

## CONTRACT FOR COMMISSIONED PROCESSING OF PERSONAL DATA ACORDING TO THE EU GENERAL DATA PROTECTION REGULATION (GDPR)

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hereinafter referred to as the client

and the

**WORTMANN TELECOM GmbH**  
**Hankamp 2**  
**32609 Hüllhorst**  
**Germany**

hereinafter referred to as contractor.

## PREAMBLE

The client would like to commission the contractor with the services specified in § 3. Part of the contract execution is the processing of personal data. In particular, Art. 28 GDPR makes certain demands on such order processing. In order to comply with these requirements, the parties (client & contractor) conclude the following agreement, the fulfillment of which is not separately remunerated, unless expressly agreed.

## § 1 DEFINITIONS

1. Responsible is according to Chapter 4 Art.7 GDPR the body that decides on the purposes and means of processing personal data alone or together with other persons responsible.
2. The processor is according to Chapter.4 Art.8 GDPR a natural or legal person, public authority, institution or other body that processes personal data on behalf of the controller.
3. Personal data are according to Chapter 4 Art.1 GDPR, all information relating to an identified or identifiable natural person. (‘the person concerned’); a natural person is considered as being identifiable, directly or indirectly, in particular by means of an identifier such as a name, an identification number, location data, an online identifier or one or more special characteristics expressing the physical, physiological, genetic, mental, economic, cultural or social identity of this natural person can be identified.
4. Particularly vulnerable personal data are personal data according to Art.9 GDPR, which indicate racial and ethnic origin, political opinions, religious or ideological convictions or trade union affiliation of data subjects, personal data pursuant to Chapter 10 GDPR on criminal convictions and offenses or related safeguards and genetic data in accordance with Chapter4 Art 13. GDPR, biometric data according to Chapter 4 Art.14 GDPR, health data according to Chapter 4 Art 15 GDPR as well as data on the sexual life or the sexual orientation of a natural person.
5. Processing is according to Chapter 4 Art. 2 GDPR of any procedure or series of operations performed with or without the aid of automated procedures in connection with personal data such as collecting, collecting, organizing, organizing, storing, adapting or modifying, reading out, Queries, use, disclosure through transmission, dissemination or other form of provision, matching or linking, restriction, erasure or destruction.
6. Supervisory authority is according to Chapter 4 Art 21 GDPR a Member State according to Art 51 GDPR established independent state agency.

## § 2 STATEMENT OF THE COMPETENT DATA PROTECTION SUPERVISORY AUTHORITY

1. The responsible supervisory authority for the client is:

Name:	
Address:	Tel.:
E-Mail:	Web:

2. Competent authority for the contractor:

Name: Country Representative for Data Protection and Information Security North Rhine-Westphalia	
Address: Kavalleriestraße 2-4 D-40213 Düsseldorf	Tel.: 0211/384 24-0
E-Mail: poststelle@ldi.nrw.de	Web: www.ldi.nrw.de

3. The client the contractor and, where applicable, their representative shall, upon request, cooperate with the supervisory authority in the performance of their duties.

### **§ 3 THE CONTRACT**

1. The contractor provides information technology services to the client, Production & Trade, Service & Services. The basis is the business relationship. The contractor receives access to personal data and processes these exclusively on behalf and under the instruction of the client. Scope and purpose of the data processing by the contractor result from the previous business relations. The client is responsible for the assessment of the admissibility of data processing.
2. To clarify the mutual rights and obligations under data protection law, the parties conclude this agreement. In case of doubt, the provisions of this agreement are in line with the regulations of the previous business relationship.
3. The terms of this Agreement shall apply to all activities relating to the present business relationship in which the Contractor and its employees or agents appointed by the Contractor come into contact with personal data originating from or obtained from the Client.
4. The term of this contract is based on the duration of the previous business relationship, provided that the following provisions do not arise beyond obligations or termination rights.

### **§ 4 DIRECTIVE RIGHTS**

1. The contractor may only collect, process or use data in the context of business relations and in accordance with the instructions of the client. This applies in particular to the transfer of personal data to a third country or to an international organization. If the contractor is obliged by the law of the European Union or of the Member States to which it is subject to further processing, he shall inform the Client of these legal requirements before processing.
2. The instructions of the client are initially determined by this contract and can then be changed, supplemented or replaced by the client in writing or in text form by individual instructions (individual instruction). The client is entitled to issue corresponding instructions at any time. This includes instructions regarding the rectification, erasure and blocking of data. The authorized persons are listed in Annex 5. In the event of a change or a longer-term prevention of the designated persons, the contracting party must be notified immediately of the successor or representative in text form.
3. All issued instructions are to be documented by both the client and the contractor. Instructions that go beyond the performance agreed in the main contract are treated as an application for a change in performance.
4. If the contractor is of the opinion that an instruction of the client violates data protection regulations, he must immediately inform the client. The contractor may refuse to carry out a manifestly illegal instruction.

