of an automated decision as referred to in Article 15 of Directive 95/46/EC, which produces legal effects concerning the individual or significantly affects him and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to him, such as his performance at work, creditworthiness, reliability, conduct, etc., the individual should have the right to know the reasoning for this decision.

Appendix 3

to the standard contractual clauses

Mandatory data protection principles referred to in the second paragraph of Clause 5(b)

1. Purpose limitation: data must be processed and subsequently used or further communicated only for the specific purposes in Appendix I to the Clauses. Data must not be kept longer than necessary for the purposes for which they are transferred.
2. Rights of access, rectification, erasure and blocking of data: as provided for in Article 12 of Directive 95/46/EC, the data subject must have a right of access to all data relating to him that are processed and, as appropriate, the right to the rectification, erasure or blocking of data the processing of which does not comply with the principles set out in this Appendix, in particular because the data is incomplete or inaccurate. He should also be able to object to the processing of the data relating to him on compelling legitimate grounds relating to his particular situation.
3. Restrictions on onward transfers: further transfers of personal data from the data importer to another controller established in a third country not providing adequate protection or not covered by a decision adopted by the Commission pursuant to Article 25(6) of Directive 95/46/EC (onward transfer) may take place only if either:

   (a) data subjects have, in the case of special categories of data, given their unambiguous consent to the onward transfer, or, in other cases, have been given the opportunity to object.

   The minimum information to be provided to data subjects must contain in a language understandable to them:

   — the purposes of the onward transfer,
   — the identification of the data exporter established in the Community,
   — the categories of further recipients of the data and the countries of destination, and
   — an explanation that, after the onward transfer, the data may be processed by a controller established in a country where there is not an adequate level of protection of the privacy of indidividuals; or

   (b) the data exporter and the data importer agree to the adherence to the Clauses of another controller which thereby becomes a party to the Clauses and assumes the same obligations as the data importer.