

# DATA PROCESSING AGREEMENT

## Standard contractual clauses

pursuant to Article 28(3) of Regulation 2016/679 (GDPR) for the processing of personal data by the processor

between

Name:

If applicable. VAT:

Address:

Postcode & city:

Country:

hereinafter "the controller"

and

nordicway ApS

VAT: 40745769

Godthåbsvej 27

8660 Skanderborg

Denmark

hereinafter "the data processor"

each of which is a "party" and together constitute the "parties"

HAVE AGREED upon the following standard contractual clauses (the Clauses) in order to comply with the GDPR and to ensure the protection of privacy and the fundamental rights and freedoms of natural persons

1. These Clauses set out the rights and obligations of the data processor when processing personal data on behalf of the data controller.
2. These provisions are designed to ensure the Parties' compliance with Article 28(3) of 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).
3. In connection with the delivery of our products, the data processor processes personal data on behalf of the data controller in accordance with these Terms.
4. The provisions take precedence over any similar provisions in other agreements between the parties.
5. There are three annexes to these Regulations and the annexes form an integral part of the Regulations.
6. Annex A contains details on the processing of personal data, including the purpose and nature of the processing, the type of personal data, the categories of data subjects and the duration of the processing.
7. Appendix B contains the data controller's conditions for the data processor's use of sub-processors and a list of sub-processors that the data controller has approved the use of.
8. Annex C contains the data controller's instructions for the data processor's processing of personal data, a description of the security measures that the data processor must implement as a minimum.
9. The provisions and their appendices must be kept in writing, including electronically, by both parties.
10. These Clauses do not release the data processor from any obligations imposed on the data processor by the GDPR or any other legislation.

## 2. Rights and obligations of the data controller

1. The controller is responsible for ensuring that the processing of personal data is carried out in accordance with the General Data Protection Regulation (see Article 24 of the Regulation), data protection provisions in other EU or Member State law<sup>1</sup> and these Clauses.
2. The controller has the right and obligation to make decisions about the purpose(s) and means by which personal data may be processed.

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<sup>1</sup> References to "Member State" in these provisions shall be construed as references to "EEA Member States".

3. The data controller is responsible for, among other things, ensuring that there is a legal basis for the processing of personal data that the data processor is instructed to carry out.

### **3. The data processor acts on instructions**

1. The processor may only process personal data on documented instructions from the controller, unless required by Union or Member State law to which the processor is subject. This instruction shall be specified in Annexes A and C. Subsequent instructions may also be given by the Controller while processing personal data, but the instruction shall always be documented and kept in writing, including electronically, together with these Clauses.
2. The processor shall immediately inform the controller if, in its opinion, an instruction infringes this Regulation or data protection provisions of other Union or Member State law.

### **4. Confidentiality**

1. The data processor may only grant access to personal data processed on behalf of the data controller to persons who are subject to the data processor's powers of instruction, who have committed themselves to confidentiality or who are subject to an appropriate statutory duty of secrecy, and only to the extent necessary. The list of persons to whom access has been granted shall be reviewed on an ongoing basis. Based on this review, access to personal data may be closed if access is no longer necessary and the personal data shall no longer be accessible to these individuals.
2. The data processor must, at the request of the data controller, be able to demonstrate that the persons concerned, who are subject to the data processor's powers of instruction, are subject to the above obligation of confidentiality.

### **5. Processing safety**

1. Article 32 of the GDPR states that the controller and the processor, taking into account the state of the art, the cost of implementation and the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons, shall implement appropriate technical and organizational measures to ensure a level of protection appropriate to those risks.

The controller shall assess the risks to the rights and freedoms of natural persons posed by the processing and implement measures to address those risks.

2. According to Article 32 of the Regulation, the processor - independently of the controller - must also assess the risks to the rights of natural persons posed by the processing and implement measures to address those risks. For the purposes of this assessment, the controller shall provide the processor with the necessary information to enable the processor to identify and assess such risks.
3. In addition, the data processor shall assist the data controller in complying with the data controller's obligation under Article 32 of the Regulation by, inter alia, making available to the data controller the necessary information regarding the technical and

organizational security measures already implemented by the data processor pursuant to Article 32 of the Regulation and any other information necessary for the data controller to comply with its obligation under Article 32 of the Regulation.

If addressing the identified risks requires - in the opinion of the controller - the implementation of additional measures to those already implemented by the processor, the controller shall specify the additional measures to be implemented in Annex C.

