

Data Processing Agreement

This agreement ("Agreement") is concluded by and between:

[client / controller company name],
[client / controller company address],
(referred to as "Controller")

and

Sendmate.io, a product of,
Record Bird GmbH
Marxergasse 24, 2, 2.02
1030 Wien, Österreich (referred to as „Processor“)

The Processor undertakes to perform, on behalf of the Controller, the data processing operations described in [Appendix 1](#). For the purpose of this Agreement, the terms of the General Data Protection Regulation (Regulation (EU) 2016/679) shall apply.

1. Right to Instruction. The Processor shall process the personal data only on documented instructions from the Controller, including with regard to transfers of personal data to a third country or an international organization, unless required to do so by Union or Member State law to which the Processor is subject; in such a case, the Processor shall inform the Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest. The Processor shall immediately inform

the Controller if, in its opinion, an instruction infringes applicable data protection law.

2. Confidentiality. The Processor shall ensure that persons authorized to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
3. Data Security. The Processor warrants that it has implemented sufficient security measures to prevent the unlawful use of the personal data or the accessibility for unauthorized third parties. Moreover, the Processor warrants that it takes all measures required pursuant to Article 32 of the General Data Protection Regulation, once applicable.
4. Sub-Processing. The Processor shall inform the Controller of any intended changes concerning the addition or replacement of other processors or sub-processors (hereinafter collectively "Sub-Processors"), thereby giving the Controller the opportunity to object to such changes. Where the Processor engages another Sub-Processor for carrying out specific processing activities on behalf of the Controller, the same data protection obligations as set out in this Agreement shall be imposed on that Sub-Processor by way of a contract, in particular providing sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing will meet the requirements of applicable data protection law. Where that Sub-Processor fails to fulfil its data protection obligations, the Processor shall remain fully liable to the Controller for the performance of that Sub-Processor's obligations.
5. Assistance. The Processor shall assist the Controller by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of the Controller's obligation to respond to requests for exercising the data subject's rights under applicable data protection law, including Chapter III of the General

Data Protection Regulation, once applicable. Moreover, the Processor shall assist the Controller in ensuring compliance with the Controller's obligations under applicable data protection law, including Articles 32 to 36 of the General Data Protection Regulation, once applicable.

6. Return of Personal Data. The Processor shall, at the choice of the Controller, delete or return all the personal data to the Controller after the end of the provision of services relating to processing, and delete existing copies unless applicable Union or EU Member State law requires storage of the personal data.

7. Audit. The Processor shall make available to the Controller all information necessary to demonstrate compliance with the obligations set out in this agreement and allow and contribute to audits, including inspections, conducted by the Controller or another auditor mandated by the Controller.

In the name of the Controller

In the name of the Processor

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Place and date

Place and date

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Appendix 1

Data subjects

The personal data transferred concerns the following categories of data subjects:

- *Clients & recipients, fans or consumers*

Categories of data

The personal data transferred concerns the following categories of data:

- *Profile- and contact data of clients i.e. name, last name, email, gender, profile picture, language, timezone, payment data and Stripe account data, date of registration, date of last login, Facebook pages, that are managed by the client, campaigns, sent by the client;*
- *Recipients, fans or consumer data i.e. name, last name, email, gender, profile picture, language, timezone, payment data and Stripe account data, date of registration, date of last activity, whether there are any unread messages from them to the clients, last campaigns sent to the users, user location (if shared by the user);*

Subject-matter of the processing and processing operations

The personal data transferred will be subject to the following basic processing operations:

- *All data is either shared by the customer or end user (fan, etc.) of their own free will and with their express consent or published publicly by the person concerned.*

Processing purposes

The personal data transferred will be processed by the Processor for the following purposes of the Controller:

- *To optimize relevant communication between our clients and their recipients, fans or consumers, which is the essence of our service to our clients and thus the express fulfillment of the contract between Sendmate and its clients (the Controllers), as well as for accounting purposes.*

Addendum

Addendum to the Standard Contractual Clauses for Processors

In order to satisfy the requirements for the commissioning of processors pursuant to Article 28 of the Regulation (EU) 2016/679 (General Data Protection Regulation, “GDPR”) the following amendments apply to the Standard Contractual Clauses (hereinafter also referred to as “Data Processing Agreement” or “DPA”):

- a. **Instructions:** The Data Importer will process the personal data only on behalf of the Data Exporter and in compliance with its instructions and the DPA, including with regard to transfers of personal data to a third country or an international organization, unless required to do so by Union or Member State law to which the Data Importer is subject; in such case, the Data Importer shall inform the Data Exporter of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest. Instructions shall generally be given in writing, unless the urgency or other specific circumstances require another (e.g., oral, electronic) form. Instructions in another form than in writing or in electronic form shall be documented in appropriate form. The Data Importer shall immediately inform the Data Exporter if, in its opinion, an instruction infringes the GDPR or other Union or Member State data protection provisions.
- b. **Confidentiality:** The Data Importer ensures that persons authorized to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- c. **Security Measures:** The Data Importer ensures that it takes and complies with all security measures required pursuant to Art 32 GDPR.
- d. **Sub-processors:** For the commissioning of sub-processors by the Data Importer, in addition to clause 11 of the Standard Contractual Clauses

2010/87/EU, the Data Importer shall comply with the requirements set forth in Art. 28 (2) and (4) GDPR.

- e. **Response to Data Subject requests:** Taking into account the nature of the processing, the Data Importer shall assist the Data Exporter by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of the Data Exporter's obligation to respond to requests for exercising the data subject's rights under the GDPR.
- f. **Assistance to the Data Exporter:** If so requested by the Data Exporter, the Data Importer shall provide required assistance to the Data Exporter in ensuring its compliance with obligations pursuant to Articles 32 to 36 GDPR taking into account the nature of processing and the information available to the Data Importer.
- g. **Return and further use of data after end of contract:** After the end of the provision of services relating to the commissioned processing of personal data under this DPA, the Data Importer, at the choice of the Data Exporter, shall delete or return all the personal data to the Data Exporter and shall delete existing copies thereof unless Union or Member State law requires storage of the personal data.
- h. **Monitoring by the Data Exporter:** The Data Importer shall make available to the Data Exporter all information necessary to demonstrate compliance with the obligations laid down in this DPA. The Data Exporter shall have the right to control, by appropriate means, the Data Importer's compliance with its data protection obligations annually and at any time occasion-based, such controls being limited to information and data processing systems that are relevant to the Services. For these purposes, the Data Exporter shall also have the right to carry out on-site audits, conducted by the Data Exporter or another auditor mandated by the Data Exporter, during regular business hours without disrupting the Data Importer's business operations and in accordance with the

Data Importer's security policies, and after a reasonable prior notice. The Data Importer shall tolerate such audits and shall render all necessary support.

In the name of the Data Exporter

In the name of the Data Importer

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Place and date

Place and date

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