

With

race result AG

Joseph-von-Fraunhofer-Straße 11
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below **Processor**

1. General remarks

- a) The Processor will process personal data on behalf of the Controller in the meaning of Article 4 (8) and Article 28 of Regulation (EU) 2016/679. This Agreement governs the rights and obligations of the parties in connection with the processing of personal data.
- b) Insofar as the term "data processing" or "processing" (of data) is used in this Agreement, it is taken as that defined in Article 4 (2) GDPR.

2. Subject matter of the Agreement

The subject matter, nature and purpose of the processing, the nature of personal data and the categories of data subjects are set out in Annex 1 to this Agreement.

3. Rights and duties of the Controller

- a) The Processor is the responsible body within the meaning of Article 4 (7) GDPR for the processing of data on behalf of the Controller. Pursuant to section 4 (5) of this Agreement, the Processor has the right to inform the Controller if the Processor is of the opinion that the data processing is in breach of applicable statutory data protection law in this Agreement and/or an instruction.
- b) The Controller shall be the person responsible for safeguarding the data subject's rights. The Processor shall promptly inform the Controller if data subjects claim their data subject's rights against the Processor.
- c) The Controller shall be entitled to issue supplementary instructions concerning the nature, scope and procedure of data processing to the Processor at any time. Instructions must be given in text form (e.g. email).
- d) Regulations concerning a possible remuneration of additional expenses incurred through supplementary instructions by the Controller for the Processor remain unaffected.
- e) The Controller may designate authorized persons. Insofar that persons entitled to issue instructions are to be named, they are named in Annex 1. In the event that there is a change of persons authorized by the Controller, the Controller will notify the Processor thereof in text form.
- f) The Controller shall promptly inform the Processor if he finds errors or irregularities in connection with the processing of personal data by the Processor.

- g) In the event of the obligation to provide information to Third Parties pursuant to Articles 33, 34 GDPR or any other statutory reporting obligation applicable to the Controller, the Controller shall be responsible for the fulfillment of those obligations.

4. General obligations of the Processor

- a) The Processor shall process personal data only within the framework of this Agreement and/or in compliance with possible additional instructions given by the Controller. Excluded from this are legal provisions, which potentially oblige the Processor to a different processing of data. In such a case, the Processor shall inform the Controller of these legal requirements before the processing, unless the law in question prohibits such notification on account of an important public interest. Purpose, nature and scope of data processing shall be governed exclusively by this Agreement and/or the instructions of the Controller. Data processing deviating from this Agreement shall be forbidden, unless the Controller has given its written consent.
- b) The Processor shall undertake to perform the data processing on behalf of a Controller only within the Member States of the European Union (EU) or the European Economic Area (EEA).
- c) The Processor shall inform the Controller if the Processor is of the opinion that a Controller's instruction is in breach of statutory data protection laws. The Processor shall be entitled to suspend the implementation of the relevant instruction until it has been confirmed or amended by the Controller. Insofar as the Processor can demonstrate that processing according to the instructions of the Controller can lead to liability of the Processor according to Article 82 GDPR, the Processor is free to suspend further processing in this respect until the liability between the parties has been clarified.
- d) The Processor can designate the person(s) authorized to receiving instructions by the Controller. If persons entitled to receive instructions are to be named, they shall be named in Annex 1. In the event that there is a change of persons authorized to receive instructions for, the Processor will notify the Controller thereof in text form.

5. Data protection officer of the Processor

- a) The Processor confirms that he has designated a data protection officer pursuant to Article 37 GDPR. The Processor shall ensure that the data protection officer has the necessary qualifications and expertise. The Processor shall communicate the name and contact details of his data protection officer to the Controller separately in text form.
- b) The duty of naming a data protection officer pursuant to section 1, may, at the Controller's discretion, cease to apply if the Processor can account for that he is not obliged by law to appoint a data protection officer and that company provisions exist which ensure that personal data are processed in compliance with the provisions of law, the provisions of this Agreement, and any such further instructions as the Client may give.

