

PULSED Data Processing Agreement

Last Modified: 1st September, 2023

This PULSED Data Processing Agreement and its Annexes (“DPA”) reflects the parties’ agreement with respect to the Processing of Personal Data by us on behalf of you in connection with the PULSED Subscription Services under the PULSED Customer Terms of Service available at <https://pulsed.io/legal-stuff/> between you and us (also referred to in this DPA as the “Agreement”).

This DPA is supplemental to, and forms an integral part of, the Agreement and is effective upon its incorporation into the Agreement, which may be specified in the Agreement, an Order Form or an executed amendment to the Agreement. In case of any conflict or inconsistency with the terms of the Agreement, this DPA will take precedence over the terms of the Agreement to the extent of such conflict or inconsistency.

We update these terms from time to time. If you have an active PULSED subscription, we will let you know when we do via email (if you have subscribed to receive email notifications via the link in our General Terms) or via in-app notification. Archived versions of the DPA are available on request via info@pulsed.io.

The term of this DPA will follow the term of the Agreement. Terms not otherwise defined in this DPA will have the meaning as set forth in the Agreement.

This Data Processing Agreement ("DPA") forms part of the Terms of Service ("Agreement") between

(the "**Company**") and

(the "**Data Processor**") (together as the "**Parties**") **WHEREAS**

A. The Company acts as a Data Controller.

B. The Company wishes to subcontract certain Services, which imply the processing of personal data, to the Data Processor.

C. The Parties seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with 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 (General Data Protection Regulation).

D. The Parties wish to lay down their rights and obligations.

IT IS AGREED AS FOLLOWS:

1. Definitions and Interpretation

1.1 Unless otherwise defined herein, capitalized terms and expressions used in this DPA shall have the following meaning:

"DPA" means this Data Processing Agreement and all Schedules;

"Company Personal Data" means any Personal Data Processed by a Contracted Processor on behalf of Company pursuant to or in connection with the Agreement;

"Contracted Processor" means a Subprocessor;

"Data Protection Laws" means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;

"EEA" means the European Economic Area;

"EU Data Protection Laws" means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

"GDPR" means EU General Data Protection Regulation 2016/679;

"Data Transfer" means:

- (i) a transfer of Company Personal Data from the Company to a Contracted Processor; or
- (ii) an onward transfer of Company Personal Data from a Contracted Processor to a Subcontracted Processor, or between two establishments of a Contracted Processor, in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws);

"Services" means the services the Company provides.

"Subprocessor" means any person appointed by or on behalf of Processor to process Personal Data on behalf of the Company in connection with the DPA.

1.2 The terms, "Commission", "Controller", "Data Subject", "Member State", "Personal Data", "Personal Data Breach", "Processing" and "Supervisory Authority" shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

2. Processing of Company Personal Data

2.1 Processor shall:

- (i) comply with all applicable Data Protection Laws in the Processing of Company Personal Data; and
- (ii) not Process Company Personal Data other than on the relevant Company's documented instructions.

2.2 The Company instructs Processor to process Company Personal Data.

3. Processor Personnel

Processor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Company Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Company Personal Data, as strictly necessary for the purposes of the Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

4. Security

4.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Processor shall in relation to the Company Personal Data implement appropriate technical and organizational measures to

ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

4.2 In assessing the appropriate level of security, Processor shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

5. Subprocessing

5.1 You agree we may engage Sub-Processors to Process Personal Data on your behalf, and we do so in three ways. First, we may engage Sub-Processors to assist us with hosting and infrastructure. Second, we may engage with Sub-Processors to support product features and integrations. Third, we may engage with PULSED Affiliates as Sub-Processors for service and support. Some Sub-Processors will apply to you as default, and some Sub-Processors will apply only if you opt-in.

5.2 Where we engage Sub-Processors, we will impose data protection terms on the Sub-Processors that provide at least the same level of protection for Personal Data as those in this DPA, to the extent applicable to the nature of the services provided by such Sub-Processors. We will remain responsible for each Sub-Processor's compliance with the obligations of this DPA and for any acts or omissions of such Sub-Processor that cause us to breach any of its obligations under this DPA.

6. Data Subject Rights

6.1 Taking into account the nature of the Processing, Processor shall assist the Company by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Company obligations, as reasonably understood by Company, to respond to requests to exercise Data Subject rights under the Data Protection Laws.

6.2 Processor shall:

- (i) promptly notify Company if it receives a request from a Data Subject under any Data Protection Law in respect of Company Personal Data; and
- (ii) ensure that it does not respond to that request except on the documented instructions of Company or as required by Applicable Laws to which the Processor is subject, in which case Processor shall to the extent permitted by Applicable Laws inform Company of that legal requirement before the Contracted Processor responds to the request.

7. Personal Data Breach

7.1 Processor shall notify Company without undue delay upon Processor becoming aware of a Personal Data Breach affecting Company Personal Data, providing Company with sufficient information to allow the Company to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.

7.1 Processor shall co-operate with the Company and take reasonable commercial steps as are directed by Company to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8. Data Protection Impact Assessment and Prior Consultation

8.1 Processor shall provide reasonable assistance to the Company with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Company reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Company Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

9. Deletion or return of Company Personal Data

9.1 Subject to this section 9 Processor shall promptly and in any event within 10 business days of the date of cessation of any Services involving the Processing of Company Personal Data (the "Cessation Date"), delete and procure the deletion of all copies of those Company Personal Data.

9.2 Processor shall provide written certification to Company that it has fully complied with this section 9 within 10 business days of the Cessation Date.

10. Audit rights

10.1 Subject to this section 10, Processor shall make available to the Company on request all information necessary to demonstrate compliance with this DPA, and shall allow for and contribute to audits, including inspections, by the Company or an auditor mandated by the Company in relation to the Processing of the Company Personal Data by the Contracted Processors.

10.2 Information and audit rights of the Company only arise under section 10.1 to the extent that the DPA does not otherwise give them information and audit rights meeting the relevant requirements of Data Protection Law.

11. Data Transfer

11.1 The Processor may not transfer or authorize the transfer of Data to countries outside the EU and/or the European Economic Area (EEA) without the prior written consent of the Company. If personal data processed under this DPA is transferred from a country within the European Economic Area to a country outside the European Economic Area, the Parties shall ensure that the personal data are adequately protected. To achieve this, the Parties shall, unless agreed otherwise, rely on EU approved standard contractual clauses for the transfer of personal data.

12. General Terms

12.1 Confidentiality. Each Party must keep this DPA and information it receives about the other Party and its business in connection with this DPA (“Confidential Information”) confidential and must not use or disclose that Confidential Information without the prior written consent of the other Party except to the extent that:

- (i) disclosure is required by law;
- (ii) the relevant information is already in the public domain.

12.2 Notices. All notices and communications given under this DPA must be in writing and will be delivered personally or sent by post to the following contact address:

PULSED GmbH, Wilhelm-Tell-Strasse 11, 87452 Altusried Germany

Notice will be deemed delivered as of the date of actual receipt or sent by email to the

13. Governing Law and Jurisdiction

13.1 This DPA is governed by the laws of Germany.

13.2 Any dispute arising in connection with this DPA, which the Parties will not be able to resolve amicably, will be submitted to the exclusive jurisdiction of the courts of Kempten, Bavaria.

IN WITNESS WHEREOF, this DPA is entered into with effect from the date first set out below.

Your Company

Signature: _____

Name: _____

Title: _____

Date signed: _____

Processor Company

Signature: _____

Name: _____

Title: _____

Date signed: _____