

For your convenience, we provide a translation of this agreement. This translation is for informational purposes only. The German version is the definitive version due to our company location:

<https://gender-api.com/de/account/data-processing-agreement/download-pdf/example>

# Agreement for data processing according to Art. 28 GDPR

between

Le client

- Responsible person - hereinafter referred to as "client" -

and

Gender-API.com - Markus Perl  
Zehnfeldstraße 109  
81825 Munich  
Germany

- Contract processor - hereinafter referred to as "contractor" -

To conclude this data processing agreement, you must click on the "Accept Agreement" button. Thereby, the agreement is marked with a time stamp and becomes legally binding between the client and the contractor. In the printed agreement, the timestamp can be found at the end of the document.

## 1. General Terms and Conditions and Subject of Contract

1.1 The subject of the contract results from the services ("packages") selected by the client on the website Gender-API.com. The services offered are SaaS (Software as a Service) solutions for gender determination and the processing of personal data. The services are performed either immediately via an API interface or, in the case of bulk processing, as a batch process via an encrypted interface.

The subject of the processing of personal data are the following data types/categories, depending on the the service chosen by the client:

- Person master data
- Communication data (e.g. email)
- Contract master data
- Log data
- Client login and profile data
- API interface: title, first name, last name, email, country, email address, IP address, locale of the data provided by the client
- Bulk processing as batch process: title, first name, last name, email, country, email address, IP address, locale of the data provided by the client

The group of persons affected includes:

- Customers
- Leads
- Vendors

1.2 The client is the person responsible within the meaning of Art. 4 No. 7 GDPR. He alone is responsible for assessing the admissibility of data processing operations according to Art. 6 GDPR and the protection of the rights of the persons concerned.

1.3 The processing of the data by the contractor takes place exclusively on the territory of the Federal Republic of Germany, a member state of the European Union, or a contracting state to the EEA Agreement. Processing outside these countries is only carried out with consent of the client and if the requirements of Chapter 5 GDPR (Art. 44 ff.) are met.

1.4 The remuneration is agreed outside of this contract.

## **2. Contract Term and Termination**

This contract is concluded for an indefinite period of time and may be duly terminated by either party with one month's notice. The right to issue an extraordinary termination of the contract for good cause remains unaffected.

## **3. Instructions of the Client**

3.1 The client has a comprehensive right of instruction with regard to the type, scope and modalities of data processing toward the processor. In this role, he has the right to obtain the immediate erasure, rectification, blocking or publication of data covered by the contract from the contractor. The contractor is obliged to comply with the instructions of the client, provided that there are no justified contractual or legal conflicting interests.

3.2 The contractor shall inform the client without delay if he considers an instruction from the client in violation of legal regulations. If an instruction is issued whose legality is reasonably doubted by the contractor, the contractor shall be entitled to suspend its execution temporarily until the client expressly confirms or amends it.

3.3 Instructions must always be given in writing or in an electronic format (e.g. email). Oral instructions are to be confirmed in writing or in an electronic format by the client if the contractor requests it. The contractor has to log the person, date and time of the oral instruction in an appropriate form.

3.4 At the request of the contractor, the client shall appoint one or more persons authorized to issue instructions. The contractor has to be informed about changes regarding these persons immediately.

## **4. Control Powers of the Client**

4.1 The client is entitled to regularly check compliance with the legal and contractual regulations on data protection and data security to the required extent prior to the start of a data processing and during the term of the contract or to have them checked by third parties. The contractor will tolerate these checks and will support them as necessary. In particular, he shall provide the customer with complete and truthful information relevant to the checks, grant him access to the stored data and data processing programs/systems and enable him to carry out on-site inspections. If the client has agreed to the processing of the data outside the business premises (e.g. private home), the contractor must ensure that the client is also allowed to enter these premises for inspection purposes.

4.2 The client shall ensure that the check measures are proportionate and do not affect the operation of the contractor more than is necessary. In particular, on-site inspections should always be carried out by appointment during normal business hours and with a reasonable lead time, provided that the purpose of the check does not contradict a prior announcement.

4.3 The results of the checks and instructions shall be recorded by both parties in an appropriate manner.

## 5. General Obligations of the Contractor

5.1 The processing of the contractual data by the contractor is carried out exclusively on the basis of the contractual agreements in connection with any instructions given by the client. Any processing in deviation from this is only permissible on the basis of mandatory European or Member State legislation (e.g. in the case of investigations by law enforcement or state protection authorities). Where processing is required by mandatory law, the contractor shall inform the client prior to processing, unless the law in question prohibits such communication on grounds of an important public interest.

5.2 The contractor must comply with all legal regulations during the execution of the order. In particular, he must implement the technical and organizational measures required by Art. 32 GDPR and maintain the list of processing activities required by Art. 30 para. 2 GDPR, where this is required by law.

5.3 If the contractor is under an obligation by the GDPR or any other legal provision to appoint a data protection officer, he confirms that he has selected one in accordance with the legal provisions and assures the client to name him, stating his contact details (e.g. by email). The client has to be notified about changes regarding the person and/or the contact details of the data protection officer immediately.

