

Personal Data Processing Agreement

For the purposes of this Agreement, the following definitions shall apply:

- 1) **Service Provider** – ActiveNow sp. z o. o. with its registered office in Warsaw (00-640) at ul. Mokotowska 1, KRS: 0000754602, NIP: 7010889131, e-mail: contact@activenow.io
- 2) **User** – a person who concludes the Main Agreement with the Service Provider
- 3) **Parties** – the Service Provider and the User
- 4) **Main Agreement** – an agreement under which the Service Provider undertakes to provide services to the User by electronic means, in accordance with the terms and conditions of the activenow.io website
- 5) **Agreement** – this personal data processing agreement
- 6) **Regulation** – 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, and repealing Directive 95/46/EC

Whereas:

- a) The User and the Service Provider are parties to the Main Agreement,
- b) The User acts as the controller of personal data,
- c) in connection with the performance of the Main Agreement, it is necessary for the Service Provider to process personal data provided to it by the User,

The Parties, in accordance with Article 28 of the Regulation, have decided to conclude this Agreement:

§ 1

[Subject matter of the Agreement]

1. The User entrusts the Service Provider with the processing of personal data necessary for the performance of the Main Agreement, on the terms and for the purposes specified in this Agreement.
2. The Service Provider undertakes to process the personal data entrusted to it in accordance with this Agreement, the Regulation and other generally applicable laws, so that the processing protects the rights of data subjects, in particular the right to personal data protection. Personal data will be stored in the "Customer Data" file.
3. The Service Provider undertakes to apply security measures that meet the requirements of the Regulation.

§ 2

[Term of the Agreement and personal data processing]

1. This Agreement shall remain in force from the date of its conclusion for an indefinite period, but not longer than the term of the Main Agreement. The term of the Agreement shall also be the duration of data processing by the Service Provider within the meaning of Article 28 of the Regulation.

2. Each Party may terminate this Agreement with 14 days' notice. Termination by a Party to the Agreement shall be tantamount to termination of the Main Agreement by that Party. However, the previous sentence shall not apply if the continued provision of electronic services to the User under the Main Agreement does not involve the processing of any personal data on their behalf by the Service Provider and the Main Agreement can continue to be performed in accordance with the Regulation (*the User's use of the so-called Admin Account without the possibility of storing other people's personal data and with the actual deletion of such data*).

§ 3

[Nature and purpose of data processing]

1. The Service Provider shall process the entrusted data using IT systems and, if necessary, also paper documentation. Processing may be carried out with the frequency required for the performance of the obligations under the Main Agreement, using the technologies available to the Service Provider.
2. Processing may include operations such as: recording, organising, structuring, storing, adapting or modifying, downloading, viewing, using, disclosing by transmission, dissemination or otherwise making available, aligning or combining, restricting, erasing or destroying personal data, subject to the restrictions set out in the Agreement and as necessary for the purposes of the processing.
3. The personal data entrusted by the User will be processed by the Service Provider for the purpose of proper performance of the Main Agreement.

§ 4

[Type of data processed and categories of data subjects]

1. The Service Provider shall process the following data entrusted on the basis of the Agreement and the Main Agreement:
 - a) ordinary data in the form of:
 - * first and last names
 - * date of birth
 - * telephone number(s)
 - * e-mail address
 - * first and last names of parents, children and other family members
 - * information about payments made to the User
 - * information about class history (attendance, cancellations, make-up classes, list of groups in which the person participated, list of groups in which the person taught)
 - * other data voluntarily provided to the User by their customers
 - b) special categories of data in the form of:
 - * information about health (including injuries, illnesses, allergies, posture defects)
 - * specific behavioural characteristics
 - * facial image
 - * other data voluntarily provided to the User by his/her customers.
2. The Service Provider shall process the personal data entrusted to it on the basis of the Agreement and the Main Agreement:
 - * of the User's customers
 - * the User's employees and persons with whom the User cooperates on the basis of civil law contracts

§ 5

[User's obligations and rights]

1. The User declares that it processes personal data entrusted to it under the Agreement in accordance with applicable law, in particular in accordance with the Regulation.
2. The User undertakes to cooperate with the Service Provider in the scope of personal data entrusted to it for processing, including providing the Service Provider, at its request, with the information necessary to perform the Agreement in accordance with applicable law, including the Regulation.
3. The User has the right to request from the Service Provider the information necessary to demonstrate compliance with the obligations specified in the Agreement and the Regulation.
4. The User has the right to conduct an audit of the Service Provider's performance of the obligations referred to in this Agreement. In particular, the User may carry out an inspection or authorise an external auditor to do so. The audit should be conducted in a manner that does not hinder the Service Provider's business activities. The Parties shall agree on the date of the audit in writing or by e-mail with at least 7 days' notice. The audit shall be conducted in accordance with applicable law.

