

PROTECTION OF PRIVACY AND TRANSPARENCY OF THE STATE Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235 PRECAUTIONS-WARNING in personal data protection matter no. 2.1.-6/21/5 Preceptor Raiko Kaur Time and place of precept 26.02.2021, Tallinn Addressee of the precept Tember Grupp OÜ (12779555) info@neiss.ee tarmo@futureinvest.info Person responsible for the addressee Member of the Management Board

RESOLUTION: § 56 (1) (2) of the Personal Data Protection Act 8, § 58 (1) and Article 58 (1) (a) and (2) (d) of the General Regulation on the Protection of Personal Data (IKÜM), as well as taking into account Articles 12 and 13 of the IKÜM, the Data Protection Inspectorate shall issue a mandatory precept to Tember Grupp OÜ: 1. Add to the website www.neiss.ee data protection conditions that fully comply with the requirements set out in Articles 12 - 13 of the CISA. 2. Submit a confirmation to the Inspectorate that the data protection conditions complying with the requirements of the IKÜM have been added to the website www.neiss.ee. We set the deadline for compliance with the precept as 12.03.2021. Notify the Data Protection Inspectorate to the e-mail address info@aki.ee of the fulfillment of the precept by the deadline. CONTEST REFERENCE: This precept can be challenged within 30 days by submitting either: - a challenge under the Administrative Procedure Act to the Data Protection Inspectorate, or - an appeal under the Code of Administrative Court Procedure to the Tallinn Administrative Court (in which case the challenge can no longer be heard). Contestation of a precept does not suspend the obligation to comply with the precept or the application of the measures necessary for compliance Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235. PENALTY WARNING: If a precept is not complied with by the specified term, the Data Protection Inspectorate shall impose a penalty payment of EUR 2,000 on the addressee of the precept on the basis of § 60 of the Personal Data Protection Act: for each item of the precept not complied with. The penalty payment may be imposed repeatedly - until the precept is complied with. If the addressee does not pay the penalty payment, it is forwarded to the bailiff to start enforcement proceedings. In this case, the bailiff's fee and other enforcement costs are added to the penalty payment. WARRANTY PENALTY WARNING: Failure to comply with a precept pursuant to Article 58 (1) of the General Data Protection Regulation may result in misdemeanor proceedings pursuant to § 70 of the Personal Data Protection Act. A natural person may be fined up to EUR 20 000 000 for this act and a legal person may be fined up to EUR 20 000 000 or up to 4% of its total annual worldwide turnover, whichever is greater. The Data Protection Inspectorate conducts extra-judicial proceedings against misdemeanors. FACTUAL CIRCUMSTANCES: On 21 September 2020, the Data Protection Inspectorate (the Inspectorate) received a memorandum from the State Information System Board regarding the website www.neiss.ee. In

