

# Order Processing Contract

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Between the **User** of the mobile app

- **Customer** -

and

**myStand technology GmbH**

Bergweg 7

04356 Leipzig

- **Contractor** -

## **Preamble**

There is a contractual relationship (hereafter referred to as the main contract) between the parties for the provision of the mobile application (app) "myStandLeads". Within the scope of the fulfilment of this contract, the Contractor processes Personal Data (as Processor) on behalf of the Customer (as the controller) in accordance with the provisions stipulated in the contract ("Order Processing").

The app provides a technical infrastructure that enables the Customer to read business cards and similar contact information using a mobile device and to store and export the information contained on the business card as an electronic contact in the app.

The app facilitates the transfer of business card information to electronic formats. This contact information is the sole responsibility of the Customer. The Contractor merely provides the technical means for digitising the contact information that is not available in a file format.

## **1. Contractual Parties**

Contractor is myStand technology GmbH, Bergweg 7, 04356 Leipzig. The Customer is the user who has registered to use the app in accordance with the Terms of Use. Please refer to sections 1.1 and 7.4 of the Terms of Use for details.

## **2. Subject Matter of the Contract**

**2.1** The Contractor shall process personal data on behalf of the Customer for the duration of the contract on the basis of the main contract (Terms of Use). The definitions (legal terms) of the GDPR and BDSG (Federal Data Protection Act) apply to the following contract.

**2.2** Without redefining the service obligations, the scope of services defined in the main contract for the use of the app make the following processing operations, among others, necessary:

- User profile management (profile in the app)
- Creation of an image file from a business card or similar contact information
- Reading of texts contained in the image file (contact information)
- Creation of an electronic contact (digitised contact information) in the app, which displays the extracted contact information
- Possibility to export contact information
- Possibility to contact the third party via the contact information.

**2.3** The app regularly processes the following types of personal data:

- User information, i.e. information about the app user themselves, generally:
  - o Name
  - o Mobile telephone number
  - o Login data
  - o E-mail address
  
- Personal Data of Third parties (business card holders), usually within the following scope:
  - o Name
  - o Company / Employer
  - o Phone number / Mobile number

- E-mail address
- Title
- Position
- Company address

**2.4** Parties concerned by data processing:

- Clients of the Customer
- Third parties (contacts of the Customer / business card holder)
- Employees of the Customer

**2.5** Period of processing:

The personal data collected will be processed for the duration of the contract (Section 3) or as long as there is a legal obligation to process it (especially for storage).

**3. Duration and Termination of the Contract**

**3.1** This agreement comes into effect with the successful registration of the user for the use of the mobile app and applies for the duration of the main contract.

**3.2** The parties' right of termination under exceptional circumstances remains unaffected; the Customer is not entitled to continue using the app without the existence of an Order Processing Contract or a corresponding follow-up contract, and in this case, must discontinue use.

**4. The Contractor's Rights, Duties and Powers to Direct / Supervisory Powers**

**4.1** The Customer is responsible for the processing of data on behalf of the Contractor as well as for the protection of the rights of data subjects pursuant Art. 4 Section 7 GDPR. The Contractor is obliged to support the Customer in the fulfilment of their obligation to process applications from data subjects in accordance with Art. 12-23 GDPR. In particular, the Contractor shall ensure that the information which the Customer requires in order to fulfil the aforementioned obligations is provided to the Customer without delay, so that the Customer can comply with its obligations under Art. 12 para. 3 GDPR. The Contractor shall be obliged to forward all enquiries from third parties to the Customer without delay if they are clearly intended for the Customer.

**4.2** The Contractor may only collect, process or use data within the framework of the main contract and in accordance with the instructions of the Customer. The Customer's instructions shall initially be governed by this agreement and may subsequently be amended, supplemented or replaced by the Customer in writing or in text form by specific instructions (individual instructions). The Customer is entitled to issue

appropriate instructions at any time. Particularly, this includes instructions regarding the correction, deletion and blocking of data. However, the Customer is not entitled to issue instructions with regard to changes in the functionality of the app.