5.4 Data processing outside the premises of the contractor or subcontractors and/or in private homes (e.g. remote access or home office of the contractor) is only permitted with the express consent of the client.

5.5 The contractor must ensure that the persons authorized to process the personal data have undertaken to maintain confidentiality or are subject to an appropriate statutory duty of confidentiality (Art. 28 para. 3 letter b GDPR). Prior to being subject to the obligation of confidentiality, the persons concerned may not have access to the personal data provided by the client.

5.6 The contractor will regularly and independently monitor the fulfilment of his duties and document them in an appropriate manner.

## 6. Technical and Organizational Measures

6.1 The processor has defined appropriate technical and organizational measures to ensure an adequate level of protection and recorded them in Appendix 1 to this contract. The measures described there were selected in compliance with the requirements of Art. 32 GDPR and agreed with the client.

6.2 The contractor will check and adapt the technical and organizational measures as required and/or occasion-related. Necessary adjustments are documented by the contractor and made available to the client upon request. Significant changes which could reduce the level of protection must be agreed with the client in advance.

## 7. Support Obligations of the Contractor

7.1 In accordance with Art. 28 para. 3 lit. e GDPR, the contractor will support the client in his obligations to safeguard the rights of the persons concerned under Chapter III, Art. 12 - 22 GDPR. This particularly applies to the provision of information and the deletion, correction or restriction of personal data. The scope of the support obligation is determined in each individual case, taking into account the type of processing.

7.2 In accordance with Art. 28 para. 3 lit. f GDPR, the contractor will also support the client in his obligations (in particular reporting obligations) under Art. 32 - 36 GDPR. The scope of this obligation is determined in each individual case, taking into account the type of processing and the information available to the contractor.

## 8. Use of Subcontractors

8.1 We provide a list of subcontractors for our services. For an up-to-date list of Gender-API.com subcontractors, please visit <https://gender-api.com/en/privacy-policy/subcontractors>. The list is updated regularly by Gender-API.com.

8.2 Subcontractors are selected by the contractor in compliance with legal and contractual requirements. Ancillary

services used by the contractor to carry out his business activities do not constitute subcontracting relationships. Secondary activities in this sense are in particular telecommunications services without concrete reference to the main service, postal and transport services, maintenance and user service as well as other measures which are intended to ensure the confidentiality of the hardware and software and have no specific reference to the main service. However, the contractor will also ensure that these third-party services comply with the legal data protection standards.

8.3 All contracts between contractor and subcontractors (subcontractor contracts) must comply with the requirements of this contract and the statutory provisions on the processing of personal data stated in the contract; this concerns in particular the implementation of suitable technical and organizational measures in accordance with Art. 32 GDPR in the subcontractor's business. The subcontractor contracts must also ensure that the control and instruction powers agreed in this contract can be executed by the client in the same manner and in full also toward the subcontractor. In the event that the client so requests, the contractor is obliged to provide information on the subcontractor's obligations under data protection law and, if necessary, to inspect the relevant contractual documents or the results of inspection and supervision as well as the corresponding documentation, records and lists of the contractor or to request the transmission of these documents in copy.

8.4 The contract with the subcontractor shall specify the responsibilities of the subcontractor so that the client can check them accordingly. Furthermore, the contract with the subcontractor must ensure that the client is entitled to execute the same control rights toward the subcontractor as toward the contractor. The contractor shall ensure that the instructions given by the client are also followed and recorded by the subcontractors. Compliance with these obligations is checked and documented regularly by the contractor before concluding a contract with the subcontractor.

8.5 The forwarding of data to the subcontractor is only permitted if the subcontractor has fulfilled his obligations pursuant to Art. 32 para. 4 and 29 GDPR regarding the persons subordinate to him.

8.6 The contractor is responsible for compliance with the data protection regulations by the subcontractors he works with. He is liable to the client for compliance with legal and contractual data protection obligations.

8.7 The contractor shall obtain confirmation from his subcontractors that they have appointed a data protection officer when required by law.

8.8 The commissioning of subcontractors in third countries is only permissible if the legal requirements of Art. 44 ff. GDPR are met and the client has agreed.

## **9. Notification Obligations of the Contractor**

9.1 Violations of this contract, the client's instructions or other data protection regulations must be reported to the client without delay; the same applies if there is a corresponding justified suspicion. This obligation shall apply irrespectively of whether the infringement is committed by the contractor himself, by a person employed by him, by a subcontractor or by any other person who is working for him to fulfil his contractual obligations.

9.2 The contractor is obliged to support the client in fulfilling his statutory duties to provide information in accordance with Articles 33 and 34 of the GDPR. The contractor may only make independent reports to authorities or affected parties in accordance with Articles 33 and 34 of the GDPR after prior instructions from the client.

9.3 If an affected person, an authority or any other third party requests information, rectification, blocking or deletion from the contractor, the contractor shall immediately forward the request to the client; in no case shall the contractor comply with the request of the affected person without the consent of the client.

