

DPA

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1. GDPR agreement

The agreement is between the entity identified below as the controller and Kaduu AG (Processor). This DPA applies to the Processing of Personal Data, within the scope of the EU General Data Protection Regulation 2016/679 (as further defined in Section 11, and hereinafter "GDPR"), by Kaduu AG on behalf of the controller. Effective July 23, 2018, Kaduu AG will Process Personal Data in accordance with the GDPR requirements directly applicable to Kaduu AG's provision of its Services.

The parties to this DPA hereby agree to be bound by the terms and conditions in the attached contractual clauses. In order for this DPA to be effective controller must first:

Complete and sign the information block below

Submit the completed and signed DPA to gdpr@kaduu.io

Accepted and agreed by controller

Accepted and agreed by Kaduu AG

Signature:

Signature:



Name:

Name: Oliver Muenchow

Date:

Company:

Address:

2. PROCESSING OF PERSONAL DATA

The parties agree that with regard to the Processing of Personal Data, Customer is the Data Controller, Kaduu AG is a Data Processor and that Kaduu AG will engage Sub processors pursuant to the requirements set forth in Section 5 “Sub processors” below.

Customer shall, in its use or receipt of the Services, Process Personal Data in accordance with the requirements of Data Protection Laws and Customer will ensure that its instructions for the Processing of Personal Data shall comply with Data Protection Laws. Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data. Kaduu AG will Process Personal Data in accordance with applicable Data Protection Laws, the GDPR requirements, directly applicable to Kaduu AG’s provision of its Services. Kaduu AG shall only Process Personal Data on behalf of and in accordance with Customer’s documented instructions and shall treat Personal Data as Confidential Information. Customer instructs Kaduu AG to Process Personal Data for the following purposes:

- (i) Processing in accordance with the Agreement and applicable orders; (ii) Processing to comply with other reasonable instructions provided by Customer (e.g., via a support ticket) where such instructions are consistent with the terms of the Agreement, and
- (ii) (iii) Processing of Personal Data that is required under applicable law to which Kaduu AG or Kaduu AG Affiliate is subject, including but not limited to applicable Data Protection Laws, in which case Kaduu AG or the relevant Kaduu AG Affiliate shall to the extent permitted by applicable law, inform the Customer of such legally required Processing of Personal Data. 2 June 2018 v 3.0 – GDPR DPA Global North America
- (iii) As required under Article 28(3) of the GDPR, the subject matter and duration of the Processing, the nature and purpose of the Processing, the types of Personal Data and categories of Data Subjects are set forth in Annex I to this DPA Addendum (titled “Annex 1: Details of Processing Customer Personal Data”). The subject matter of Processing of Personal Data by Kaduu AG is the performance of the Services provided under the Agreement. Upon prior written notice, Customer may request reasonable amendments to Annex 1 as Customer reasonably considers necessary to meet the requirements of Article 28(3) of the GDPR and Kaduu AG will review such requested changes. Nothing in Annex 1 confers any right or imposes any obligation on any party to this Addendum.

3. RIGHTS OF DATA SUBJECTS

Kaduu AG shall, to the extent legally permitted, promptly notify Customer if it receives a request from a Data Subject to exercise the Data Subject's right of access, right to rectification, restriction of Processing, erasure (“right to be forgotten”), data portability, object to the Processing, or its right not to be subject to an automated individual decision making (“Data Subject Request”). Considering the nature of the Processing, Kaduu AG shall assist Customer by appropriate technical and organizational measures, to the extent possible, for the fulfilment of Customer’s obligation to respond to a Data Subject Request under Chapter III of the GDPR. Except to the extent required by applicable law, Kaduu AG shall not respond to any such Data Subject Request without Customer’s prior written consent except to confirm that the request relates to Customer.

Further, to the extent Customer, in its use of the Services, does not have the ability to address a Data Subject Request, Kaduu AG shall upon Customer's request provide commercially reasonable efforts to assist Customer in responding to such Data Subject Request, to the extent Kaduu AG is legally permitted to do so and provided that such Data Subject Request is required under applicable Data Protection Laws. Any costs arising from such provision of assistance shall be the responsibility of Customer, to the extent legally permitted.