connection with this, the Inspectorate initiated supervision proceedings on the basis of clause 56 (3) 8) of the IKS. In the course of the supervision procedure, we established that the data protection conditions published on the website www.neiss.ee do not comply with the requirements set out in the General Regulation on the Protection of Personal Data (IKÜM). On 09.11.2020, the Inspectorate sent an additional inquiry, in which we stated the following: To bring the data protection conditions in line with the requirements of Articles 12 - 14 of the CISA, taking into account the shortcomings identified by the Inspectorate, and to publish the data protection conditions on the website. The Inspectorate pointed out the following as shortcomings: The data protection conditions state that the purchase history data is used to analyze customer preferences and the online store user's IP address or other network identifiers are processed to provide the online store as an information society service and to compile online usage statistics. In doing so, you have cited the contract, legal obligation and consent as legal bases. You have also correctly limited the part of the consent to the part of sending the information letter. Thus, in the opinion of the Inspectorate, in your opinion, the legal basis can be either a contract or a legal obligation for the above purposes. However, we note that in the opinion of the Inspectorate, neither legal basis is suitable for fulfilling these objectives. First, you are not required by law to collect IP addresses or use purchase history data to analyze customer preferences. On the other hand, the processing of such data is not necessarily necessary for the performance of a contract concluded with a user or customer of a website. However, if it is necessary for Tember Grupp OÜ to process personal data for these purposes, this can be done primarily on the basis of a legitimate interest (see Article 6 (1) (f) of the CCIP). Here, we explain that a prior balancing of interests must be carried out when relying on Article 6 (1) (f) (legitimate interest) of the CISA. The balancing must take into account the legitimate interests of the data controller or third party on the one hand and the impact on data subjects on the other. This requires a thorough assessment based on specific circumstances. The legitimate interest must be lawful and sufficiently clear. It is also possible to read the guide to legitimate interests prepared by the Inspectorate regarding this legal basis. With regard to the information provided to a person within the framework of Article 13 (1) (d) of the CCP, you must either include information regarding legitimate interests (incl. or at least information that the person has a right to information about the development of a legitimate interest (including balancing)). The guidelines of the Article 29 Working Party on Transparency can also be read in more detail in this regard. The provision of information regarding a legitimate interest is discussed on page 36. On 26 November 2020, Tember Grupp OÜ sent a reply to the Inspectorate stating the following: The data protection conditions have been changed and published on the new website together with other texts. We have a question about one

point and we would ask for clarification and help in the language of the "ordinary person" if possible, as this point is not completely clear to us and we are not sure how we should write it to our customers in the data protection policy (legitimate interests). On 01.02.2021, the Inspectorate sent a proposal in the matter of personal data protection, where we noted the following: To compile and forward to Tember Grupp OÜ data protection conditions that comply with the requirements set out in Articles 12 - 13 of the CISA. In doing so, take into account the views expressed by the Inspectorate when compiling data protection conditions. Among the shortcomings, we pointed out the following, among others: 1. The purpose and legal basis of the processing of personal data (Article 13 (1) (c) of the CISA). In the data protection conditions, you have set out the following under the purposes of data processing: Purchase history data (date of purchase, goods, quantity, customer data) is used to compile an overview of purchased goods and services. At the same time, the Inspectorate does not understand for what purpose it is necessary to compile an overview. In other words, in a specific case, the data protection conditions must specify what you do with this review, ie what is the ultimate purpose of compiling the review. Nor does the data protection clause indicate the legal basis on which such an overview is drawn up. Although the Inspectorate does not yet know the ultimate purpose of compiling such an overview, it is doubtful that the obligation to process data arises from law or is indispensable for the performance of the contract. If Tember Grupp OÜ finds that it is necessary to process personal data for a specific purpose (the purpose must also be stated in the data protection conditions), then this can be done on the basis of a legitimate interest in the opinion of the Supervision Authority (see Article 6 (1) (f)). Here, we explain that a prior balancing of interests must be carried out when relying on Article 6 (1) (f) (legitimate interest) of the CISA. The balancing must take into account the legitimate interests of the data controller or third party on the one hand and the impact on data subjects on the other. This requires a thorough assessment based on specific circumstances. The legitimate interest must be lawful and sufficiently clear. It is also possible to read the guide to legitimate interests prepared by the Inspectorate regarding this legal basis. The result of the analysis must show whether and to what extent the processing of personal data is permitted. If the above analysis has been carried out and the data processing has been found to be lawful, the following conditions must be included in the data protection conditions pursuant to Article 13 (1) (d) of the CISA: - information that the person has the right to request an analysis of a legitimate interest (eg to get acquainted with the analysis of a legitimate interest, please forward the relevant contact to the e-mail address info@ettevhtiö.ee). On 16.02.2021, a representative of Tember Grupp OÜ sent the revised data protection conditions to the Inspectorate. The Inspectorate re-examined the data protection conditions and continued to identify

