

Last Updated: 13 May 2018

This Data Privacy Agreement is subject to the terms of and fully incorporated into the LunaNode Hosting Inc. Terms of Service (<https://www.lunanode.com/terms>). It applies in respect of the provision of the LunaNode Services to the Customer if the Processing of User Personal Data is subject to the GDPR, only to the extent the Customer is a Controller (or Processor, as applicable) of User Personal Data and LunaNode is a Processor or sub-Processor of User Personal Data (as defined below).

1. Definitions

1.1. User personal data: personal data uploaded to LunaNode Services.

1.2. “Personal Data”, “Personal Data Breach”, “Data Subject”, “Data Protection Authority”, “Data Protection Impact Assessment”, “Process”, “Processor” and “Controller” will each have the meaning given to them in Article 4 of the GDPR.

2. Details Of The Processing

2.1. **Categories of Data Subjects.** This Agreement applies to the Processing of User Personal Data relating to Customer’s clients or prospects, suppliers, business partners, vendors and other end users, the extent of which is determined and controlled by Customer in its sole discretion.

2.2. **Types of Personal Data.** User Personal Data includes Personal Data, the extent of which is determined and controlled by Customer in its sole discretion, contained in any data uploaded by Customer or its end users to the LunaNode Services, i.e., data stored on a virtual machine local disk, volume, or image.

3. Processing Of User Personal Data

3.1. For purposes of this Agreement, Customer and LunaNode agree that Customer is the Controller of User Personal Data and LunaNode is the Processor of such data, except when Customer acts as a Processor of User Personal Data, in which case LunaNode is a sub-Processor. If Customer is a Processor, Customer warrants that Customer’s instructions to LunaNode with respect to that User Personal Data, including Customer’s designation of LunaNode as a sub-Processor, have been authorized by the relevant Controller.

3.2. LunaNode will only Process User Personal Data on behalf of and in accordance with the Customer’s prior written instructions and for no other purpose. LunaNode is hereby instructed to Process User Personal Data to the extent necessary to enable LunaNode to provide the LunaNode Services in accordance with the Terms of Service.

3.3. Each of the Customer and LunaNode will comply with their respective obligations under the GDPR, to the extent applicable to the Processing of any User Personal Data in the context of

the provision of the LunaNode Services. Customer will (i) comply with all applicable privacy and data protection laws with respect to Customer's Processing of User Personal Data and any Processing instructions that Customer issues to LunaNode, and (ii) ensure that Customer has obtained (or will obtain) all consents and rights necessary for LunaNode to Process User Personal Data in accordance with this Agreement.

3.4. Customer will select the country where User Personal Data will be stored. Customer consents to the storage of the User Personal Data in the country that Customer chooses when Customer purchases specific Services. By uploading User Personal Data to the Services, Customer acknowledges that Customer may transfer and access User Personal Data from around the world, including to and from the country in which User Personal Data is maintained.

3.5. For Customers located in the European Economic Area or Switzerland, Customer acknowledges that LunaNode may process User Personal Data in countries outside of the European Economic Area and Switzerland as necessary to provide the LunaNode Services and in accordance with the terms of this Agreement. Where this is the case, LunaNode will take such measures as are necessary to ensure that the transfer is in compliance with applicable data protection laws.

3.6. The Customer acknowledges that LunaNode is reliant on the Customer for direction as to the extent to which LunaNode is entitled to use and Process User Personal Data on behalf of Customer in performance of the LunaNode Services. Consequently LunaNode will not be liable under the Agreement for any claim brought by a Data Subject arising from any action or omission by LunaNode, to the extent that such action or omission resulted directly from the Customer's instructions or from Customer's failure to comply with its obligations under the applicable data protection law.

3.7. If for any reason (including a change in applicable law) LunaNode becomes unable to comply with any instructions of the Customer regarding the Processing of User Personal Data, LunaNode will (a) promptly notify the Customer of such inability, providing a reasonable level of detail as to the instructions with which it cannot comply and the reasons why it cannot comply, to the greatest extent permitted by applicable law; and (b) cease all Processing of the affected User Personal Data (other than merely storing and maintaining the security of the affected User Personal Data) until such time as the Customer issues new instructions with which LunaNode is able to comply. If this provision applies, LunaNode will not be liable to Customer under the Terms of Service in respect of any failure to perform the LunaNode Services due to its inability to process User Personal Data until such time as the Customer issues new instructions in regard to such Processing.

4. Confidentiality

4.1. LunaNode will ensure that any person whom Customer authorizes to Process User Personal Data on its behalf is subject to confidentiality obligations in respect of that User Personal Data.

5. Security Measures

5.1. LunaNode will implement appropriate technical and organisational measures to protect against accidental or unlawful unauthorised disclosure of, or access to, User Personal Data.

6. Sub-processors

6.1. Customer authorises LunaNode to engage sub-Processors to perform specific services on LunaNode's behalf which may require such sub-Processors to Process User Personal Data.

7. Data Subject Rights

7.1. LunaNode will, at the Customer's request and subject to the Customer paying all of LunaNode's fees and expenses, provide the Customer with assistance necessary for the fulfilment of the Customer's obligation to respond to requests for the exercise of Data Subjects' rights. Customer shall be solely responsible for responding to such requests.

8. Security Breaches

8.1. LunaNode will notify the Customer as soon as practicable after it becomes aware of any Personal Data Breach affecting any User Personal Data.

9. Data Protection Impact Assessment

9.1. LunaNode will, at the Customer's request and subject to the Customer paying all of LunaNode's fees and expenses, provide the Customer with reasonable assistance to facilitate the conduct of Data Protection Impact Assessments if the Customer is required to do so under the GDPR.

10. Deletion of User Personal Data

10.1. On expiration of the Terms of Service, Customer instructs LunaNode delete all User Personal Data in the possession or control of LunaNode or any of its sub-Processors, within a reasonable period of time (unless the applicable law of the EU or of an EU Member State requires otherwise), except if the Customer requests otherwise.

11. Information

11.1. LunaNode will, at Customer's request and subject to the Customer paying all of LunaNode's fees and expenses, provide the Customer with all information necessary to enable the Customer to demonstrate compliance with its obligations under the GDPR.