

ADV V5.0 16.04.2018

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Please fill out the fields on pages 2, 5 and 9.

Order Processing in accordance with Article 28 General Data Protection Regulation (GDPR)
Agreement

between

DomainFactory GmbH
Oskar-Messter-Str. 33
85737 Ismaning

– the Processor – hereinafter referred to as the supplier –

and

← **Company name**

← **Street, house number**

← **Zip Code, Place**

– the Controller – hereinafter referred to as the Client –

exist one / several contract(s) by the client under

order number(s) A _____

and

customer number _____

1. Subject matter (Art. 28 (1) GDPR)

1.1 The subject matter of the contract is the provision of web hosting services or one (or more) dedicated web server(s) as well as the associated services such as e-mail, domain registration, etc. Within the scope of this contract, the client has – depending on the agreed scope of services – the possibility of processing (storing, modifying, transmitting and deleting data) using e.g. a web server, FTP server or SSH access.

1.2 The subject matter of the contract is **not** the original use or processing of personal data by the supplier. However, access to personal data cannot be ruled out in the course of the clients' performance as a central IT service provider in the area of hosting, support or administration of the client

1.3 Details can be found in the main contract(s) summarized under the named customer number. The agreement applies to the entire service relationship, insofar as the services described in section 1.1 are concerned.

1.4 Insofar as data is mentioned below, personal data in the scope of GDPR is meant. The following data protection and data security regulations apply to all services of the commissioned data processing in accordance with Art. 28

1.5 **In addition** to the contract(s) concluded between the parties, the contracting parties specify the general obligations how the personal data of the client should be processed.

2. Duration, Completion, Erasure of data (Art. 28 (1) GDPR)

2.1 The duration of the contract depends on the duration of the hosting services provided by the supplier to the client. The order ends if the client does not use any hosting services of the supplier according to the specific service agreements/offers.

2.2 The rights of data subjects, especially with regard to rectification, deletion and blocking, shall be asserted against the client. The client is solely responsible for the protection of these rights.

2.3 After conclusion of the contracted work, or earlier upon request by the client, at the latest upon termination of the Service Agreement, the supplier shall hand over to the client or – subject to prior consent – destroy all documents, processing and utilization results, and data sets related to the contract that have come into its possession in a data protection compliant manner. The same applies to any and all connected test, waste, redundant and discarded material. The log of the destruction or deletion shall be provided on request. If

additional costs are incurred due to deletion prior to termination of the contract, these shall be borne by the client.

2.4 The supplier shall be obliged to forward any requests by data subjects concerning the processing of personal data to the client without any delay. The supplier is not entitled to handle those requests on its own initiative without consultation with the client.

2.5 The supplier shall assist the client in the implementation of the data subjects rights under the scope of chapter III of GDPR, in particular with regard to rectification, blocking and deletion, notification and provision of information, within the limits of technical possibilities, especially with regard to the nature of the provided service.

2.6 Because there is no exchange of medium in accordance with Art. 28 (3) lit. g GDPR between the parties, there is no need to regulate a return.

3. Scope, nature and purpose of the intended collection, processing and/or use of data

3.1 The scope, type and purpose of the intended collection, processing and/or use of the data result from the service agreement between the parties.

The supplier is obliged to use the personal data exclusively for the contractually agreed services. The supplier is permitted to create intermediate, temporary or duplicate files necessary for procedural and safety reasons (including backups) for the collection, processing and / or use of the personal data, as far as this does not lead to a redesign of the content. The supplier is not permitted to make unauthorized copies of personal data.

The client shall inform the supplier without delay if it finds errors or irregularities in the examination of the contractual results.

Data from address books and directories may only be used to communicate with the client within the framework of fulfilling the order. Any other use and transmission of the processed data for own or third party purposes, including marketing purposes, is not permitted.

3.2 The undertaking of the contractually agreed Processing of Data shall be carried out exclusively within a Member State of the European Union (EU) or within a Member State of the European Economic Area (EEA). Each and every Transfer of Data to a State which is not a Member State of either the EU or the EEA requires

the prior agreement of the Client and shall only occur if the specific Conditions of Article 44 et seq. GDPR have been fulfilled.