a deficiency to which the Inspectorate has repeatedly pointed out. However, the administrative procedure must be carried out as efficiently as possible, including as quickly as possible, which is why the Inspectorate cannot draw attention to shortcomings with the same content indefinitely and set a new deadline for rectification. Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235 The Inspectorate pointed out the possibility of imposing a precept and a penalty payment both in the additional inquiry sent on 09.11.2020 and in the proposal sent on 01.02.2020. The Inspectorate has given Tember Grupp OÜ a reasonable time to respond, incl. The Inspectorate has also explained very precisely how the requirements set out in the IKÜM must be met. The Inspectorate has thereby fulfilled the obligation arising from subsection 40 (1) of the Administrative Procedure Act to give the participant in the proceeding the opportunity to submit his or her opinion and objections on the matter before issuing the administrative act. GROUNDS FOR THE DATA PROTECTION INSPECTORATE: According to the materials of the case, Tember Grupp OÜ processes personal data - collects personal data (name, e-mail address, telephone number) on the website www.neiss.ee. The processing of personal data must take into account the requirements of the CISA, including the processing of personal data must be lawful, fair and transparent to the person (Article 5 (1) (a) CISA). The principle of transparency presupposes that all information and messages related to the processing of personal data are easily accessible, comprehensible and clearly worded. In other words, data protection conditions must be in place. The content of the data protection conditions is regulated by Articles 12 - 14 of the CISA. in accordance with Article 13 (1) (d) of the CISA, the obligation to include in the data protection conditions information on the legitimate interests of the controller or of a third party. We also referred to the guidelines of the Article 29 Working Party on Transparency, which clarify that in any case the data protection conditions must include information that the person can request a legitimate interest analysis in order to assess whether the legitimate interest analysis has been carried out fairly. In addition, we stated the following in the proposal sent on 01.02.2021: If the above analysis has been performed and the data processing is found to be lawful, the following must be included in the data protection conditions pursuant to Article 13 (1) (d) A legitimate interest analysis prepared by you, or; - information that the person has the right to request an analysis of a legitimate interest (eg to get acquainted with the analysis of a legitimate interest, please forward the relevant contact to the e-mail address info@ettevhtiö.ee). Thus, the Inspectorate has described in detail what is meant by Article 13 (1) (d) of the CCIP. On 16.02.2021, Tember Grupp OÜ sent the revised data protection conditions to the Inspectorate, which state the following: The processing of personal data is based on the performance of the contract, Tember Grupp OÜ's legitimate interest (customer

relationship management), your consent and Tember Grupp OÜ's legal obligation. Thus, it can be seen from the data protection conditions that the processing of personal data is based, inter alia, on a legitimate interest. However, there is still no information in the data protection conditions about the legitimate interests of the controller or a third party or an indication that a person may request a legitimate interest analysis in order to examine the legitimate interest analysis. In other words, Article 13 (1) (d) of the CISA remains unfulfilled. In other respects, the Inspectorate did not identify any deficiencies in the data protection conditions sent on 16.02.2021. In addition, we emphasize that the information provided for in Article 13 (1) and (2) of the CISA must be communicated to the person at the time of receipt of the personal data. Taking this into account, Tember Grupp OÜ must also immediately bring the data protection conditions in line with the requirements set out in the IKÜM and add the data protection conditions to the website in order to terminate the ongoing violation. - Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235 Pursuant to § 58 (1) of the Personal Data Protection Act and Article 58 (1) (a) and (2) (d) of the General Data Protection Regulation, the Inspectorate has the right to order the controller to bring the processing of personal data into conformity with the provisions of the CISA in a certain manner and within a certain period of time, and also to order the controller to provide the Inspectorate with the information necessary for the supervision procedure. Taking into account the factual circumstances and the reasons of the Inspectorate, the Inspectorate considers that the issuance of a mandatory precept in the matter is necessary in order to terminate the offense as soon as possible. / digitally signed / Raiko Kaur, lawyer, authorized by the Director General