

Data Processing Agreement

Version: 20180520

This Data Processing Agreement (DPA) applies to all forms of processing of personal data by Jarimbi Online Marketing & Websites, located in New Orleans, Louisiana, USA, in the scope of an agreement between another party and Jarimbi, for the provision of certain services (Service Agreement).

Jarimbi Online Marketing & Websites will process personal data as part of its Service Agreement with its customers. Based on the privacy legislation, the customer in this capacity is regarded as the 'Controller' of the of Personal Data and Jarimbi Online Marketing & Website as a 'Processor'.

1. Definitions

1.1 Controller means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.

1.2 (Data) Subject means the individual to whom Personal Data relate.

1.3 GDPR means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

1.4 Instruction means the written, documented instruction, issued by Controller to Processor, and directing the same to perform a specific action with regard to Personal Data (including, but not limited to, depersonalizing, blocking, deletion, making available).

1.5 Personal Data means any information relating to an identified or identifiable individual where such information is contained within Customer Data and is protected similarly as personal data or personally identifiable information under applicable Data Protection Law

1.6 Personal Data Breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

1.7 Processing means any operation or set of operations which is performed on Personal Data, encompassing the collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by

transmission, dissemination or otherwise making available, alignment or combination, restriction or erasure of Personal Data.

1.8 Processor means a natural or legal person, public authority, agency or other body which processes Personal Data on behalf of the Controller.

1.9 Sub processor means a third party that is called in by the Processor to process Personal Data for the Processor, without being subject to the direct authority of the Processor.

2. Purposes of processing

2.1. In most cases Jarimbi Online Marketing & Websites does not process any Personal Data on behalf of the Controller. In these cases Processor only has access to Personal Data collected by the Controller.

2.2. If any processing is requested by the controller then this processing will only take place within the framework of the agreement, as well as for the duration thereof, plus those purposes that are reasonably related thereto or that are determined with further consent.

2.3. The Processor will not process the personal data for any other purpose than as determined by the Controller. Controller will inform the Processor of the processing objectives to the extent that these have not already been mentioned in this Data Processing Agreement.

2.4. The personal data processed on behalf of the Controller remain the property of the Controller and/or the relevant parties involved.

2.5. The Processor processes Personal Data on the instructions of the Client, with the understanding that these do not concern special Personal Data, Personal Identification Numbers or data concerning criminal convictions or criminal offenses. Standard categories Personal details are:

- name and address;
- phone numbers;
- email addresses;
- IP addresses;

And possible other categories of non-special Personal Data.

2.5. These Personal Data relate to the following Parties involved:

- persons who use the services of the Processor;
- visitors to the website of the Controller;
- persons who receive email from or send to the Controller;

- persons who submit Personal Data in an electronic form;
- persons who make Personal Data for Processing available to the Controller;
- and other possible categories of Data subjects whose Personal Data are processed through the services of the Processor.

3. Processor's obligations

3.1. With regard to the processing operations referred to in article 2, Processor will ensure compliance with applicable laws and regulations, including the laws and regulations relating to the protection of personal data, such as the Personal Data Protection Act.

3.2. Processor will only view and/or process the Personal Data if and insofar this is necessary for the execution of the service agreement, and will follow all reasonable instructions of the Controller.

3.3. The Processor will inform the Controller, at its request and within a reasonable period of time, of the measures taken by the Processor regarding the obligations under this Data Processing Agreement.

3.4. The obligations of the Processor arising from this Data Processing Agreement also apply to those who process personal data under the authority of Processor, including but not limited to employees and Sub Processors.

3.5. The Processor will inform the Controller if, in his opinion, an instruction from the Controller is in conflict with the relevant privacy laws and regulations.

3.6. The Processor will, within its abilities, provide assistance to the Controller for any data protection impact assessments (DPIAs). The costs made by Processor in connection to the aforementioned cooperation will be reimbursed by the Controller.

4. Obligations of the Controller

4.1. Controller will inform Processor of any changes regarding the Processing (if applicable) and any consequences thereof in a timely matter, in principle within 10 working days.

4.2. The Controller guarantees that the instructions for the Processing of Personal Data (if applicable) is not unlawful and does not infringe the rights of third parties.