4. Type of data and group of data subjects (Art. 28 (3) 1 GDPR)

4.1 Type of data

The following data types are the subject matter of the collection, processing and/or use of the client's data in accordance with section 1.2. sentence 2:

(to be filled out completely and correctly by the client!)

- Person master data
- Communications data (e.g. telephone, e-mail)
- Contract master data (contractual relation, interest in products/contracts)
- Customer history
- Contract billing data
- Disclosure data (from third parties, e.g. credit agencies, from public directories)
- Other data: _____

4.2 Group of data subject

The group of data subject according to section 1.2 sentence 2 includes:

(to be filled out completely and correctly by the client!)

- Customers
- Interested people
- Subscribers
- Employees
- Suppliers
- Sales agents
- Contact persons
- Other data subjects: _____

5. Obligations of the suppliers

5.1 General obligations Art. 28-33 GDPR

5.1.1 The supplier undertakes to place a written order with a data protection officer, who can carry out his work in accordance with Art. 37, 38 GDPR. The contact details will be communicated to the client on request for the purpose of direct contact.

5.1.2 Insofar as collection, processing and / or use of the data is carried out by the supplier, this is only permissible within the framework of the contractual agreements between the client and the supplier. Insofar as the supplier has access to data of the client, he shall not use such data for purposes other than those stipulated in the contract, in particular he shall only pass them on to third parties insofar as there is a legal or contractual obligation to do so. Copies of data may only be made with the consent of the client. This does not apply to backup copies, insofar as they are necessary to guarantee proper data processing or fulfilment of contractual or legal obligations.

5.1.3 The contractor shall ensure that confidentiality is maintained in accordance with Art. 28 (3) S. 2 lit. b, 29, 32 (4) GDPR. All persons who could access the client's data listed in point 4.1 in accordance with the order must be obliged to maintain confidentiality and must be informed of the special data protection obligations resulting from this order as well as the existing instruction or earmarking of purpose.

5.1.4 The supplier shall ensure the implementation and adherence to all technical and organisational measures necessary for this order in accordance with Art. 32 GDPR.

5.1.5 The supplier shall inform the client without delay in the event of breaches of data protection regulations committed by the supplier or persons employed by him. The same shall apply in the event of serious disruptions to the course of business or other irregularities in the handling of the client's data. To the extent that the client is subject to obligations pursuant to Art. 32 and 33 GDPR, the supplier shall assist him in this respect. Insofar as the client fulfils obligations pursuant to Art. 32-36 GDPR, e.g. in the event of loss or unlawful transmission or knowledge of personal data by third parties, the supplier shall support the client within the scope of the character of the service provided by the supplier.

5.2 Technical and organisational measures (Art. 32 GDPR)

5.2.1 Before the commencement of processing, the supplier shall document the execution of the necessary technical and organisational measures, set out in advance of the awarding of the order or contract, specifically with regard to the client for inspection. Upon acceptance by the client, the documented measures become the foundation of the contract. Insofar as the inspection/audit by the client shows the need for amendments, such amendments shall be implemented by mutual agreement.

5.2.2 The Technical and Organisational Measures are subject to technical progress and further development. In this respect, it is permissible for the Supplier to implement alternative adequate measures. In so doing, the security level of the defined measures must not be reduced. The supplier shall establish the security in accordance with Article 28 (3) lit. c and Article 32 GDPR in particular in conjunction with Article 5 (1), and (2) GDPR. The measures to be taken are measures of data security and measures that guarantee a protection level appropriate to the risk concerning confidentiality, integrity, availability and resilience of the systems. Substantial changes must be documented.