- 4.3** The Customer is solely responsible for ensuring that the digitalisation of analogue contact information from third parties (business card holders) is permissible under data protection law. The Contractor shall not be entitled and obliged to verify the permissibility of the storage of third-party data (data subjects) and shall not be obliged to inform the data subjects about the data storage (Art. 13, 14 GDPR). Compliance with these data protection information obligations is the responsibility of the Customer. According to section 4.1. of this contract, the Customer is responsible for ensuring that a legal framework for the processing of personal data of third parties is in place and that the resulting information requirements (in particular according to Art 13 GDPR) are being followed.
- 4.4** Changes to the subject matter of the contract (section 2) and procedural changes shall be agreed jointly between the Customer and the Contractor and shall be specified in writing or in a documented electronic format. The Customer may not demand a change to the functionalities of the app.
- 4.5** The Customer shall be entitled, prior to commencing processing and then on a regular basis, to ascertain in an appropriate manner that the technical and organisational measures taken by the Contractor and the obligations laid down in this Agreement have been complied with (Art. 28 section 3 h GDPR). The Customer shall inform the Contractor without delay if it detects errors or irregularities in its inspection.
- 4.6** On-site inspections shall be carried out during normal business hours, have to be announced by the Customer within a reasonable period (at least 14 days, except in emergencies) and supported by the Contractor (e.g. by providing personnel).
- 4.7** The inspections are limited to the necessary scope and must take into account the Contractor's trade and business secrets as well as the protection of third parties' personal data (e.g. other customers or employees of the Contractor). Only competent persons who can prove their identity and are bound to secrecy with regard to the Contractor's trade and business secrets as well as processes and personal data of third parties are permitted to carry out the inspection.
- 4.8** Instead of inspections and on-site checks, the Contractor may require the Customer to carry out equivalent inspections through independent third parties (e.g. neutral data protection auditors), in compliance with approved codes of conduct (Art. 40 GDPR) or suitable data protection or IT security certifications in accordance with Art. 42 GDPR.

This shall apply in particular if the inspections would endanger the Contractor's trade and business secrets or the personal data of third parties.

**4.9** Sections 4.1 - 4.9 shall apply analogously to the Customer's request to inspect a subcontractor of the Contractor. These inspections shall be carried out with the involvement of the Contractor, who shall make use of his own corresponding inspection rights. The Customer is entitled to issue instructions on the type and scope of the inspection and to send his own inspection personnel.

**4.10** For all inspections requested by the Customer, the Contractor shall be entitled to demand remuneration from the Customer at its own reasonable discretion on a market basis. Remuneration shall be determined primarily by the number of employees that the Contractor needs to carry out the inspection and by charges for services carried out by the employees.

## **5. Contractor's Obligations**

**5.1** The Contractor exclusively performs the activities which are necessary for the performance of the commissioned services. It shall carry them out exclusively within the framework of the agreements reached and in accordance with the instructions of the Customer. Changes in the field of activity and procedures must be agreed to in writing. The Contractor stores or processes personal data exclusively on behalf of and in accordance with the instructions of the Customer. The Contractor shall perform services necessary for the fulfilment of the main contract in such a way that it acquires knowledge of third-party secrets only to the extent necessary for the performance of the contract.

**5.2** All employees of the Contractor shall be bound by the confidentiality provisions of Art. 28 section 3 b GDPR. This provision prohibits them from processing personal data without authorisation. Pursuant to Art. 28 section 3 b GDPR, every employee is obliged to maintain the confidentiality of the processed data. This obligation continues beyond the termination of employment with the company.

The Contractor is obliged in this context to assign only those employees to the performance of the contract who have been instructed about their duties of confidentiality and compliance with all other data protection provisions and who have been informed of the legal consequences of violations (including criminal liability). Irrespective of this, the Contractor shall only employ persons with no apparent indication that their reliability may be limited. In addition, only employees with appropriate training and/or professional experience in the handling of third party

personal data and in carrying out the necessary work of the main contract will be employed.

- 5.3** The Contractor shall use the personal data provided for processing with the purpose of implementing the main contract.
- 5.4** The Contractor shall cooperate to the extent necessary in fulfilling the rights of the data subject in accordance with Articles 12 to 22 GDPR by the Customer, in drawing up the lists of processing activities as well as in necessary data protection impact assessments by the Customer and shall support the Customer as far as possible (Article 28 para. 3 sentence 2 lit e and f GDPR). The Contractor must forward the necessary information to the Customer without delay. Likewise the compensation provision pursuant to section 4.10 applies.
- 5.5** The Contractor shall inform the Customer immediately if, in the Contractor's opinion, an instruction issued by the Customer violates statutory provisions (Art. 28 Section 3 clause 3 GDPR). The Contractor shall be entitled to postpone the execution of the corresponding instruction until the Customer's controller confirms or amends it after verification.
- 5.6** The Contractor shall correct, delete or restrict the processing of personal data from the contractual relationship if the Customer requests this by means of a directive and if the Contractor's legitimate interests would not conflict with such request.
- 5.7** Information about personal data from the contractual relationship may only be provided by the Contractor to third parties or the data subjects after prior directive or consent from the Customer.
- 5.8** The Contractor shall inform the Customer immediately of any events relevant to data protection and breaches of the contractual provisions.
- 5.9** The Customer is obliged to treat all knowledge of business secrets and data security measures of the Contractor acquired within the scope of the contractual relationship confidentially. This obligation shall remain in force even after termination of this contract.

