

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.-6/21/3 Preceptor Raiko Kaur Time and place of precept 16.02.2021, Tallinn Addressees of the precept Unpredictable Computing OÜ (14224743) info@unpredictablecomputing.com info@vindazo.de BCC CONSULT OÜ (12437239) Roseni tn 13, Tallinn 10111 info@prifinance.com Responsible persons of the addressee 1. RESOLUTION: § 56 (1), (2) (8), § 58 (1) of the Personal Data Protection Act and Article 58 (1) (d) and (2) (c) and (d) of the General Data Protection Regulation, also taking into account Articles 5, 6, 12 and 17, the Data Protection Inspectorate issues a mandatory precept to Unpredictable Computing OÜ: Remove all XXX personal data from the website www.vindazo.de. Including the removal of personal data from the following network links: - [network link] - [network link] - [network link] 2. RESOLUTION: § 56 (1), (2) (8), § 58 (1) Considering clause e) of the same paragraph, we issue a mandatory precept to BCC CONSULT OÜ: Explain to the Data Protection Inspectorate in a thorough and comprehensible manner (incl. forward the relevant evidence) what is BCC CONSULT OÜ as Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235 The role of a person competent to receive procedural documents upon receipt of procedural documents addressed to Unpredictable Computing OÜ (incl. this precept warning). We set the deadline for compliance with the precepts as 02.03.2021. 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. PENALTY FUND WARNING: If a precept is not complied with by the specified term, the Data Protection Inspectorate shall impose a penalty payment of 5,000 euros on the addressee of the precept on the basis of § 60 of the Personal Data Protection Act. 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 WARRANTY: Misdemeanor proceedings may be instituted for failure to comply with a precept pursuant to Article 58 (1) of the General Data Protection Regulation on the grounds of § 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 FACTS:** The Data Protection Inspectorate (Inspectorate) received a human complaint from a German data protection authority via a cross-border procedural system concerning the disclosure of XXX personal data on the website [www.vindazo.de](http://www.vindazo.de). The personal data of the complainant have been disclosed, inter alia, on the following network links: 1) [network link]; 2) [network link]; 3) [network link]. As can be seen from the complaint, **the complainant has sent a letter to the e-mail address [info@vindazo.ee](mailto:info@vindazo.ee) on 02.06.2020 stating, inter alia, the following: my name, be removed immediately from the Google index and your site in accordance with the general data protection regulation and to confirm this to me afterwards. However, no reply has been received to the complainant's letter and personal data has still not been removed from [www.vindazo.de](http://www.vindazo.de).** Based on the above, the Supervision Authority initiated supervision proceedings on the basis of clause 56 (3) 8) of the Personal Data Protection Act (IKS). In the course of the supervision procedure, the Inspectorate sent a proposal to Unpredictable Computing OÜ in case no. 2.1.-1/20/3013 on 21.01.2021, the deadline for replying of which was 05.02.2021. The content of the proposal was as follows: "Remove all XXX personal data from [www.vindazo.de](http://www.vindazo.de)". We also noted that in a situation where the proposal of the Inspectorate of Unpredictable Computing OÜ does not agree with Tatari tn 39/10134 Tallinn / 627 4135 / [info@aki.ee](mailto:info@aki.ee) / [www.aki.ee](http://www.aki.ee) Registry code 70004235, please send a relevant justification no later than 05.02.2021. In the proposal, the Inspectorate also drew attention to the possibility of imposing a precept and a penalty payment. The Inspectorate sent the proposal to the e-mail address [info@unpredictablecomputing.com](mailto:info@unpredictablecomputing.com) in the Commercial Register and to the e-mail address [info@vindazo.de](mailto:info@vindazo.de) found on the website [www.vindazo.de](http://www.vindazo.de). We also sent a proposal for the receipt of procedural documents entered on the registry card of Unpredictable Computing OÜ to the address of the location of the competent person (BCC CONSULT OÜ) [address]. With regard to the proposal sent by e-mail, we note that pursuant to clause 27 (2) 3) of the Administrative Procedure Act, a document made or transmitted electronically is deemed to have been delivered if the document or notice is delivered to an e-mail address entered in the company's commercial register. To date, Unpredictable Computing OÜ and BCC CONSULT OÜ have not responded to the proposal of the Inspectorate and have not contacted regarding the extension of the deadline for responding to the proposal. The Supervision Authority has given Unpredictable Computing OÜ a reasonable time to respond, incl. The Inspectorate has thereby fulfilled the obligation arising from subsection 40 (1) of the Administrative Procedure Act to give the participant in the proceedings an opportunity to submit an opinion and objections on the matter before issuing the administrative act. **FOUNDATIONS FOR DATA PROTECTION INSPECTION:** Personal