6. Notification obligations of the Processor

- a) The Processor shall inform the Controller immediately of each breach of statutory data protection laws or contractual agreements and/or the Controller's instructions which has occurred during the processing of the data by him or other persons involved in processing the data. The same shall apply to any violation of the protection of personal data which the Processor processes on behalf of the Controller.
- b) Furthermore, the Processor shall inform the Controller immediately if a regulatory authority pursuant to Art. 58 GDPR is operating against the Processor and this operation may also affect controlling of the processing which the Processor makes on behalf of the Controller.
- c) The Processor is aware that the Controller may be subject to a notification obligation pursuant to Articles 33 - 34 GDPR, which provides that notification must be made to the supervisory authority within 72 hours after detection. The Processor shall assist the Controller in implementing the notification obligations. The Processor shall notify the Controller, in particular, of any unauthorized access to personal data processed on behalf of the Controller, without delay, but at the latest within 48 hours of knowledge of such access. In particular, the notification of the Processor to the Controller shall include the following information:
 - a description of the nature of the breach of the protection of personal data, indicating, as far as possible, the categories and approximate number of data subjects concerned, the categories concerned and the approximate number of personal data sets concerned;
 - a description of the measures taken or proposed by the Processor to remedy the breach of the protection of personal data and, where appropriate, to mitigate its potential adverse effects.

7. Processor's obligation of cooperation

- a) The Processor shall assist the Controller in fulfilling his duty to respond to requests for the exercise of rights of the data subjects in accordance with Art. 12-23 GDPR. The provisions of section 11 of this Agreement shall apply.
- b) The Processor assists the Controller in compiling the lists of processing activities. The Processor must provide the Controller with the required particulars by suitable means.
- c) Taking into account the type of processing and the information available to him, the Processor shall assist the Controller in complying with the obligations set out in Articles 32-36 GDPR.

8. Supervisory powers

- a) The Controller has the right to monitor compliance with statutory laws regarding data protection and/or compliance of the regulations agreed between the Parties and/or compliance with the instructions of the Controller by the Processor at any time to the extent necessary.
- b) The Processor shall be obliged to provide the Controller with information to the extent necessary to carry out an inspection in the meaning of paragraph 1.

- c) The Controller may demand to inspect the data that are processed by the Processor for the Controller along with the inspection of data processing systems or programs that are used. Pursuant to paragraph 1, the Controller shall be permitted to control the premises of the Processor, upon prior timely notification, during regular business hours. The Controller shall thereby ensure that the inspections are carried out only to the extent necessary in order to not interfere with the Processor's business operations. The Controller and the Processor agree that such an inspection does not need to take place more often than once a year. If the Controller requests a further inspection, the Controller shall state a valid reason. The Controller bears all inspection costs, including personal expenses. The Processor communicates an estimate of the costs before any inspection takes place.
- d) Instead of an on-site inspection, the Processor may have their compliance with all technical and organizational measures assessed through a report by independent experts, if the Controller accepts such a report as sufficient proof. Should the Controller have a valid reason to doubt the validity of the report, the Controller can request an on-site inspection to take place. The Controller is aware that an on-site inspection in data centres is not possible, or only in exceptional cases.
- e) The Processor shall be obliged to provide necessary information to the Controller in case of measures of a supervisory body against the Controller according to Art. 58 GDPR, especially regarding obligations of information and monitoring and to grant the competent supervisory body on-site inspections. The Processor shall inform the Controller about such relevant intended measures.