## **6. Use of sub-processors**

1. The data processor must meet the conditions referred to in Article 28(2) and (4) of the GDPR in order to make use of another data processor (a sub-processor).
2. Thus, the data processor may not use a sub-processor to fulfill these Provisions without prior general written approval from the data controller.
3. The data processor has the data controller's general approval for the use of sub-processors. The data processor shall notify the data controller in writing of any planned changes regarding the addition or replacement of sub-processors with at least 3 days' notice, thereby giving the data controller the opportunity to object to such changes prior to the use of the sub-processor(s) in question. Longer notice periods for notification in relation to specific processing operations may be specified in Annex B. The list of sub-processors already authorized by the Controller is set out in Annex B and the full list can be found online at [www.nordicway.dk/databehandlere](http://www.nordicway.dk/databehandlere).
4. Where the processor uses a sub-processor for the performance of specific processing activities on behalf of the controller, the processor shall impose on the sub-processor, by way of a contract or other legal act under Union or Member State law, the same data protection obligations as those set out in these Clauses, in particular providing appropriate guarantees that the sub-processor will implement the technical and organizational measures in such a way that the processing complies with the requirements of these Clauses and the GDPR.

The Data Processor is therefore responsible for requiring the Sub-Processor to at least comply with the Data Processor's obligations under these Clauses and the GDPR.

5. Sub-processor agreement(s) and any subsequent amendments thereto shall - at the request of the data controller - be sent in copy to the data controller, who thereby has the opportunity to ensure that similar data protection obligations as those arising from these Clauses are imposed on the sub-processor. Provisions on commercial terms that do not affect the data protection law content of the sub-processor agreement shall not be sent to the data controller.
6. The data processor shall include in its agreement with the sub-processor the data controller as a third party beneficiary in the event of the bankruptcy of the data processor, so that the data controller can subrogate to the data processor's rights and enforce them against sub-processors, such as enabling the data controller to instruct the sub-processor to delete or return the personal data.
7. If the sub-processor fails to comply with its data protection obligations, the processor shall remain fully liable to the controller for the performance of the sub-processor's obligations. This is without prejudice to the rights of data subjects arising from the

## **7. Transfer to third countries or international organizations**

1. Any transfer of personal data to third countries or international organizations may only be carried out by the data processor on the basis of documented instructions from the data controller and must always be in accordance with Chapter V of the GDPR.
2. Where the transfer of personal data to third countries or international organizations, which the processor has not been instructed to carry out by the controller, is required by Union or Member State law to which the processor is subject, the processor shall inform the controller of that legal requirement prior to processing, unless that law prohibits such notification on important grounds of public interest.
3. Thus, without documented instructions from the data controller, the data processor cannot within the framework of these Clauses:
  - a. transfer personal data to a controller or processor in a third country or an international organization
  - b. entrust the processing of personal data to a sub-processor in a third country
  - c. process the personal data in a third country
4. The controller's instructions regarding the transfer of personal data to a third country, including the possible transfer basis in Chapter V of the GDPR on which the transfer is based, shall be set out in Annex C.6.
5. These Clauses shall not be confused with standard contractual clauses within the meaning of Article 46(2)(c) and (d) of the GDPR and these Clauses cannot constitute a basis for the transfer of personal data within the meaning of Chapter V of the GDPR.

## **8. Assistance to the controller**

1. The processor shall, taking into account the nature of the processing, assist the controller as far as possible, by appropriate technical and organizational measures, in fulfilling the controller's obligation to respond to requests for the exercise of the rights of data subjects as laid down in Chapter III of the GDPR.

This means that the data processor must, as far as possible, assist the data controller in connection with the data controller's compliance with the data protection law:

- a. the obligation to provide information when collecting personal data from the data subject
- b. the obligation to provide information if personal data has not been collected from the data subject
- c. right of access
- d. the right to rectification
- e. the right to erasure ("right to be forgotten")
- f. the right to restriction of processing
- g. the notification obligation in connection with rectification or erasure of personal data or restriction of processing
- h. the right to data portability
- i. the right to object

- j. the right not to be subject to a decision based solely on automated processing, including profiling
2. In addition to the data processor's obligation to assist the data controller pursuant to Clause 6.3, the data processor shall, taking into account the nature of the processing and the information available to the data processor, further assist the data controller by
  - a. the controller's obligation to notify the processor of a personal data breach without undue delay and, if possible, no later than 72 hours after becoming aware of it, unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons
  - b. the controller's obligation to notify the data subject without undue delay of a personal data breach where the breach is likely to result in a high risk to the rights and freedoms of natural persons
  - c. the controller's obligation to carry out a pre-processing analysis of the impact of the envisaged processing activities on the protection of personal data (an impact assessment)
  - d. the controller's obligation to consult the competent supervisory authority prior to processing where a data protection impact assessment shows that the processing will lead to a high risk in the absence of measures taken by the controller to mitigate the risk.
3. The parties shall specify in Annex C the necessary technical and organizational measures with which the data processor shall assist the data controller and to what extent and scope. This applies to the obligations arising from Clauses 9.1 and 9.2.