data is any information about an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identification factor such as the name (see Article 4 (1) of the CISA). The name of XXX has been published on the website of Unpredictable Computing OÜ [www.vindazo.de](http://www.vindazo.de). Thus, Unpredictable Computing OÜ has disclosed the complainant's personal data on its website. The processing of personal data must be based on the requirements set out in the IKÜM. Including the processing of personal data must be lawful (Article 6 (1) CISA) and comply with the principles governing the processing of personal data (Article 5 CISA). The controller is responsible for, and must be able to demonstrate, compliance with the above requirements. However, Unpredictable Computing OÜ has not proved the above to the Inspectorate. The complainant has submitted an application to Unpredictable Computing OÜ for the deletion of his personal data. Under Article 17 of the CISA, a person has the right to request the deletion of his or her personal data and the controller is obliged to delete the personal data without undue delay if the circumstance provided for in paragraph 1 exists. Personal data need not be deleted if at least one of the grounds provided for in Article 17 (3) of the CISA is present. At the same time, the controller is obliged to provide the person with information on the measures taken on the basis of the request no later than one month after receiving the request (Article 12 (3) of the CCIP). However, if the controller does not take action at the person's request, he or she is obliged to inform the person of the reasons for not taking action within one month at the latest (Article 12 (4) CCIP). In any case, Unpredictable Computing OÜ should have responded to the complainant in any case and explained whether the data would be deleted and, if not, what the reasons for not deleting the data would be. However, Unpredictable Computing OÜ failed to fulfill this obligation. Considering that BCC CONSULT OÜ has been entered on the registry card of Unpredictable Computing OÜ as a competent person for receiving procedural documents, the Inspectorate considers it necessary to receive information from BCC CONSULT 39/10134 Tallinn / 627 4135 / [info@aki.ee](mailto:info@aki.ee) / [www.aki.ee](http://www.aki.ee) Registry code 70004235 From OÜ. It is important to know the role of BCC CONSULT OÜ in receiving the procedural documents addressed to Unpredictable Computing OÜ. Considering that the procedural documents may also contain personal data (as in the present case), BCC CONSULT OÜ must be considered an authorized processor of Unpredictable Computing OÜ within the meaning of Article 28 of the CCP, which is obliged to respond to the Inspectorate. There must also be an agreement between Unpredictable Computing OÜ and BCC CONSULT OÜ, which stipulates the content and duration of processing, the nature and purpose of processing, the type of personal data and categories of data subjects, obligations and rights of the data processor (see Article 28 (3)). We also note that before compiling the precept

warning, the Inspectorate also checked the contact information entered on the registry card of BCC CONSULT OÜ and established that the previous address of BCC CONSULT OÜ ([address]) is entered on the registry card of Unpredictable Computing OÜ. BCC CONSULT OÜ has indicated Roseni tn 13, Tallinn 10111 as the new address. Therefore, we will send a precept-warning to Roseni tn 13 and also to the e-mail address info@prifinance.com provided in the Commercial Register.

With regard to a precept-warning sent by e-mail, we note that pursuant to clause 27 (2) 3) of the Administrative Procedure Act, a document made available or transmitted electronically is deemed to have been delivered if the document or notice is delivered to the company's e-mail address. - Considering that Unpredictable Computing OÜ has not explained to the complainant why personal data is not deleted and the company's representative has not proved to the Inspectorate that further data processing meets the requirements of Articles 5, 6 and 17 of the CISA, the Personal Data Protection Act has been violated and the requirements of the General Regulation on the Protection of Personal Data, due to which Unpredictable Computing OÜ must remove the personal data (name) of the complainant from the website. Pursuant to § 58 (1) of the Personal Data Protection Act and Article 58 (2) (c) and (d) of the General Data Protection Regulation, the Supervision Authority has the right to order the controller to satisfy the data subject's requests regarding the rights comply with the provisions of the ICC in a certain way and for a certain period of time. Taking into account the factual circumstances and the fact that the complainant's personal data (name) is disclosed in a specific case and the data controller has not proved the lawfulness of data processing to the complainant or the Inspectorate, the Inspectorate considers it necessary to issue a mandatory injunction to terminate the offense as soon as possible. Considering also that the Inspectorate needs to know the role of BCC CONSULT OÜ in receiving the procedural documents addressed to Unpredictable Computing OÜ, we would like to receive this information from BCC CONSULT OÜ. Pursuant to § 58 (1) of the Personal Data Protection Act and Article 58 (1) (a) of the General Regulation on the Protection of Personal Data, and subject to point (e) of the same paragraph, the Inspectorate has the right to request explanations and other information, including documents necessary for supervision. /

digitally signed / Raiko Kaur, lawyer, authorized by the Director General