9. Subcontracting

- a) The Processor shall not assign any subcontractors without approval of the Controller in text form. The Processor shall name all existing subcontractual relations in **Annex 2** of this Agreement.
- b) The Processor shall diligently select any subcontractor and assure in advance that they may comply with the Agreement between Controller and Processor. The Processor must, in particular, verify in advance, and regularly during the term of this Agreement, that the subcontractors have undertaken the technical and organizational measures that are required according Art. 32 GDPR for the protection of personal data. The result of the verification must be documented by the Processor and communicated to the Controller on request. In case of a change of subcontractor, the Processor will inform the Controller in written form at least 4 weeks before that change takes place ("Information"). The Controller can then oppose that change within two weeks, also in written form. The Controller can take back their opposition in written form at any time. In case of an opposition, the Processor can terminate the present contract with the Controller after giving the Controller at least 14 days notice before the end of the calendar month. Between the notice of termination and the actual termination, the Processor will preserve the interests of the Controller. If no opposition to the change in subcontractor reaches the Processor within 14 days after the Information, it is considered that the Processor has agreed to the change.
- c) The Processor is obliged to have the subcontractor confirm that he has appointed a company data protection officer within the meaning of Art. 37 GDPR. In the event that no data protection officer has been appointed by the sub-contractor, the Processor must point this out to the Controller and provide information that indicates that the subcontractor is not legally obliged to appoint a data protection officer.

- d) The Processor must ensure that the regulations and, where appropriate, supplementary instructions of this Agreement also apply to the subcontractor.
- e) The Processor shall conclude a commissioned data processing contract with the sub-contractor, which meets the requirements of Art. 28 GDPR. In addition, the Processor shall impose the same data protection obligations with regard to the protection of personal data on the subcontractor as those laid down between the Controller and the Processor. On request, the Processor shall provide the Controller with a copy of the written agreement on commissioned data processing.
- f) The Processor shall in particular be obliged to ensure through contractual regulations that the Controller's powers of control (Section 8 of this Agreement) and of supervisory bodies also apply to subcontractors and that corresponding monitoring by the Controller and supervisory bodies have been agreed upon. It shall also be specified by contractual regulations that subcontractors have to tolerate these monitoring measures and any on-site inspections.
- g) Not considered as subcontracting relationships within the meaning of sections 1 - 6 are services which the Processor uses for Third Parties as a mere ancillary service in order to carry out the business activity. These include for example cleaning services, telecommunication services without specific reference to services that the Processor performs on behalf of the Controller, postal and courier services, transportation services or security services. The Processor shall nevertheless be required to ensure that appropriate technical and organizational measures have been undertaken to protect personal data, even with ancillary services that are provided by Third Parties. The maintenance and care of IT systems or applications constitutes a subcontracting relationship subject to approval and commissioned data processing within the meaning of Art. 28 GDPR if the maintenance and monitoring concerns IT systems that are also used in connection with the provision of services for the Controller and can be accessed during maintenance of personal data that are processed on behalf of the Controller.

10. Obligation of confidentiality

- a) When processing data on behalf of the Controller, the Processor shall be obliged to maintain confidentiality of data which he receives or obtains in connection with the data processing order.
- b) The Processor warrants that applicable data protection regulations are known to him and that the Processor is familiar with their application. The Processor also warrants that the employees working on the data have been made known to applicable regulations of data protection and that they are bound to maintain data confidentiality.
- c) Proof for such an obligation for the employees pursuant to paragraph 2 must be presented to the Controller on request.

11. Protection of Data Subjects' rights

- a) The Controller is solely responsible for safeguarding data subjects' rights. The Processor is obliged to support the Controller in his duty to process requests from data subjects in accordance with Articles 12-23 GDPR. The Processor shall in particular ensure that the information required in this respect is provided to the Controller with-out delay so that the Controller is able to fulfil his obligations under section 12 (3) GDPR in particular.

- b) As far as a participation of the Processor for the protection of data subjects' rights by the Controller is necessary – especially regarding access, rectification, blocking or deleting –, the Processor will undertake the necessary measures on instruction by the Controller. Where possible, the Processor shall assist the Controller with appropriate technical and organizational measures to fulfil his obligation to respond to requests for the exercise of the data subjects' rights.
- c) Provisions concerning remuneration of additional expenses incurred through participation of the Processor in connection with assertion of data subjects' rights against the Controller remain unaffected.

12. Confidentiality obligations

- a) Both Parties hereby undertake to treat all information received in connection with the processing of this Agreement indefinitely confidential and to use the information only for carrying out the Agreement. No Party has the right to use the information in part or as a whole for other than those mentioned purposes or to make this information available to Third Parties.
- b) The foregoing obligation shall not apply for information that one Party received demonstrably from Third Parties, without being bound by secrecy or which are publicly known.

