

Fangage - License terms and conditions

Version 2.0 | This privacy- and cookie statement was most recently revised on 6 November 2020.

These License Terms and Conditions form an integral part of the Agreement concluded between Fangage B.V. , with registered office at Johan Huizingalaan 400 1066JS Amsterdam in the Netherlands, and registered with the Chamber of Commerce under number 66554721 and its Customers, regarding the use of the Fangage online platform, as offered to Customer in the quotation or through an offer on the Fangage website to which these License Terms and Conditions are applicable.

Fangage provides an online platform enabling its Customers to interact with their audiences through its own content portal. Fangage is willing to license the platform to its Customers under a non-exclusive license on the condition that all the terms and conditions set forth in this document are accepted.

Personal data may be processed within the context of Fangage B.V.'s services. The data processing agreement applicable to such processing is included in Annex 1 as an integral part of these License Terms and Conditions.

Article 1. Definitions

The following capitalized terms in these Terms and Conditions, both singular and plural, are understood to have the following meanings:

- 1.1. **Account:** the Customer's personal area of the Service, which is made available by Fangage to Customer .
- 1.2. **Agreement:** the agreement between Fangage and Customer regarding the use of the Service which is concluded by means of accepting the Quotation by or on behalf of Customer. The License Terms and Conditions form an integral part of the Agreement.
- 1.3. **Customer:** a natural person acting in the course of his profession or business or legal entity that concludes an Agreement with Fangage in order to use the Services.
- 1.4. **End User:** every user of the Service, either a consumer or a professional party being a natural person or a legal entity, not being Customer.
- 1.5. **Fangage:** Fangage B.V., with a registered office at Johan Huizingalaan 400 1066JS Amsterdam in the Netherlands, and registered with the Chamber of Commerce under number 66554721.
- 1.6. **Intellectual Property Rights:** all intellectual and industrial property rights, including but not limited to copyrights, (sui generis) database rights, rights to domain names, trade name rights, rights to know-how, trademark rights, trade secrets, model rights, neighboring rights and patent rights.
- 1.7. **License Terms and Conditions:** the stipulations of this document, which are applicable to all Services.
- 1.8. **Party:** either Fangage or Customer (singular) or Fangage and Customer collectively (plural).
- 1.9. **Quotation:** an offer to Customer by Fangage, through the Website or otherwise, regarding use of the Service.
- 1.10. **Service Plan:** the Service plan under which Services will be provided under the Agreement. Depending on the agreed Service Plan, different features of

the Service will be made available to Customer and different pricing may apply.

1.11. **Service:** the Fangage platform, an application offered through the Internet as a Software-as-a-Service.

1.12. **Website:** <https://www.fangage.com/> and any subdomains.

Article 2. Inception and performance of the Agreement

2.1. In order to obtain the right to use the Service, Customer is required to accept the Quotation in the manner described in the Quotation itself. Completion by the Customer of a registration form for an Account on the Website shall constitute acceptance of a Quotation.

2.2. Fangage shall perform the Agreement to the best of its ability and with due care and expertise. Fangage shall use commercially reasonable efforts to provide the Services in the manner as set forth in the Agreement.

2.3. Delivery times stated by Fangage are always indicative, unless expressly stated in writing that they are deadlines. Fangage is only in default, even where a deadline has been agreed, after Customer has served notice upon it in writing.

2.4. Customer is obliged to do everything that is reasonably required and desired to ensure that the Service is performed correctly in a timely manner. In particular, Customer will ensure that all information designated by Fangage as essential or in respect of which Customer should reasonably understand that it is required for the purpose of performing the Services, is provided to Fangage in a timely fashion. Customer makes sure that the information and details are correct, complete and up to date.

2.5. For avoidance of doubt, Fangage is not a party to any agreements between Customer and End Users, which may be concluded and/or performed via the Service. Customer shall indemnify and hold Fangage harmless from any claim(s) made against Fangage with respect to Customer's (non-)performance of any such agreement which Fangage is not a party to.

Article 3. Setup and customization

3.1. If expressly agreed to in writing, Fangage may first perform certain setup and custom development activities in order to make the Service ready for use by Customer. Fangage will inform Customer when the Service can be expected to be ready for use and the certain setup and custom development activities are performed. The monthly subscription fees as indicated in the Quotation shall not be due until the moment the Service is activated by Fangage and made available to Customer.

3.2. If there are no setup and custom development activities to be performed, the Service will be made available to Customer from the moment Fangage has provided Customer with an (automated) order or registration confirmation by email, or within reasonable time after notification by Fangage that an acceptance of a Quotation has been received by it.

