FOR PRIVACY PROTECTION AND STATE TRANSPARENCY Tatari tn 39 / 10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registration code 70004235 PRELIMINARY WARNING in personal data protection case no. 2.1.-6/21/2 Injunction maker Data Protection Inspectorate lawyer Sirgo Saar Time and place of injunction 03.02.2021, Tallinn Injunction addressee - personal data processor Volume Design OÜ, Harju county, Rae parish, Lehmja village, Loomäe tee 9, 75306. Registration code 10463528. volume@volume.ee Responsible person of the personal data processor Board member RESOLUTION: § 56 (1), (2) point 8, § 58 (1) of the Personal Data Protection Act (IKS) and Article 5 (1) points b and e, Article 18 of the General Regulation on Personal Data Protection Paragraph 1 point b, Article 58 paragraph 1 point a, and taking into account point e of the same paragraph and points a, c and d of paragraph 2, the inspectorate makes a mandatory order for compliance: 1. Close the work e-mail address XX of the former employee XX completely and immediately, but no later than 12.02.2021. The inspection sets the deadline for compliance with the injunction as 12.02.2021. Report compliance with the order to the e-mail address of the Data Protection Inspectorate at info@aki.ee by this deadline at the latest. REFERENCE FOR DISPUTES: This order can be challenged within 30 days by submitting either: - an appeal under the Administrative Procedure Act to the Data Protection Inspectorate or - an appeal under the Administrative Court Procedure Code to the administrative court (in this case, the appeal in the same matter cannot be reviewed). Challenging a precept does not stop the obligation to fulfill it or the implementation of measures necessary for fulfillment. WARNING: If the injunction is not complied with by the specified deadline, the Data Protection Inspectorate will impose a fine of 2,500 euros on the addressee of the injunction based on § 60 of the Personal Data Protection Act. A fine may be imposed repeatedly - until the injunction is fulfilled. If the recipient does not pay the penalty, it will be forwarded to the bailiff to start enforcement proceedings. In this case, the bailiff's fee and other enforcement costs are added to the enforcement money. MISCONDUCT PUNISHMENT WARNING: Failure to comply with the prescription under Article 58(2) of the Personal Data Protection General Regulation may result in a misdemeanor proceeding based on § 69 of the Personal Data Protection Act. For this act, a natural person may be fined up to EUR 20,000,000, and a legal person may be fined up to EUR 20,000,000 or up to 4 percent of its global annual turnover of the previous financial year, whichever is greater. The non-judicial processor of misdemeanor proceedings is the Data Protection Inspectorate. ECONOMIC ACTIVITY PROHIBITION WARNING: On the basis of § 7 point 4 and § 36 point 1 of the General Part of the Code of Economic Activities, the economic administration authority may prohibit an entrepreneur or a person related to the entrepreneur from economic activity due to a significant violation of the requirements of economic activity. FACTUAL CIRCUMSTANCES: The

applicant filed a complaint with the inspectorate on 04.11.2020, where he explained that his former e-mail address continues to be kept open. The applicant's last working day at Volume Design OÜ was 22.09.2020, and the applicant asked on the same day when his e-mail address (XX) would be closed. In response, the lawyer who represented the employer told the applicant that it was the property of the company. The applicant contacted Volume Design in writing for the first time on 27.10.2020, where he asked to delete his e-mail address. The complainant received a reply that the e-mail address has been closed in personalized form today. The applicant sent a test letter to his old e-mail, which received an automatic reply from an address such as swedensales@volume.ee with the following text: Thank you for your e-mail! XX has left our company and this e-mail is no longer functional. Our new sales person responsible for your sales is Kristjan Visnapuu, please contact him kristjan@volume.ee The complainant contacted the former employer (Volume Design OÜ) again on 02.11 and said that the e-mail address must be deleted, but the company has set up an automatic response . If you send a test letter to the address testkiri@volume.ee, the answer is "delivery to these recipients or groups failed", which is why the letter will not be delivered. Such a letter should also be received by sending an e-mail to the address XX Inspektsioon sent a proposal to the data processor on 07.12.2020 to the e-mail address given in the business register volume@volume.ee and explained that in accordance with § 25 (1) of the Administrative Procedure Act (HMS) an administrative act, invitation, notice is delivered or other document to the party to the proceedings by post, by the administrative body that issued the document, or electronically. The data processor responded to the inspection's proposal on 22.12.2020. After the answer, the inspection sent a new inquiry on 11.01.2020. The data processor answered this on 25.01.2021. Pursuant to § 27 (2) of HMS, a document made available or forwarded electronically is considered delivered in the following cases: 3) the document or notice of making the document available has been forwarded to the e-mail address entered in the company's business register. In the inquiry, the Data Protection Inspectorate explained that according to § 40 (1) of the Administrative Procedure Act, Volume Design OÜ has the right to submit its opinion and objections to the Data Protection Inspectorate. PERSONAL DATA PROCESSOR'S EXPLANATION: In the 22.12.2020 reply, the data processor explained the following: Volume Design has stipulated the procedure for processing personal data in the work organization rules. In clause 16.4 of the work organization rules. it is stipulated that the e-mail address given to the employee by the employer is allowed to be used only for the performance of work tasks. The employee is allowed to use the computer allocated to him for the performance of work tasks only for the performance of work tasks, and he is not allowed to save any personal information on the hard drive of the computer, except