6. Subcontracting (Art. 28 (2), (4) GDPR)

6.1 Subcontracting for the purpose of this Agreement is to be understood as meaning services which relate directly to the provision of the principal service. This does not include ancillary services, such as telecommunication services, postal / transport services, maintenance and user support services or the disposal of data carriers, as well as other measures to ensure the confidentiality, availability, integrity and resilience of the hardware and software of data processing equipment. The Supplier shall, however, be obliged to make appropriate and legally binding contractual arrangements and take appropriate inspection measures to ensure the data protection and the data security of the Client's data, even in the case of outsourced ancillary services.

6.2 The Client agrees to the commissioning of affiliated companies or subcontractor companies for the purpose of fulfilling its contractually agreed services.

6.3 The supplier shall ensure that the client always has an up-to-date list of the subcontractors deployed in the customer portal available for retrieval.

6.2 If the supplier issues orders to subcontractors, it is incumbent upon the supplier to transfer its obligations under this contract to the subcontractor.

7. Obligations of the client (Art. 24, 13, 14 GDPR)

7.1 The client is responsible for compliance with the relevant data protection regulations.

7.2 The client shall inform the supplier immediately of any breaches of the supplier's data protection regulations.

7.3 The client shall be subject to the information obligations resulting from Art. 24 GDPR and Art. 13, 14 GDPR.

8. Authority of the client to issue instructions, rectification, restriction and erasure of data, rights of data subject (Art. 29, 28 GDPR as well as chapter III of GDPR)

8.1 The client has comprehensive access to the data at any time, so that it is not necessary for the supplier to cooperate with the client, in particular with regard to correction, blocking, deletion, etc. Insofar as it is necessary for the supplier to cooperate, the client shall be obliged to do so against reimbursement of the costs incurred. In this case, the client shall have a comprehensive right to issue instructions on the type, scope and procedures of data processing pursuant to Art. 29 in conjunction with Art. 28 GDPR. The supplier shall inform the client immediately if she is of the opinion that an instruction violates data protection regulations. The supplier is entitled to suspend the execution of the corresponding instruction until it has been confirmed or changed by the person responsible at the client.

8.2 Insofar as a data subject contacts the supplier directly concerning a rectification, erasure, or restriction of processing, the supplier will immediately forward the data subject's request to the client. If the client is obliged by applicable data protection laws to provide information on the collection, processing and/or use of data, the client shall assist the client in providing such information to the necessary extent. The client must send a request to the supplier in writing and reimburse him for the costs incurred in this connection.

9. Supervisory powers of the clients

9.1 The client has the right to convince himself of the compliance with the technical and organisational measures taken by the contractor before the beginning of the data processing and then regularly.

9.2 For this purpose, the client shall be provided with the documentation on the existing technical and organisational measures prepared by the contractor's data protection officer, which is regularly revised and according to the legal requirements.

9.3 The client has the right, after consultation with the supplier, to carry out inspections or to have them carried out by an auditor to be designated in each individual case. It has the right to convince itself of the compliance with this agreement by the supplier in his business operations by means of random checks,

which are ordinarily to be announced in good time (3 weeks). On request, the supplier shall provide the client with the information necessary for the observance of the clients monitoring obligation, and shall make the corresponding proof available. Costs incurred by the supplier as a result of his supporting act shall be reimbursed to him to an appropriate extent.

9.4 The supplier shall ensure that the client is able to verify compliance with the obligations of the supplier in accordance with Article 28 GDPR. The supplier undertakes to give the client the necessary information on request and, in particular, to demonstrate the execution of the Technical and Organizational Measures.

9.5 On request the supplier undertakes to provide the client with the information and evidence necessary for the processing of the above-mentioned data. This shall also apply insofar as the supplier carries out the control of his subcontractors on behalf of the client.

10. Severability clause, jurisdiction

10.1 Should any provision of this contract be or become invalid or unenforceable, the remaining provisions of this contract shall remain unaffected. The parties agree to replace the invalid or unenforceable provision with a valid and enforceable provision that comes closest to the economic purpose of the parties. The same shall apply in the event of a loophole.

10.2 The place of jurisdiction is Munich.

Place, Date

Client



Supplier

Attachment:

Technical and organisational measures