3.3. After Fangage has implemented the agreed modifications, if any, it will deliver these for inspection by Customer. Customer is obliged to indicate within fourteen (14) days whether it approves or rejects these, failing which the modifications will be deemed to have been approved. Following rejection, Fangage will endeavour to remove the reason(s) for rejection or shall explain

why there is no ground for rejection, following which the modifications become final.

Article 4. Grant of license

- 4.1. All Intellectual Property Rights relating to the Service as well as all related information remain vested in Fangage (or its licensor). Upon conclusion of the Agreement, Fangage grants to Customer a non-exclusive and non-transferable license to use the Service, under the agreed Service Plan, for the duration as specified in the Quotation.
- 4.2. The license specified in the previous paragraph is non-sublicensable, except to the extent required for Customer to grant access to End Users to make use of the Service.

Article 5. Use of the Service

- 5.1. In order to use the Service, an Account is required. The login details for the Account will be set by Customer after or during conclusion of the Agreement.
- 5.2. Access to the Account shall be secured against third parties by using the login details. In particular the Customer must keep the login details strictly confidential. Fangage may assume that all actions undertaken from the Account after logging in with Customer's login details and all actions undertaken from sub accounts created through Customer's Account are authorized and supervised by Customer. This means Customer is responsible and liable for all use made of and access to the Service by means of its Account and any sub accounts created through it.
- 5.3. As soon as Customer knows or has reason to assume that its Account, subaccounts and/or any credentials has/have come into the hands of unauthorized third party/parties, Customer shall inform Fangage of this immediately, notwithstanding its own obligations to take immediate effective measures, such as changing the login details to its Account.
- 5.4. Customer may be provided with the option to have Fangage create a personalized subdomain (e.g. customer.fangage.com) through which Customer's End Users may access the Service, as well as the option to provide its End Users with access to the Platform through Customer's own domain. In the event Customer opts to have a personalized Fangage subdomain created, Fangage may, at any time and at its sole discretion, require Customer to change that subdomain. In such an event, Fangage will notify Customer that it must provide Fangage with an alternative name for the subdomain within a period of two (2) weeks as per the instructions included in the notification, after which Fangage will change the subdomain to the alternative name provided. Fangage may immediately change any personalized subdomain at any time, without notifying Customer, if:
 - a. the subdomain in question breaches these License Terms and Conditions, in particular Article 9; or
 - b. Customer does not provide Fangage with an alternative name for the subdomain within the aforementioned period after receiving notification of its requirement to do so.

Article 6. Trial Service Plans and free Service Plans

- 6.1. After or upon entering an Agreement for the use of the Service, Customer may make use of a trial version of any paid Service Plans offered by Fangage (hereinafter: “**Trial Service Plan**”) with no additional charge. Access to a Trial Service Plan can be requested via the Website or offered (as part of) a Quotation. Access to a Trial Service Plan is only granted upon receipt by Customer of a confirmation by Fangage. Fangage retains the right to refuse a Customer access to a Trial Service Plan at all times.
- 6.2. If access to a Trial Service Plan is agreed to between Parties, the applicable Service Plan under the Agreement will temporarily be upgraded to the agreed upon Trial Service Plan. The Trial Service Plan will be deemed expired at:
- a. the end date of the Trial Service Plan as agreed; or
 - b. the moment the Parties have entered into an Agreement for a paid Service Plan.
- 6.3. Upon expiration of the Trial Service Plan, the Agreement will convert to the Service Plan indicated in the relevant Trial Service Plan Quotation or offer, and for the initial period indicated therein.
- 6.4. Customer expressly acknowledges and agrees that Services provided under any Trial Service Plans, as well as Services provided under any free Service Plans for which no compensation is owed, are provided on an “as is” and “as available” basis and that Fangage assumes no liability whatsoever for any kind of damages arising from Customer’s use of the Trial Service Plans and free Service Plans, unless caused by the wilful misconduct or deliberate recklessness of Fangage’s management.

Article 7. Data, storage and transfer

- 7.1. All rights relating to data entered into the Services by Customer, including any Intellectual Property Rights relating to such data, are vested in Customer. Fangage will only be granted the right to use, store, pass on or otherwise process the data during the term of the Agreement to the extent necessary for the provision of the Services. Upon termination of the Agreement Fangage will delete the data as soon as possible. Customer is responsible for securing these data before the end of the Agreement and, if necessary, storing them elsewhere.
- 7.2. Fangage is entitled to set a limit on the amount of storage or data transfer that Customer may use per calendar month.
- 7.3. If Customer exceeds those limits, then Fangage notifies Customer by means of an electronic message or by making a notification in the Account. If Customer exceeds the limits, Fangage is entitled (in accordance with its usual rates) to invoice Customer an amount for the excess.
- 7.4. However, unless otherwise agreed, Fangage is never obliged to provide the Service above and beyond the limits. Fangage is not liable for the consequences of not being able to send, receive, store or change data if an agreed limit for storage or data transfer has been exceeded.
- 7.5. In the event a switch by Customer to a different applicable Service Plan – for example in situations as described in Article 6 – results in a decrease of the data storage capacity available to Customer in the Services, Fangage will have the right to delete the excess data. Customer is responsible for securing these data before the Service Plan switch is effected and, if necessary,