5. Transfer of Personal Data

5.1. The Controller gives the Processor permission for the Processing of Personal Data in countries outside the European Union, with due observance of the applicable laws and regulations.

5.2. If the Controller transfers personal data to countries outside the European Union, the Controller indemnifies the Processor against all legal claims of third parties based on the claim that these personal data are transmitted in violation of the provisions of the relevant privacy laws and regulations.

6. Distribution of responsibility

6.1. Parties will ensure compliance with applicable privacy laws and regulations.

6.2. Processor is only responsible for the processing of the personal data under this Data Processing Agreement, in accordance with the instructions of the Controller and under the explicit (final) responsibility of the Controller. Processor holds no responsibility for any other processing of personal data, including, but not limited to, the collection of the personal data by the Controller, processing for purposes not reported by the Controller to the Processor, processing by third parties and/or for other purposes. Responsibility for these rests exclusively with the Controller. The Controller is responsible for the legality of these Processing at all times as well as that its systems and infrastructure are adequately protected at all times.

6.3. The Controller guarantees that the content, the use and the instructions for the processing of the personal data as referred to in this Data Processing Agreement are not unlawful and do not infringe any third-party rights.

6.4. The Controller always guarantees that no special Personal Data, Personal Identification numbers or data concerning criminal convictions or criminal offenses are processed when using the services, unless agreed in writing.

6.5. Controller indemnifies the Processor of any damage, claims of third parties and fines imposed by supervisors, if the Controller acts in violation of this Data Processing Agreement and/or the General Data Protection Regulation and/or any other applicable legislation and regulations.

7. Engaging third parties or subcontractors

7.1. Controller hereby grants Processor a general permission to engage third parties (Sub-processors) during the Processing. At the request of the Controller, the Processor will inform the Controller about the Sub Processors it has engaged.

7.2. The Processor remains at all times the point of contact for the Controller and is responsible for compliance with the provisions of this Data Processing Agreement.

8. Security

8.1. The Processor will strive to take sufficient technical and organizational measures with regard to the processing of personal data, against loss or against any form of unlawful processing (such as unauthorized access to, infringement, alteration or provision of personal data).

8.2. The Processor does not guarantee that the security is effective under all circumstances. If an explicitly described security measure is missing in the Data Processing Agreement, Processor will strive to ensure that the security measures meet a level that, regarding the sensitivity of the personal data and the costs associated will be reasonable.

8.3. Controller will only make personal data available to Processor for processing if it has ensured that the required security measures have been taken. Controller is responsible for compliance with the measures agreed by the Parties.

8.4 If Controller so requests in writing, Processor will take special measures with regard to the designated (categories of) Personal Data for the security and / or secrecy thereof. If this results in higher costs for the Processor, the Controller will reimburse these costs.

9. Reporting obligation

9.1. In the case of a security breach and/or a data breach Processor will, to the best of its ability, inform the Controller of this as quickly as possible. Controller will then assess whether or not it will inform the supervisory authorities and/or Data Subjects. The Processor will make every effort to make the information provided complete, correct and accurate.

9.2. If this is required by law and/or regulations, the Processor will cooperate in informing the relevant authorities and, if applicable, the Parties involved. Controller is responsible for reporting to the relevant authorities.

9.3. In the case of a security or data breach Processor is also obliged to inform Controller of:

- the (alleged) cause of the leak;
- the (as yet known and / or expected) consequences;
- the (proposed) solution;
- the measures already taken;
- the contact details for the follow-up;
- who has been informed (such as Data Subjects, Controller, Authorities).

10. Requests from Data Subjects

10.1. In the event that a data subject submits a request for the execution of his/her legal rights to the Processor, the Processor will forward the request to the Controller and the Controller will continue to process the request. The Processor may inform the Data Subject of this.

10.2. In the event of a request for inspection, rectification, deletion or limitation of the processing, the Processor shall cooperate in this as soon as possible but no later than within ten working days after the Controller requests this, to provide all information that the Controller needs to be able to comply with the request, for as far as the Controller does not have access to these data itself. The Processor will bill costs for this cooperation according to the normal hourly rate.