§ 6

[Obligations of the Service Provider]

1. The Service Provider undertakes to:
 - a) processing data only on the documented instructions of the User – this also applies to the transfer of personal data to a third country or international organisation – unless such an obligation is imposed on it by European Union law or Polish law; in such a case, prior to commencing processing, the Service Provider shall inform the User of this legal obligation, unless such information is prohibited by law due to an important public interest; the User hereby instructs the Service Provider to process all personal data provided to it in accordance with the Agreement and the Main Agreement for the purpose of performing the Main Agreement; The Parties agree that any transfer of personal data in the performance of obligations under the Main Agreement shall also constitute the User's instruction to the Service Provider to process the data, unless the User decides otherwise;
 - b) ensure that persons authorised by the Service Provider to process personal data undertake to maintain confidentiality or are subject to a statutory obligation of confidentiality;
 - c) take all measures required under Article 32 of the Regulation (*security of processing*);
 - d) comply with the conditions for sub-processing referred to in § 7 of the Agreement;
 - e) assisting the User, as far as possible, taking into account the nature of the processing, through appropriate technical and organisational measures, in fulfilling its obligation to respond to requests from data subjects to exercise their rights as set out in Chapter III of the Regulation (*rights of the data subject*);
 - f) assisting, taking into account the nature of the processing and the information available to the Service Provider, the User in fulfilling the obligations set out in Articles 32-36 of the Regulation (*security of personal data and data protection impact assessment and prior consultation*);
 - g) after the end of the provision of processing services, depending on the User's decision, delete or return to them all personal data and delete all existing copies thereof, unless European Union or Polish law requires the storage of personal data;
 - h) to provide the User with all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the Regulation and to enable the User or an auditor authorised by the User to carry out audits, including inspections, and to contribute to them. In connection with the obligation specified in the first sentence, the Service Provider shall immediately inform the User if, in its opinion,

the instruction given to it constitutes a violation of the Regulation or other provisions of the European Union or Polish law on data protection.

2. In connection with the obligation specified in paragraph 1(b), the Service Provider shall only allow the processing of personal data by persons who:

- a) have been authorised to process personal data on the basis of a written authorisation issued to them by the Service Provider;
- b) have submitted a confidentiality statement in relation to the personal data entrusted to them.

3. The Service Provider undertakes to:

- a) exercise due diligence in the processing of the personal data entrusted to it;
- b) process the personal data provided to it by the User in a manner that protects it from being made available to unauthorised persons;
- c) providing appropriate technical and organisational measures to ensure an adequate level of security corresponding to the risk associated with the processing of personal data referred to in Article 32 of the Regulation (*security of processing*);

5. Upon discovering a personal data breach, the Service Provider shall notify the User without undue delay.

§ 7

[Subprocessing]

1. The Service Provider shall not use the services of another processor without the prior specific or general written consent of the User. In the case of general written consent, the Service Provider shall inform the User of any intended changes regarding the addition or replacement of other processors, thereby giving the User the opportunity to object to such changes.

2. If the Service Provider obtains the consent referred to in paragraph 1, it may entrust the personal data covered by this Agreement for further processing only for the purpose of proper performance of the Main Agreement.

3. If the Service Provider uses the services of another processor to perform specific processing activities on behalf of the User, it undertakes to impose on that entity the same data protection obligations as those contained in the Agreement, in particular the obligation to provide sufficient guarantees that appropriate technical and organisational measures will be implemented to ensure that the processing meets the requirements of the Regulation. If this other processor fails to fulfil its data protection obligations, the Service Provider shall be fully liable to the User for the fulfilment of the obligations of that other processor.

§ 8

[Record of processing activities]

1. The Service Provider (and, where applicable, its representative) shall be required to maintain a register of all categories of processing activities carried out on behalf of the User if:

- a) it employs 250 or more persons,
- b) it carries out processing that is likely to result in a risk to the rights and freedoms of data subjects,
- c) it carries out processing that is not occasional, or
- d) it carries out processing which involves special categories of personal data referred to in Article 9(1) of the Regulation, or personal data relating to criminal convictions and offences referred to in Article 10 of the Regulation.

§ 9

[Confidentiality rules]

1. The Service Provider undertakes to keep confidential all information, data, materials, documents and personal data received from the User and persons cooperating with them, as well as data obtained in any other way, intentionally or accidentally, in oral, written or electronic form (hereinafter: "confidential data").
2. The Service Provider declares that, in connection with the obligation to keep confidential data secret, it will not be used, disclosed or made available without the User's written consent for any purpose other than the performance of the Agreement, unless the need to disclose the information held results from the Agreement or applicable regulations, including the Regulation.
3. The Parties undertake to make every effort to ensure that the means of communication used to receive, transmit and store confidential data guarantee the security of confidential data, in particular personal data entrusted for processing, against access by third parties not authorised to view their content.

§ 10

[Addresses of the Parties]

1. The Parties declare that the addresses of residence and registered offices provided in the Agreement are appropriate for the delivery of correspondence requiring written form and undertake to notify the other Party in writing of any change in these details. In the event of failure to comply with this obligation, correspondence sent to the last address provided shall be deemed to have been duly delivered.
2. The Parties declare that the e-mail addresses provided in this Agreement are appropriate for the delivery of electronic correspondence and undertake to notify the other Party in writing of any changes to these details. In the event of failure to comply with this obligation, correspondence sent to the last address provided shall be deemed to have been duly delivered.

§ 11

[Final provisions]

1. The Agreement shall be concluded on the date on which the User accepts its content and agrees to its conclusion via the IT system.
2. Any amendments and supplements to this Agreement must be made in writing under pain of nullity.
3. If any provision of the Agreement is or becomes invalid or ineffective for any reason, this shall not affect the validity and effectiveness of the remaining provisions. In such a case, the Parties shall replace the invalid or ineffective provisions with those that most closely correspond to their original intention in economic terms. Accordingly, the obligation referred to in the first sentence shall also apply to situations where, during the performance of this Agreement, a gap arises in it that needs to be filled.
4. The Agreement has been drawn up in accordance with Polish law and is subject to Polish law. In matters not covered by the Agreement, the provisions of Polish law and the Regulation shall apply.
5. Any disputes that may arise in connection with the conclusion or performance of this Agreement shall be subject to the jurisdiction of Polish courts and shall be settled by the court competent for the seat of the Service Provider, as indicated in the petition of the Agreement.