storing them elsewhere. On request by Customer, Fangage may store the excess data for a period of up to six (6) months, so that Customer may regain access to such data through the Services if it decides to upgrade to a Service Level with sufficient data storage capacity during this period.

Article 8. Third-party services

- 8.1. Customer acknowledges the Service may enable or assist it to access the website content of, interact with, and purchase products and services from, third parties via third-party websites and/or services.
- 8.2. Connecting the Service to third party websites and/or services is at Customer's own risk. Fangage makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or interaction with, any such third-party website and/or service, or any transactions completed, and any contract entered into by Customer, with any such third party.
- 8.3. Any contract entered into and any transaction completed via any third-party website is between Customer and the relevant third party, and not Fangage. Fangage does not endorse or approve any third-party website nor the content of any of the third-party websites made available via the Service.

Article 9. Terms of use

- 9.1. It is not permitted to use the Service for any purpose that violates Dutch or other applicable laws and/or regulations, including without limitation (Dutch) data protection law, (Dutch) telecommunications law and directives and decisions given by competent supervisory authorities.
- 9.2. In particular, it is not permitted to use the Service in a manner that causes a nuisance or hindrance for other users. This includes (among others) the use of personal scripts or programs for up- or downloading large amounts of data or excessively often accessing the Service.
- 9.3. Customer guarantees that it will only enter or make available (personal) data in a strictly lawful manner. Customer indemnifies Fangage against any third-party claims based on allegations that Customer was not entitled to process such (personal) data using the Services of Fangage.
- 9.4. Notwithstanding any other provisions of these Terms and Conditions, and any of Customer's own statutory obligations, the use of the Service may not:
- a. include software such as viruses or Trojans that can damage or erase, make unavailable or make inaccessible any computers or data of Fangage, (other) users or third parties;
 - b. bypass technical security measures of the computer systems of Fangage, (other) users or third parties;
 - c. involve unreasonable or disproportionate use of the infrastructure of Fangage's or third parties' computer systems, including without limitation any use in violation of Fangage's fair use policy as described on the Website and/or in the Service;
 - d. impede the functionality or functionalities of the Service;
 - e. involve manual or automated software, devices, or other processes to "crawl", "spider" or scrape any content of the Service;
 - f. constitute unauthorized or unsolicited advertising, junk, spam, bulk e-mail, scam and/or phishing;

- g. infringe any of Fangage's or third party's Intellectual Property Rights, privacy rights or any other rights;
- h. involve (virtual) child pornography, bestiality or other unlawful erotic content or acts relating thereto;
- i. promote or provide instructions or information about how to engage in illegal conduct, commit illegal activities or promote physical harm or injury;
- j. involve any illegal activities or activities that are contrary to morality or public order;
- k. involve false or misleading information;
- l. involve otherwise inappropriate use;
- m. breach this Terms and Conditions; and/or
- n. be unlawful in any way whatsoever.

9.5. Should Fangage discover Customer or its End Users violate any of the above, or receive a complaint alleging the same, Fangage will issue a warning. If the warning does not lead to an acceptable solution, then Fangage may intervene to end the violation. In urgent or serious cases Fangage may intervene without issuing a warning.

9.6. If in the opinion of Fangage the continued functioning of the computer systems or network of Fangage or third parties is actually or under threat of being damaged or jeopardized, for example through excessive transmission of e-mail or other data, leaks of personal data or virus activity, Fangage may take all steps it deems reasonably necessary to end or avert such damage or jeopardy, without becoming liable to pay compensation.

9.7. Customer acknowledges and agrees Fangage does not pre-screen the content or use of the Service and Fangage has no influence over the content or use made of the Service by Customer and/or End Users. Fangage is an intermediary as described in Article 196c of Book 6 of the Dutch Civil Code (based on Article 14 of the E-Commerce Directive 2000/31/EC). Everything that has been uploaded by Customer and/or an End User through use of the Service falls under the responsibility of Customer and/or the End User respectively.