## **6. Subcontracting with Third-party Companies / Third Countries**

- 6.1** The contractually agreed services set out in the main contract shall be performed by the Contractor with the involvement of the subcontractors named in Appendix 2. Within the framework of its contractual obligations, the Contractor shall be entitled to establish further subcontracting relationships with subcontractors. The contractor always informs the person responsible about any intended change in relation to the involvement of new subcontractors or the replacement of previous subcontractors, whereby the client has

the opportunity to object to such changes (Section 28 (2) sentence 2 GDPR). If the client objects to the changes and the parties do not reach an amicable solution on how to proceed, both parties have the right to terminate the user agreement without notice. The Contractor is obliged to carefully select subcontractors according to their suitability and reliability. The Contractor shall, when engaging subcontractors, require such subcontractors to comply with the provisions of this Agreement and ensure that the Customer can exercise its rights under this Agreement. If subcontractors from a third country are to be involved, the Contractor must ensure that the subcontractor in question has an adequate level of data protection.

**6.2** A subcontractor relationship within the context of this provision does not exist if the Contractor commissions third parties with services which are to be regarded as purely ancillary services. This includes for example postal, transport and shipping services as well as telecommunications services not specifically related to the main service.

**6.3** The contractually agreed data processing of the main contract and of all subcontract relationships shall take place exclusively in countries that are fully and directly subject to the provisions of the GDPR. Processing in a third country requires the prior consent of the Customer.

## **7. Liability**

**7.1** In the context of the internal relationship with the Contractor, the Customer alone is liable to the data subject for compensation for damages sustained by the data subject as a result of data processing or use that is prohibited or incorrect under data protection laws or in the context of order processing.

**7.2** The Contractor shall be liable to the Customer in accordance with the statutory provisions unless otherwise agreed below.

**7.3** The liability of the Contractor is void if the damage is based on simple negligence. The above shall not apply in the event of a breach of material contractual obligations (cardinal obligations), i.e. obligations which are essential to the fulfilment of the contract and on the compliance with which the contractual partner may regularly rely, in particular obligations whose breach jeopardises the fulfilment of the contractual agreement. In this case, the Contractor's liability shall be limited to the typical and foreseeable damage. The aforementioned limitation of liability shall not apply if a loss of life, bodily injury or damage to health has occurred and/or if the Contractor has assumed a guarantee in an individual **case**.

## **8. Technical and Organisational Measures**

**8.1** The Contractor agrees to comply with the technical and organisational provisions necessary to adhere to the applicable data protection regulations. In particular, this includes the provisions of Art. 32 GDPR. An up to date version of these measures is attached to the contract as Appendix 1.

**8.2** The measures taken by the Contractor may be amended in the course of the contractual relationship to take account of technical and organisational developments, but may not fall below the agreed and legally required standards.

**8.3** The contractor can adapt the technical and organizational measures at his own discretion to the technical and organizational further development, provided that the general previous level of protection is maintained.

## **9. Termination under Exceptional Circumstances**

**9.1** The Customer may terminate the main contract in whole or in part without notice if the Contractor does not comply with its obligations under this contract, violates provisions of the GDPR intentionally or through gross negligence or if it is unable or unwilling to carry out a justified directive from the Customer. In the case of simple - i.e. neither intentional nor grossly negligent - infringements, the Customer shall set the Contractor a reasonable deadline within which the Contractor may remedy the infringement.

## **10. Data Protection Officer**

**10.1** The Contractor has appointed a data protection officer. At the time this contract is concluded, Ms Anke Schröter is the designated internal Data Protection **Officer**.

**10.2** Upon request both parties shall inform each other of the current data protection officer or, if one has not been appointed, of the contact person responsible for data protection.

## **11. Termination of the Preliminary Contract**

**11.1** The Contractor shall return to the Customer all documents, data and data storage devices which may have been made available to him or, at the request of the Customer, delete them at any time after termination of the main contract or upon request of the Customer, unless an obligation to store personal data exists under EU law or the law of the Federal Republic of Germany.

**11.2** The Customer has the right to verify the full and contractually compliant return or deletion of the data by the Contractor within 4 weeks of notification of deletion



## **12. Closing Provisions**

- 12.1** The parties agree to exclude the right by the Contractor to withhold data within the meaning of § 273 BGB with regard to the processing of data and the associated data carriers. If the Contractor provides the Customer with data storage devices on which files containing the Customer's data are stored, the Customer shall acknowledge these data storage devices as his property.
- 12.2** Amendments and supplements to this agreement must be made in writing. This also applies to the waiver of this formal requirement. The priority of individual contractual agreements remains unaffected.
- 12.3** Should individual provisions of this agreement be or become wholly or partially invalid or unenforceable, this shall not affect the validity of the remaining provisions.
- 12.4** Should the property of the Customer be endangered by third parties (e.g. by seizure or confiscation), due to insolvency or composition proceedings or due to other events, the Contractor shall notify the Customer immediately.
- 12.5** This agreement is subject to German law. Exclusive place of jurisdiction is Leipzig.