4. PERSONNEL

Kaduu AG shall ensure that its personnel engaged in the Processing of Personal Data are informed of the confidential nature of the Personal Data, have received appropriate training on their responsibilities and are subject to obligations of confidentiality and such obligations survive the termination of that persons' engagement with Kaduu AG.

Kaduu AG shall take commercially reasonable steps to ensure the reliability of any Kaduu AG personnel engaged in the Processing of Personal Data.

Kaduu AG shall ensure that Kaduu AG Group's access to Personal Data is limited to those personnel who require such access to perform the Agreement.

Data Protection Officer. Members of the Kaduu AG have appointed a data protection officer where such appointment is required by Data Protection Laws. The appointed person may be reached at gdpr@kaduu.io.

5. SUBPROCESSORS

Customer acknowledges and agrees that (a) Kaduu AG's Affiliates may be retained as Sub processors; and (b) Kaduu AG and Kaduu AG's Affiliates respectively may engage third-party Sub processors in connection with the provision of the Services. Any such Sub processors will be permitted to obtain Personal Data only to deliver the services Kaduu AG has retained them to provide, and they are prohibited from using Personal Data for any other purpose.

Kaduu AG shall be liable for the acts and omissions of its Sub processors to the same extent Kaduu AG would be liable if performing the services of each Sub-processor directly under the terms of this DPA, except as otherwise set forth in the Agreement.

Kaduu AG or Kaduu AG Affiliate has entered into a written agreement with each Sub processor containing data protection obligations that are no less protective than the terms set forth in this Addendum with respect to the protection of Personal Data and meet the requirements of Article 28(3) of the GDPR or equivalent provisions of any other Data Protection Law, to the extent applicable to the nature of the Services provided by such Sub processor.

Customer authorizes Kaduu AG and each Kaduu AG Affiliate to appoint Sub processors in accordance with this Section.

Customer may object to Kaduu AG's use of a new Sub processor by notifying Kaduu AG promptly in writing within ten (10) business days. In the event of such objection by Customer, Kaduu AG will take commercially reasonable steps to address the objections raised by Customer and provide Customer with reasonable written explanation of the steps taken to address such objection.

Data Transfers. Kaduu AG shall not transfer Personal Data of Customer except lawfully, in compliance with applicable Data Protection Laws. Solely for the provision of Services to Customer under the Agreement and

subject to this Section, Customer hereby authorizes Kaduu AG to make routine transfers of Personal Data to the local Kaduu AG entity and/or approved Sub-processors of Kaduu AG. Notwithstanding, in the event that Personal Data of Customer is transferred from the European Union, the European Economic Area and/or their member states, Switzerland and the United Kingdom to countries which do not ensure an adequate level of data protection within the meaning of the Data Protection Laws of the foregoing territories (“Restricted Transfers”), Kaduu AG complies with the provisions of Section 5, with respect to such Restricted Transfers.

6. SECURITY

Considering the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Customer and Kaduu AG shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk. Kaduu AG will maintain appropriate technical and organizational measures for protection of the security, confidentiality and integrity of Personal Data that meet the requirements for a Data Processor under the GDPR, as set forth in Annex 2 “Security of Processing – GDPR Art. 32”. Kaduu AG regularly monitors compliance with these safeguards. Kaduu AG will not materially decrease the overall security of the Services during the term of Kaduu AG’s provision of such Services pursuant to the applicable Agreement or order form thereunder.

Upon Customer’s written request at reasonable intervals, Kaduu AG shall provide a copy of Kaduu AG’s then most recent third-party audits or certifications, as applicable, or any summaries thereof, related to the Processing of Personal Data of Customer, that Kaduu AG generally makes available to its customers at the time of such request. Kaduu AG shall make available to Customer, upon reasonable written request, such information necessary to demonstrate compliance with this Addendum, and shall allow for written audit requests by Customer or an independent auditor in relation to the Processing of Personal Data to verify that Kaduu AG employs reasonable procedures in compliance with this Addendum, provided that Customer shall not exercise this right more than once per year. Such information and audit rights are provided under this section 6 to the extent the Agreement does not provide such audit rights that meet the requirements of applicable Data Protection Laws (including, where applicable, Article 28(3)(h) of the GDPR). Any information provided by Kaduu AG and/or audits performed pursuant to this section are subject to the confidentiality obligations set forth in the Agreement.