13. Remuneration

The Processor's remuneration is provided for by way of a separate agreement.

14. Technical and organizational measures for data security

- a) The Processor is obliged to observe the necessary technical and organizational measures to comply with the data protection regulations. These measures are generally aimed at ensuring a level of protection adapted to the risks, and at preserving the security, the integrity, the accessibility and the scalability of the systems. To these ends, the Processor is obliged to always stay up-to-date with the technologies used, and consider the costs of implementation, the nature, scale and purpose of the data processing, and the probability of occurrence of the risks for the individuals' fundamental rights and freedoms as defined in Art. 32 GDPR.
- b) Both Parties agree that changes in the technical and organizational measures may be required to reflect changes in technical and legal regulations. Such modifications that can impact the integrity or accessibility of the data subjects' data will be discussed between the Controller and the Processor. Minor changes that do not affect the integrity or the accessibility of the data can be decided by the Processor without consulting the Controller. The Controller may ask the Processor for a list of all changes in the technical and organizational measures once per year.

15. Term of the Agreement

- a) The contract is valid from the acceptance by the Controller of the present agreement, and runs for the entire duration of the existing contract between both parties regarding the use of the Processor's services by the Controller.

- b) The Controller may terminate the Agreement at any time without notice if the Processor has committed a serious violation of the applicable data protection provisions or a breach of duties under this Agreement; the Processor is unable or unwilling to carry out an instruction of the Controller or denies access to the Controller or the competent supervisory authority in breach of the Agreement.

16. Termination

Upon termination of the Agreement, the Processor must hand over or delete all documents, data, and final results of processing or use that are associated with the contractual relationship to the Controller. The erasure must be documented in a suitable manner. Any relevant legal obligations for the storage of data remain unaffected.

17. Right of retention

The Parties agree that the plea of retention by the Processor in the meaning of section 273 German Civil Code (Bürgerliches Gesetzbuch, BGB) concerning the processed data and associated data storage devices is excluded.

18. Final provisions

- a) Should the property of the Controller be at risk at the Processor through measures of Third Parties (especially confiscation or seizure of property), by insolvency proceedings or other events, the Processor must inform the Controller immediately. The Processor will inform creditors immediately about the fact that the data are processed on behalf of the Controller.
- b) Written form is compulsory for ancillary agreements.
- c) Should individual parts of this Agreement be invalid, the validity of the Agreement's other provisions will not be affected thereby.

Annex 1 - Subject matter of the Agreement

1. Type(s) of personal data

The following types of data are generally the object of the data processing:

The Processor makes an online version of the "RACE RESULT 12" software available to the Controller for use within the conditions of use (available at <https://www.raceresult.com/de/contact/AGB.php>).

As the Controller can customize the forms and data fields, it is not possible for the Processor to provide an exhaustive list of the types of data processed.

The Processor certifies that it does not process any types of data listed in Art. 8 and Art. 9 GDPR.

If the Controller activates online payment, the necessary information is collected to process transactions using the payment methods selected by the Controller.

2. Categories of data subjects

Types of data subjects: customers and prospective clients. Given the customizable configuration, it is not possible to provide a complete list of data fields. But these regularly include contact details, date of birth, bank details and payment information.

The limitations and explanations listed in Annex 1, 1 also apply here.

Annex 2 - Subcontractor

For the processing of data on behalf of the Controller, the Processor uses the services of Third Parties who process data on behalf of the Processor ("subcontractors").

These companies are:

- Web hosting:
Host Europe GmbH
Hansestrasse 111
51149 Köln
Germany
- Web hosting:
3W-SERVICE Internet Solutions e.K.
Firmeninhaber: Roger Mayer
Köpenweg 6
27616 Beverstedt
Germany
- Data saving, E-Mail:
Microsoft Ireland Operations, Ltd.
One Microsoft Place
South County Business Park
Leopardstown
Dublin 18
Ireland