9.4 The contractor shall immediately inform the client if supervisory actions or other measures of an authority which could also affect the processing, use or collection of personal data provided by the client are imminent. In addition, the contractor must inform the client immediately of any events or measures taken by third parties, which could endanger or impair the contractual data.

## **10. Termination of Contract, Deletion and Return of Data**

After conclusion of the data processing covered by the contract or after termination of this contract, the contractor must delete or return all personal data at the client's discretion, provided that there is no longer a legal obligation to store the data concerned (e.g. statutory retention periods). The client is entitled to check the measures of the contractor in a suitable manner. He shall in particular be entitled to inspect the relevant deletion records and the data processing equipment concerned on-site.

## **11. Data Secrecy and Confidentiality**

11.1 The contractor is obliged for an unlimited period of time and beyond the end of this contract to treat the personal data obtained within the scope of this contractual relationship confidentially and to adhere to the relevant confidentiality rules to which the client is subject (e.g. § 203 StGB). When placing the order, the client is obliged to inform the processor of any special secrecy protection rules that may apply.

11.2 The contractor commits himself to familiarize his employees with the relevant data protection regulations and secrecy protection rules and to oblige them to secrecy before they start their work at the contractor.

11.3 The contractor shall adequately document compliance with the measures referred to in this point. The documentation shall be submitted to the client upon request.

## **12. Final Provisions**

- If the GDPR or other legal regulations referred to change during the term of the contract, the references here also apply to the respective succession regulations.
- Should individual parts of this agreement be or become ineffective, the effectiveness of the other regulations remains unaffected.
- All annexes to this contract constitute an integral part of the contract.
- The contractual provisions of Gender-API.com as agreed within the framework of the contract apply in their respectively valid version.

# Annex 1 - List of existing technical and organizational measures of the contractor according to Art. 32 GDPR

The contractor implements the following technical and organizational measures to protect the personal data covered by the contract. The measures were defined in accordance with Art. 32 GDPR and agreed with the client.

A list of subcontractors who may have access to personal information can be found here:

<https://gender-api.com/en/privacy-policy/subcontractors> The subcontractors were obliged in writing to keeping business secrets confidential and to complying with the general data protection regulation GDPR. Gender-API.com is an individual company. The owner is responsible for compliance with statutory data protection obligations.

## I. Earmarking and separability

The following measures ensure that data collected for different purposes are processed separately:

- Physically separate storage on separate systems or data carriers
- Logical client separation (software side); Authorization concept
- Encryption of data records that are processed for the same purpose
- Separation of production and test system

## II. Confidentiality and integrity

The following measures ensure the confidentiality and integrity of the contractor's systems:

1. Encryption. The data or data carriers processed in the order are encrypted as follows
  - HTTPS with SSL Certificates RSA 2048 bits (SHA256withRSA) for Gender-API.com
  - File systems with 128-bit AES encryption
2. The following measures have been taken to prevent unauthorized persons from accessing the data processing systems used to process or use personal data (access control):
  - Access is restricted to authorised persons only. Physical access to the premises is secured by a manual locking system.
  - The hosting provider ensures that no unauthorized parties have access to the data processing systems.
3. The following measures have been taken to prevent unauthorized third parties from using the data systems (access control):
  - Assigning user rights
  - Creating user profiles
  - Password assignment
  - Password guidelines (minimum length, complexity etc.)
  - Encryption of data protection systems
  - Use of a software firewall
4. The following measures can be used to subsequently check and determine whether and by whom personal data have been entered, modified or removed from data processing systems (input control):
  - Protocols in our database systems
  - Logs on the server
  - Storage of forms containing data for automated processing
  - Traceability of data entry, modification and deletion through individual user names
5. The following measures ensure that personal data processed on behalf of the client will only be processed in accordance with the instructions of the client (order control). *Selection of the contractor with due diligence*

(particularly with regard to data security) Prior inspection and documentation of the safety measures taken by the contractor.

- Written instructions for the contractor(e.g. through a data processing contract)
- Obligation of the contractor's employees to data secrecy
- Ensuring the deletion of data after order completion
- Effective control rights agreed with the contractor
- Ongoing monitoring of the contractor and his activities
- Contract penalties for breaches

6. The following measures ensure that personal data are not obtained or taken notice of (physically and/or digitally) by unauthorized persons during transfer (transport or transfer control):

- Use of encrypted HTTPS connections
- Use of encrypted SSH tunnels
- Encryption of the communication channels (e.g. encryption of email traffic)
- Encryption of physical data carriers during transport

### **III. Availability, Recoverability and Resilience of the system**

The following measures ensure that the data processing systems used function perfectly at all times and that personal data is protected against accidental destruction or loss.

- By means of load balancers several servers are always available at the same time
- Daily backups to physically separate systems
- Regular load tests
- Testing of data recovery
- Storage of data backups in a secure, outsourced location

### **IV. Revision, Evaluation and Adaptation of the Present Measures**

The contractor will evaluate and, if necessary, adapt the technical and organizational measures laid out in this annex at intervals of 2 years and as required.