Kaduu AG shall provide Customer with reasonable assistance as needed to fulfil Customer’s obligation to carry out a data protection impact assessment under Article 35 or 36 of the GDPR as related to Customer’s use of the Services. Kaduu AG will provide such assistance upon Customer’s reasonable request and to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to Kaduu AG. Additionally, Kaduu AG will provide reasonable assistance to Customer in the cooperation or prior consultation with the Supervisory Authority in the performance of its tasks relating to this Section 6, to the extent required under the GDPR.

7. SECURITY BREACH MANAGEMENT AND NOTIFICATION

Kaduu AG will promptly notify Customer, without undue delay, after Kaduu AG becomes aware of any accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or unlawful access to any Customer’s Personal Data that is transmitted, stored or otherwise Processed by Kaduu AG or its Sub-processors of which Kaduu AG becomes aware (“Security Breach”). Kaduu AG will use reasonable efforts to identify the cause of such Security Breach and shall promptly and without undue delay: (a) investigate the Security Breach and provide Customer with information about the Security Breach, including if applicable, such information a Data Processor must provide to a Data Controller under Article 33(3) of the GDPR to the extent such information is reasonably available; and (b) take reasonable steps to mitigate the effects and to

minimize any damage resulting from the Security Breach to the extent the remediation is within Kaduu AG's reasonable control. The obligations herein shall not apply to any breach that is caused by Customer or its Authorized Users. Notification will be delivered to Customer in accordance with Section 7 below. Kaduu AG's obligation to report or respond to a Security Breach under this Section is not and will not be construed as an acknowledgement by Kaduu AG of any fault or liability with respect to the Security Breach. Notification(s) of Security Breaches, if any, will be delivered to one or more of Customer's business, technical or administrative contacts by any means Kaduu AG selects, including via email. It is Customer's sole responsibility to ensure it maintains accurate contact information on Kaduu AG's support systems at all times.

8. RETURN AND DELETION OF CUSTOMER DATA

Kaduu AG shall return Customer Data to Customer and/or delete Customer Data in accordance with Kaduu AG's procedures and Data Protection Laws and/or consistent with the terms of the Agreement. At Customer's request, Kaduu AG shall delete or return all Personal Data to Customer after the end of the provision of Services relating to Processing, and delete existing copies.

9. ADDITIONAL TERMS FOR EU PERSONAL DATA

The Standard Contractual Clauses apply only to Personal Data that is transferred from the European Economic Area (EEA) or Switzerland to outside the EEA or Switzerland, either directly or via onward transfer, to any country or recipient: (i) not recognized by the European Commission as providing an adequate level of protection for personal data (as described pursuant to applicable Data Protection Law, and (ii) not covered by a suitable framework recognized by the relevant authorities or courts as providing an adequate level of protection for personal data, including but not limited to Binding Corporate Rules for Processors.

The Standard Contractual Clauses apply to (i) the legal entity that has executed the Standard Contractual Clauses as a Data Exporter and, (ii) all Affiliates (as defined in the Agreement) of Customer established within the European Economic Area (EEA) and Switzerland that have purchased Services on the basis of an order under the Agreement. For the purpose of the Standard Contractual Clauses and this Section 9, the Customer and its Affiliates shall be deemed to be "Data Exporters".

This DPA and the Agreement are Data Exporter's complete and final instructions to Data Importer for the Processing of Personal Data. Any additional or alternate instructions must be agreed upon separately. For the purposes of Clause 5(a) of the Standard Contractual Clauses, the following is deemed an instruction by the Data Exporter to Process Personal Data: (a) in accordance with the Agreement and applicable orders thereunder; and (b) in compliance with other reasonable instructions provided by Customer (e.g., via a support ticket) where such instructions are consistent with the terms of the Agreement.