### **§ 5 TYPE OF PROCESSED DATA, PARTIES CONCERNED**

1. In the context of conducting business relations, the contractor will have access to the personal data specified in Appendix 1. These data include the specific categories of personal data listed in Appendix 1 and identified as such.
2. The group of data from the processing concerned is shown in Appendix 2.

### **§ 6 PROTECTIVE MEASURES OF THE CONTRACTOR**

1. The contractor is obliged to observe the statutory provisions on data protection and not to pass on the information obtained from the area of the client to third parties or to suspend their access. Documents and data are secured against unauthorized persons taking into account the state of the art.
2. In his area of responsibility, the contractor will design the in-house organization in such a way that it meets the special requirements of data protection. He will take all necessary technical and organizational measures to adequately protect the data of the client in accordance with Art. 32 GDPR in particular at

least the measures listed in Appendix 3

- a) Physical access control
- b) Data access control
- c) Data usage control
- d) Transfer control
- e) Entry control
- f) Contract control
- g) Availability control
- h) Separation control

A change in the security measures taken is reserved to the contractor, ensuring that the contractually agreed level of protection is not undercut.

3. The contractor is appointed as Company data protection officer / as a contact person for data protection Mr. Olaf Tenti.

Name: Olaf Tenti	
Address: Fleyer Straße 62 D-58097 Hagen	Tel.: +49 (0) 2331 356 832-0 Fax: +49 (0) 2331 356 832-1
E-Mail: info@gdi-mbh.eu	Web: www.gdi-mbh.eu

The contractor will publish the contact details of the data protection officer on his website and inform the supervisory authority. Publication and notification will be proved by the contractor in a suitable manner at the request of the client.

4. The persons employed in the data processing by the contractor are prohibited from collecting, processing or using personal data without authorization. The contractor shall accordingly oblige all persons entrusted by him with the processing and performance of this contract (hereinafter referred to as „employee“) (obligation of confidentiality. Article 28 (3) GDPR and with due diligence ensure compliance with this obligation. These obligations must persist even after the termination of this contract or the employment relationship between the employee and the contractor. The customer must prove the obligations on request in an appropriate manner.

## § 7 INFORMATION OBLIGATIONS OF THE CONTRACTOR

1. In the event of faults, suspected violations of data protection or breaches of contractual obligations of the contractor, suspected security incidents or other irregularities in the processing of personal data by the contractor, persons employed by the contractor or by third parties, the contractor shall immediately notify the client in writing or Inform text form. The same applies to inspections of the contractor by the data protection supervisory authority. The personal data breach message contains at least the following information:
- a) A description of the nature of the personal data breach, where possible, stating the categories and the number of persons concerned, the categories concerned and the number of personal records concerned.
  - b) A description of the remedial action taken or proposed by the contractor and, where appropriate, measures to mitigate its potential adverse effects.
2. The contractor shall immediately take the necessary measures to secure the data and to mitigate any possible adverse consequences of the persons concerned, inform the client and request further instructions.
3. Furthermore, the contractor is obliged to provide the client with information at any time, as far as the data of an infringement according to paragraph 1.

4. If the data of the client are endangered by seizure or confiscation, by bankruptcy or settlement proceedings or by other events or measures of third parties. The contractor must inform the client immediately, unless prohibited by a judicial or official order, in this context, the contractor will immediately inform all competent authorities that the decision-making authority over the data lies exclusively with the client as „controller“ within the meaning of the GDPR.
5. The contractor must notify the client immediately of significant changes to the security measures pursuant to § 6 para 2.
6. A change in person of the Company data protection officer / contact person for the data protection, the client will be informed immediately.
7. The contractor and, if applicable, his representative maintain a list of all categories of processing activities carried out on behalf of the contracting authority, Art.30 2 GDPR. The directory must be made available to the client upon request.
8. The contractor must cooperate to a reasonable extent with the preparation of the procedural directory by the client. He must inform the client of the required information in a suitable manner.

## **§ 8 CONTROL RIGHTS OF THE CLIENT**

1. The client is confident that the processing of the data has been started and can ask regularly within reasonable intervals about the technical and organizational measures of the contractor. He may for example. Obtain information from the contractor, submit to existing expert attestations, certifications or internal audits, or personally check the technical and organizational measures of the contractor after timely coordination during normal business hours or have them checked by a knowledgeable third party, unless this is in a competitive relationship with the contractor. The client will only carry out checks to the required extent and will not disproportionately disturb the operations of the contractor.
2. The contractor undertakes to provide the client on his verbal or written request, within a reasonable period of time, all information and evidence necessary to carry out a check on the technical and organizational measures taken by the contractor.
3. The client documents the inspection result and informs the contractor. In the case of errors or irregularities the client ascertains, in particular when checking the results of an order, he must inform the contractor immediately. About issues found during the inspection, the future avoidance of which requires changes to the order of procedure, the client shall immediately notify the contractor of the necessary procedural changes.
4. At the request of the client, the contractor shall provide the client with a comprehensive and up-to-date data protection and security concept for order processing and authorized persons.
5. The contractor will prove the obligation of the employees to the client the according to § 6 para. 4-apon request.