## **9. Personal data breach notification**

1. The data processor shall notify the data controller without undue delay after becoming aware that a personal data breach has occurred.
2. The data processor's notification to the data controller shall, if possible, be made no later than 48 hours after it has become aware of the breach, so that the data controller can comply with its obligation to notify the personal data breach to the competent supervisory authority, cf. Article 33 of the GDPR.
3. In accordance with Clause 9.2.a, the processor shall assist the controller in notifying the breach to the competent supervisory authority. This means that the processor shall assist in providing the following information, which according to Article 33(3) must be included in the controller's notification of the breach to the competent supervisory authority:
  - a. the nature of the personal data breach, including, where possible, the categories and approximate number of data subjects affected and the categories and approximate number of personal data records affected
  - b. the likely consequences of the personal data breach

- c. the measures taken or proposed to be taken by the controller to address the personal data breach, including, where applicable, measures to mitigate its possible adverse effects.
4. The parties shall set out in Annex C the information that the processor shall provide in connection with its assistance to the controller in its obligation to notify personal data breaches to the competent supervisory authority.

## **10. Deletion of information**

1. Upon termination of the personal data processing services, the processor shall be obliged to erase all personal data that have been processed on behalf of the controller and to confirm to the controller that the data have been erased unless Union or Member State law provides for the retention of the personal data.

## **11. Agreement of the parties on other matters**

1. The parties may agree on other provisions regarding the service relating to the processing of personal data, such as liability, as long as these other provisions do not directly or indirectly conflict with the Clauses or impair the fundamental rights and freedoms of the data subject arising from the GDPR.

## 12. Entry into force and termination

1. The provisions shall enter into force on the date of signature by both parties and upon return of the signed contract to nordicway ApS.
2. Both parties may demand renegotiation of the Terms and Conditions if changes in the law or inappropriateness of the Terms and Conditions give rise to this.
3. The Terms are valid for the duration of the Personal Data Processing Service. During this period, the Terms cannot be terminated, unless other provisions governing the provision of the Personal Data Processing Service are agreed between the parties.
4. If the provision of the Personal Data Processing Services ceases and the Personal Data has been deleted in accordance with Clause 11.1 and Appendix C.3, the Clauses may be terminated by either party upon written notice.
5. Your signature

On behalf of the data controller

Your name  
Phone number  
Email

Your signature

On behalf of the data processor

Name	Michael Storm
Position	Managing Director
E-mail	<a href="mailto:ms@nordicway.dk">ms@nordicway.dk</a>

Your signature 



**A.1. The purpose of the data processor's processing of personal data on behalf of the data controller**

In order to offer a web hosting product and the possibility to register domains, various personal data is required. The purpose is to be able to offer the desired product. For security and communication purposes, we need information about your identity.

**A.2. The processing of personal data by the Processor on behalf of the Controller primarily concerns (nature of the processing)**

The information is primarily used to communicate with you as a customer and to be able to register domains and invoice.

**A.3. The processing includes the following types of personal data of the data subjects**

We store the following information about you: name, email, phone number, address and possibly CVR number

**A.4. The processing involves the following categories of data subjects**

All customers at nordicway ApS

**A.5 The data processor's processing of personal data on behalf of the data controller may commence after the entry into force of these Provisions. The processing has the following duration**

We process the data as long as you have an active product with nordicway ApS.

**B.1. Authorized sub-processors**

Upon entry into force of the Clauses, the Controller has authorized the use of the following sub-processors

<b>NAME</b>	<b>CVR</b>	<b>ADDRESS</b>	<b>DESCRIPTION OF TREATMENT</b>
NSEC Solutions	DK-26530792	Kirkegårdsvej 10 B, 2. 2. - 8000 Aarhus C	Server operations and maintenance
Hexonet GMBH	DE-138316882	Homburg HRB 2839 (HOM)	Domain registrar
Hetzner Online GMBH	DE-812871812	Industriestr. 25 91710 Gunzenhausen Germany	Server
From Software	DK-39090325	Reberbanen 2B 6950 Ringkøbing	Support

Upon entry into force of the Clauses, the data controller has authorized the use of the above-mentioned sub-processors for the described processing activity. The data processor may not - without the data controller's written approval - make use of a sub-processor for a processing activity other than the described and agreed or make use of another sub-processor for this processing activity.

### **C.1 Subject matter/instruction of the treatment**

The data processor's processing of personal data on behalf of the data controller takes place by the data processor performing the following:

We use the submitted information to invoice, create and renew your products at nordicway ApS. It is also used for communication purposes.

### **C.2. Security of processing**

We only process "General Personal Data" and no "Special Personal Data". Therefore, an ordinary level of security must be established. However, we always strive for the highest possible security level.

The data processor is then entitled and obliged to make decisions about which technical and organizational security measures to implement in order to establish the necessary (and agreed) security level.

However, the Processor shall - in any event and as a minimum - implement the following measures agreed with the Controller:

The Data Processor may always implement new security measures provided that such security measures at least meet or provide greater security than before. The Data Processor may not, without the Data Controller's written approval, make deterioration of the security conditions.

### **C.3 Retention period/deletion routine**

Personal data is stored as long as you have an active product with nordicway ApS. The information is deleted within 24 hours of the product's termination time - either immediately or at the end of the period.