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Location, Date      Customer

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Location, Date      Contractor

# **Appendix 1: Technical and organisational measures of the Contractor for data protection in accordance with Art. 32 GDPR**

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The Contractor guarantees the following technical and organisational measures to ensure an adequate level of protection for the security of personal data (Art. 32 GDPR):

## **1. Access Control**

- 1.1 Building access only via security locking system
- 1.2 Separated computer centre area with its own access and security locking systems
- 1.3 Alarm system with security protection on circuit
- 1.4 Redundant air conditioning
- 1.5 Locked server cabinet
- 1.6 Security doors (always locked outside of business hours)
- 1.7 A building security plan is available with information on access options
- 1.8 There are safeguards in place to prevent and report robberies
- 1.9 Distribution rooms (electricity, water, gas, telephone, alarm system, etc.) are protected from unauthorised access

## **2. Access Controls**

- 2.1 In order to gain access to IT systems, the Contractor and employees must have appropriate access authorisation. For this purpose, appropriate user authorisations are assigned by one or more administrators.
- 2.2 The complexity of passwords and pins is subject to minimum requirements corresponding to the most up-to-date technology.
- 2.3 Any remote access to the Contractor's IT systems shall always take place via encrypted connections.
- 2.4 All servers and client systems that are used to provide services for the Customer are protected by firewalls that are maintained and provided with current updates and patches corresponding to the most up-to-date technology.

2.5 All employees are instructed and supervised to ensure the lockdown of IT systems when left unattended.

2.6 Separation of productive, test and administration network areas

2.7 Encryption of data storage devices

### 3. **Access Control**

#### 3.1 **An authorisation scheme regulates the allocation and withdrawal of rights**

3.2 Authorisations for the Contractor's IT systems and applications are assigned according to need-to-know principles.

3.3 The destruction of data storage devices and paper is carried out in accordance with data protection regulations.

3.4 There are operating instructions and inspections for the secure handling of IT systems.

3.5 Restricted access to administration environment

3.6 The principle of "tidy desk" and "empty screen" is actively implemented

### 4. **Separation Controls**

4.1 If the Contractor receives personal data from the Customer in connection with an order, it shall process such data separately from data of other customers.

### 5. **Pseudonymisation & Encryption**

5.1 Any administrative access to the Customer's IT systems shall always be via encrypted connections, unless such access takes place within the Customer's premises.

5.2 The Contractor cannot access contacts stored by the Customer in the app.

### 6. **Input control**

6.1 The Contractor shall document any input, changes or deletions of personal data undertaken on behalf of the Customer in an appropriate manner unless it can be guaranteed that the respective IT system logs all corresponding activities itself.

### 7. **Distribution Control**

7.1 Securing electronic transfers as follows:

- VPN-Connections

- End-to-end encrypted E-mail

- Firewall systems
- Password transmission via a secure second channel
- Encryption for remote maintenance operations

## **7.2 Security in the event of transport**

- Sealed container
- Encrypted data volumes

## **8. Availability and resilience**

### **8.1 Fire protection system**

### **8.2 Surge protection and emergency power supply system**

### **8.3 Uninterrupted power supply**

### **8.4 Air-conditioning**

### **8.5 Hard disk mirroring**

### **8.6 Daily back-ups**

### **8.7 Theft protection through access and entry control**

## **9. Procedures to be periodically reviewed, evaluated and assessed**

**9.1** The effectiveness of the technical protection measures is regularly reviewed.

**9.2** The Contractor has appointed a data protection officer.

**9.3** Employees are trained and committed to confidentiality and are regularly made aware of data protection issues.

**9.4** The Contractor has established an effective reporting system for reporting queries from data subjects and discovered data breaches.

## **10. Order Monitoring**

**10.1** If necessary, contracts for order data processing shall be concluded with contractual partners offering a level of protection corresponding to the measures taken here.

**10.2** Contractual partners are carefully selected.

## **11. Data-protection Friendly Default Settings**

**11.1** No more personal data will be collected than is necessary for the intended purpose.

## **Appendix 2 "Subcontractors"**

- 1. Connectline GmbH, August-Bebel-Str. 68, 06108 Halle (Saale)**
- 2. PingPool GmbH, Dittrichring 17, 04109 Leipzig**
- 3. Google Ireland Limited, Gordon House, Barrow Street Dublin 4, Irland**
- 4. Amazon Web Services, Inc**