## **§ 9 USE OF SUBCONTRACTORS**

1. The contractually agreed services or the partial services described below are carried out with the involvement of the subcontractors listed in Annex 4. Within the scope of its contractual obligations, the contractor is authorized to establish subcontracting relationships with subcontractors („subcontractor relationship“) insofar as he notifies the client in advance and has given the subcontractor an advance written consent. The contractor is required to select subcontractors, for their suitability and reliability. When subcontractors are involved, the contractor must oblige them to do so in accordance with the provisions of this agreement, thereby ensuring that the client can exercise his rights under this agreement (in particular his inspection and control rights) directly with the subcontractors. If subcontractors are to be included in a third country, the contractor must ensure that an appropriate level of data protection is maintained by the subcontractor concerned (eg by concluding an agreement based on the EU standard data protection clauses). The contractor will prove to the client on request the conclusion of the aforementioned agreements with its subcontractors.

2. A subcontractor relationship within the meaning of these provisions does not exist if the contractor entrusts third parties with services that are regarded as purely ancillary services. These include, for example, postal, transport and shipping services, cleaning services, telecommunication services without specific reference to services provided by the contractor for the client and security services. Maintenance and testing services represent subcontractor agreements subject to approval, insofar as these are provided for IT systems that are also used in connection with the provision of services for the customer.

## **§ 10 INQUIRIES AND RIGHTS AFFECTED**

1. The contractor shall, as far as possible, assist the client with suitable technical and organizational measures in the fulfillment of its obligations under Art. 12-22, 32, and 36 GDPR.
2. If an affected party asserts rights, such as the provision of information, rectification or deletion with regard to his data, directly to the contractor, the latter will immediately refer the person concerned to the client and await his instructions.

## **§ 11 LIABILITY**

1. In the internal relationship to the contractor alone, the client is responsible to the person concerned for compensation for damages suffered by a data subject due to data processing or use in the context of order processing which is inadmissible or incorrect pursuant to data protection laws.
2. In each case, the parties (client & contractor) release themselves from liability if a party proves that they are in no way responsible for the circumstances in which the damage occurred to an affected party.

## **§ 12 EXTRAORDINARY RIGHT OF TERMINATION**

1. The client may terminate the main contract without notice completely or partially, if the contractor fails to fulfill his obligations under this contract. Intentionally or grossly negligently violates provisions of the GDPR, or can or will not execute an instruction of the client. In the case of simple, eg neither deliberate nor grossly negligent breaches, the client sets the contractor a reasonable deadline within which the contractor can stop the infringement.

## **§ 13 TERMINATION OF THE MAIN AGREEMENT**

1. The Contractor will return to the Client, after the end of the main contract or at any time upon request, all documents, data and data carriers entrusted to him or at the request of the Client, unless there is an obligation to store the personal data pursuant to Union law or the law of the Federal Republic of Germany. This also applies to any data backups with the contractor. The contractor must have the documented proof of the proper deletion of still existing data. Documents are destroyed using a document shredder in accordance with DIN 32757-1. Media is destroyed according to DIN 66399.
2. The client has the right to check the complete and contractual return or deletion of the data in the contractor in a suitable manner.
3. The contractor is obliged to treat the data disclosed to him in connection with the main contract as confidential even after the end of the main contract. This Agreement will remain valid the end of the Principal Contract as long as the Contractor has personal data provided to him by the Client or collected by him.

## **§ 14 FINAL PROVISIONS**

1. The parties agree that the plea of retention of title by the Contractor is for the purpose of § 273 BGB and/or Landlords lien is excluded, in terms of data to be processed and the associated media.
2. Changes and additions to this agreement must be in writing. This also applies to the waiver of this form requirement. The priority of individual contract agreements remains unaffected.

3. If individual provisions of this agreement are or become wholly or partially void or unenforceable, this shall not affect the validity of the remaining provisions.

4. This agreement is subject to German law. Exclusive place of jurisdiction is Bad Oeynhausen.

The following attachments are subject of the contract:

[ANNEX 1 – Description of data/categories of data requiring special protection](#)

[ANNEX 2 – Description of the affected/affected groups](#)

[ANNEX 3 – Technical and organizational measures of the contractor](#)

[ANNEX 4 – Approved Subcontractors](#)

[ANNEX 5 – Authorized Persons](#)

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Place and date

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Place and date

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Signature contracting party

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Signature WORTMANN TELECOM GmbH