Pursuant to Clause 5(h) of the Standard Contractual Clauses, the Data Exporter acknowledges and expressly agrees that Kaduu AG's Affiliates may be retained as Sub processors; and (b) Kaduu AG and Kaduu AG's Affiliates respectively may engage third-party Sub processors in connection with the provision of the Services. Data Importer shall make available to Customer a current list of Sub processors for the respective Services with the identities of those Sub processors in accordance with Section 5 of this DPA.

The parties agree that the copies of the Sub-processor agreements that must be sent by the Data Importer to the Data Exporter pursuant to Clause 5 of the Standard Contractual Clauses may have all commercial information, or provisions unrelated to the Standard Contractual Clauses or their equivalent, removed by the Data Importer beforehand; and that such copies will be provided by Data Importer only upon reasonable request by Data Exporter.

The parties agree that the audits of the Standard Contractual Clauses shall be carried out in accordance with the following specifications: Upon Data Exporter's request, and subject to the confidentiality obligations set forth in the Agreement, Data Importer shall, within a reasonable period following such request, make

available to Data Exporter (or Data Exporter's independent, third-party auditor that is not a competitor of Kaduu AG) information regarding Kaduu AG Group's compliance with the obligations set out in this DPA in the form of the third-party certifications and audits it carries out as described in the Agreement and/or the Security Practices Document to the extent Kaduu AG makes them generally available to its customers. Customer may contact Data Importer in accordance with the "Notices" Section of the Agreement to request an on-site audit of the procedures relevant to the protection of Personal Data. Customer shall reimburse Data Importer for any time expended for any such on-site audit at the Kaduu AG Group's then-current professional services rates, which shall be made available to Data Exporter upon request. Before the commencement of any such on-site audit, Data Exporter and Data Importer shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate for which Data Exporter shall be responsible. All reimbursement rates shall be reasonable, considering the resources expended by Data Importer. Data Exporter shall promptly notify Data Importer with information regarding any noncompliance discovered during the course of an audit.

The parties agree that the certification of deletion of Personal Data shall be provided by the Data Importer to the Data Exporter only upon Data Exporter's request.

10. PARTIES TO THIS DPA

Limitation of Liability. Kaduu AG, Inc. is a party to the Standard Contractual Clauses in Attachment 1. If Kaduu AG, Inc. is not a party to the Agreement, the Section of the Agreement 'Limitation of Liability' shall apply as between Customer and Kaduu AG, Inc., and in such respect any reference to 'Kaduu AG' shall include both Kaduu AG, Inc. and the Kaduu AG entity who is a party to the Agreement. Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Authorized Affiliates and Kaduu AG, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Agreement governing the applicable Services, and any reference in such section to the liability of a party means the aggregate liability of that party and all of its Affiliates under the Agreement and all DPAs together. For the avoidance of doubt, each reference to the DPA in this DPA means this DPA including its Annexes, Schedules and/or Appendices.

Authorized Affiliates & Contractual Relationship. By executing this DPA, Customer enters into this DPA on behalf of itself and, to the extent required under applicable Data Protection Laws, in the name and on behalf of its Authorized Affiliates if and to the extent Kaduu AG Processes Personal Data for which such Authorized Affiliates qualify as the Data Controller. Each Authorized Affiliate agrees to be bound by the obligations under this DPA and, to the extent applicable, the Agreement. For the avoidance of doubt, an Authorized Affiliate is not and does not become a party to the Agreement, and such Authorized Affiliate is only a party to the DPA. All access to and use of the Services by Authorized Affiliates must comply with the terms and conditions of the Agreement and any violation of the terms of the Agreement by an Authorized Affiliate shall be deemed a violation by Customer. For the purposes of this DPA only, the term "Customer" shall include Customer and Authorized Affiliates, unless otherwise indicated herein.

Communication. The Customer that is the contracting party to the Agreement shall remain responsible for coordinating all communication with Kaduu AG under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Authorized Affiliates.