saving personal files and sending e-mails to a reasonable extent. The employee is obliged to delete private letters from the mailbox or hard drive or move them to a specially created sub-folder, which is clearly distinguished with the title "Personal". In addition, the rules of work organization state in clause 6.15. that the employer has the right to familiarize himself with the content of letters received at the e-mail address of the Employer's domain allocated to the employee for the performance of work duties, if it is necessary to check the fulfillment of the employee's duties or during the period when the employee is away from work (sickness, vacation, etc.). The employee had the obligation to save all personal emails in the folder indicated and to delete them at the end of the employment relationship. The employee's position was the sales manager of the Swedish market, which requires constant customer communication and sales work. Therefore, from the point of view of the continuation of customer communication and for Volume Design to continue its business operations without interruption, the company has a legitimate interest in keeping e-mail open so that orders and other business information reach the right addressee and customer orders are fulfilled. The employer consciously e i do not issue any e-mail from a former employee's e-mail or open any obviously personal e-mail, such as those coming from gmail or any other non-work domain. In addition, during XX's absence from work, the employer found that the employee had sent a letter to the employer's existing clients during the employment relationship, defaming the employer and suggesting that they contact him at the new employer's address. Customers responded to this email to an email address with the Volume Design domain, which the employee, for some inexplicable reason, thought was a personal email address. With such activities, the employee has violated the obligation to keep the employer's business secret and, among other things, violated the company's data protection principles (personal data is processed only for the set purposes). In this case, the employer has decided that it does not want to hold XX responsible for this, but wants to ensure that the existing customer relations and normal business activities are preserved by keeping the e-mail open. The employer does not want to create an invasion of privacy for the former employee, so he does not intend to read obviously personal letters received by e-mail, and closes the former employee's account as soon as possible, if he is sure that no customer inquiries will be received at this e-mail, but no later than 6 months after the employment relationship the end. On 25.01.2021, the data processor explained the following: 1. The amended version of the work organization rules (hereinafter the rules) was approved by the company's board on October 1, 2019. A copy of the work organization rules is attached to this letter. 2. The HR manager personally introduced the rules to each employee separately and took the employee's signature on the introduction of the rules. XX, the rules were introduced on April 28, 2020. The employee took the rules home with him

because he wanted to familiarize himself with them, but did not confirm the introduction of the rules with his signature. The HR manager hereby confirms that all employees were personally introduced to the rules so that employees could ask questions and make suggestions about the changes. XX did not ask questions or make his own suggestions to supplement the rules. 3. The legitimate interest balance test regarding the time period of keeping the e-mails of the departed employees open is attached. In addition to the attached balance test, we explain that the company's foreign market order processes are longer than 30 days, and therefore it is necessary to keep the e-mails with the employer's domain of sales employees open for longer after leaving work. 4. The work organization rules approved by the board are attached. In accordance with § 40 (1) of the Administrative Procedures Act, the Data Protection Inspectorate has fulfilled the obligation to give the party to the proceedings the opportunity to present their opinion and objections on the matter before issuing the administrative act. GROUNDS OF THE DATA PROTECTION INSPECTION: The Data Protection Inspectorate is of the opinion that, at this point, the company's interests do not outweigh the data subject's right to privacy protection in order to keep the e-mail of a former employee open. To the extent that it is not excluded that private letters are also sent to this e-mail, which do not automatically go under the "personal" folder, these letters are expected to be read by the data processor. Also, the rights of third parties who write to the former employee's e-mail address, not knowing that the letters are actually not opened by XX, but by his former employer, are also not protected. The explanation of the data processor in this way in the reply to the e-mail is not sufficient to protect the rights of the data subjects, since the letter has already moved from one server to another and has been consulted. The inspectorate also does not consider it justified to keep the e-mail address open for 6 months. The company has an overview of its customers and which customers were related to the departed employee. The data processor can himself send a notification to these customers/partners that this person no longer works for the company, that the e-mail in his name is no longer in use, and ask the customers to communicate with the company at another e-mail address in the future. Likewise, if the customer receives a delivery failure message when sending an email to a closed email address, the customer can search for an alternative contact address on your website. Only in extremely justified cases can it be considered justified to keep an e-mail address in the name of an employee who has left the job open, but only for a very short period of time. Surely 6 months is clearly excessive. The inspection finds that Volume Design OÜ has not presented compelling reasons that would show the unavoidable need to keep the e-mail address in the employee's name open for such a long period of time. Namely, from Article 5(1)(b) and (e) of the General Regulation on Personal Data Protection, personal data may be processed for a clearly defined

purpose to the extent (and only to the extent) that the purpose cannot be achieved in any other way. If the data processing is no longer justified, the data subject has the right to submit a request to limit the data processing according to Article 18(1) of the General Regulation. In this case, the complainant has requested that the e-mail address containing his name be closed in such a way that it is no longer possible to send e-mails to you through it. This requirement does not include the destruction of mailbox contents. If it is business correspondence and it is necessary for your company in the future, you have the right to keep the e-mails in the future. The inspectorate further explains that if it is important for the company to manage e-mails independently of the employee's will, it is possible to create general e-mail addresses that are not related to a specific person or his name. For example, orders@firmanimi.ee etc. In this case, several employees can be assigned to manage the incoming mail to such an e-mail address and, for example, mitigate the risks in case of an employee's illness or sudden departure. However, an e-mail address in the name of an employee gives people outside the company the impression of a connection with a specific person (that one communicates with this specific person) and of the data space under his control. At the present moment, more than four months have passed since the applicant left his job. You have not presented any arguments that show the inevitability of keeping the e-mail address in the applicant's name open. Considering the above, the Data Protection Inspectorate is of the opinion that keeping the e-mail address in the name of the complainant open at this time is excessive and the e-mail address must be removed from use. Given that the data processor did not comply with the inspection's proposal, the inspection considers that the issuance of a mandatory injunction is necessary in this case to eliminate a lasting violation of the law and non-transparent data processing. Sincerely, /digitally signed/ Sirgo Saar lawyer under the authority of the director general