11. Confidentiality

11.1. All Personal Data which Processor receives of the Controller and/or collect themselves related to this Data Processing Agreement, is subject to a confidentiality obligation towards third parties. The Processor will not use this information for any purpose other than the purpose for which it was obtained, even if it has been placed in such a form that it can not be traced back to the Data Subjects.

11.2. This confidentiality obligation does not apply:

- if the Client has given explicit permission or instruction to provide the information to third parties; or
- if the provision of the information to third parties is logically necessary for the execution of the service or this Data Processing Agreement; or
- if there is a legal obligation and/or a court order to provide the information to a third party; or
- in respect of third parties to which - with due observance of the provisions of Article 7 - Personal Data are provided in their capacity as a Sub-processor.

12. Audit

12.1. The Controller has the right to have audits carried out by an independent third party who is bound to confidentiality in order to control the misuse of Personal Data by the employees of the Processor, compliance with all points in the Data Processing Agreement, and everything directly related to it.

12.2. This audit may take place in case of a concrete suspicion of abuse of Personal Data.

12.3. The Processor will cooperate with the audit and make all relevant information reasonably relevant to the audit, including supporting data such as system logs, and employees available as soon as possible.

12.4. The findings of the audit will be assessed by the Parties in mutual consultation and, as a result thereof, be implemented by one of the Parties or jointly by both Parties.

12.5. The costs of the audit are borne by the Controller. The Processor will bill the normal hourly rate for this.

13. Duration and termination

13.1. This Data Processing Agreement is established through a request by the Controller for any kind of service provided by the Processor. This can be an oral or written request. The Processor confirms these requests as much as possible via email.

13.2. This Data Processing Agreement commences on the date of the assignment or agreement requested by the Controller.

13.3. This Data Processing Agreement is entered into for an indefinite period of time and in any case for the duration of the collaboration.

13.4. Once the cooperation is terminated in writing by one of the Parties, this Data Processing Agreement will expire on the same date as the service.

13.5. As soon as the Data Processing Agreement has been terminated, for whatever reason and in whatever way, then, at the choice of the Controller, the Processor will return all personal data that are present in its original or copy form to the Controller, and/or this original personal data and any copies thereof delete and/or destroy. Processor may charge any costs incurred by the Controller related to the destruction and/or return of Personal Data to the Controller.

14. Liability

14.1 The liability of the parties for damage as a result of an attributable shortcoming in the compliance with the Data Processing Agreement, or in tort or otherwise, is limited per event (a series of consecutive events counts as one event) to the compensation of direct damage, to a maximum of the amount of the fees received by the other Party for the activities under this Processor Agreement for the month prior to the event causing the damage. The liability of the Parties for direct damage will in total never exceed \$1,000.00.

14.2. Direct damage is exclusively understood to mean all damage consisting of:

- damage directly caused to property ("property damage");

- reasonable and demonstrable costs to remind the party in question to comply with the Processing Agreement (again) properly;
- reasonable costs to determine the cause and extent of the damage insofar as it relates to the direct damage as referred to here; and
- reasonable and demonstrable costs incurred by the Processing Officer to prevent or limit the direct damage as referred to in this article.

14.3. The liability of the Parties for indirect damage is excluded. Indirect damage is understood to mean all damage that is not direct damage and therefore in any case, but not limited to, consequential loss, lost profit, missed savings, reduced goodwill, loss due to business stagnation, damage due to non-determination of marketing objectives, damage related to the use of data or data files prescribed by the Processing Officer, or loss, mutilation or destruction of data or data files.

14.4 The Controller indemnifies the Processor against claims from third parties (in particular Data Subjects) and any damage as a result thereof, based on non-compliance with regulations under or pursuant to the Personal Data Protection Act and/or European regulations and directives with regard to the protection of personal data and/or other laws and regulations in this area and/or this Data Processing Agreement.

15. Changes

15.1. Processor reserves the right to change or supplement this Data Processing Agreement.

15.2. The Processor will inform the Controller of the changes within 30 days.

15.3. If the Controller does not wish to accept a change in this Data Processing Agreement, he can terminate the service with Processor within 30 days. Costs for the remaining contract term will be charged.

15.4 The latest version of this Data Processing Agreement will be available at the Processor's website (<https://www.jarimbi.com>)