9.8. Fangage may disclose Customer's and/or End User's personal data (e.g. name, address, IP-address, e-mail and place of residence) to a third party, if:

- a. there is sufficient cause to reasonably assume that the content is illegal and harmful to the third party;
- b. the third party has a real interest in obtaining the data;
- c. it can be reasonably assumed there is no less intrusive manner to obtain the data; and
- d. when weighing the interests of the third party, Fangage and the service providers of Fangage, the interest of the third party should prevail.

Article 10. Availability, updates and modifications to the Service

10.1. If the Quotation specifies a level of availability for the Service, Fangage shall make commercially reasonable efforts to meet that level of availability. Any specified level of availability is not guaranteed, unless expressly stated otherwise.

10.2. Fangage has the right to temporarily take its systems, Services, networks or parts thereof out of operation for the purpose of maintenance, adjustment or

improvement. Fangage will attempt to let such taking out of operation take place during periods in which relatively limited use is made of the Service and it will endeavour to notify Customer in due time of the scheduled taking out of service. However, Fangage is in no case liable to compensate any damage arising in connection with such taking out of operation.

10.3. Specific custom modifications to the Service may be implemented at Customer's request. In consultation with Customer, Fangage will draw up a description of the custom modifications and, following approval of Customer, apply all commercially reasonable efforts to implement these as soon as possible. Article 3.3 concerning delivery shall apply accordingly. Fangage will separately invoice the hours spent at its full standard hourly rate.

10.4. The Intellectual Property Rights concerning custom modifications remain vested in Fangage. Customer is granted a right of use with regard to such custom modifications under the same conditions as the license to use the Service granted in Article 4.

Article 11. Pricing

11.1. All prices and fees indicated by Fangage are in euros and are exclusive of VAT and other government levies.

11.2. If a price or fee is based on information provided by Customer and this information proves to be incorrect, Fangage has the right to adjust the prices or fees accordingly, even in the event the Agreement has already been concluded.

11.3. Fangage is entitled to increase its prices and fees at any time. Fangage shall inform Customer of any such changes at least two months in advance. In the event of a price or fee increase, Customer has the right to terminate the Agreement at the latest on the date on which the price or fee increase takes effect, subject to one month's notice.

11.4. Fangage is entitled to increase its prices and fees annually, during the month of January, by a maximum of five percent or by the relevant consumer price index provided by the Dutch CBS, without this creating a possibility for Customer to terminate the Agreement.

11.5. Prices may be increased by Fangage with immediate effect if the prices of its suppliers of, for example, electricity, software licenses or data center services increase, without this creating a possibility for Customer to terminate the Agreement.

11.6. If Fangage wishes to reduce its applicable prices or fees, Fangage is entitled to do so immediately without this creating a possibility for Customer to terminate the Agreement.

Article 12. Payment terms and invoicing

12.1. Depending on the Service Plan selected, use of the Service may be subject to a monthly or yearly subscription fee as specified in the Quotation.

12.2. Unless the Quotation states otherwise, the subscription fee, if applicable, must be paid in advance.

12.3. Fangage has the right to invoice any agreed setup and custom development fees immediately following conclusion of the Agreement.

12.4. In addition to the previously mentioned fees, use of certain functionalities of the Services may be subject to further fees. If this is the case, such fees will

be clearly indicated in advance. In order to use such functionalities, the Customer must pay any related amounts in advance.

- 12.5. All amounts are in Euro and exclusive of VAT, unless specified otherwise. Customer consents to electronic invoicing.
- 12.6. Unless the Quotation states otherwise, invoiced amounts are due and payable within seven (7) days after the invoice date.
- 12.7. If an amount due is not paid within the payment term, commercial interest will be due in respect of the outstanding invoice without requiring further notice of default. In the event payment is not made on time, Customer is obliged to fully compensate both the judicial and extrajudicial collection costs, including lawyer's and bailiff's fees and the costs of collection agencies, in addition to the amount that is owed and the interest due in respect thereof.
- 12.8. If Customer does not pay the fees on time, Fangage will have the right, after it has issued a warning, to limit the use of the Service and, after a renewed warning, to fully block the use of the Service (for Customer and the End Users) until the amounts due have been fully settled.
- 12.9. A claim for payment becomes immediately due and payable in the event Customer is declared bankrupt, applies for a suspension of payment, all or part of its assets are attached or is liquidated.

Article 13. Intellectual Property Rights

- 13.1. All Intellectual Property Rights relating to the Service, the accompanying software as well as all information on the Website remain with Fangage or its licensors. None of these items may be copied or used without prior written permission of Fangage, except and to the extent permitted by mandatory law.
- 13.2. Information and images Customer stores or processes while using the Service is and remains the property of Customer (or the property of its suppliers or licensors). Fangage receives a limited license to use this information for the performance of the Agreement and provision of the Service, including future aspects thereof. Customer can cancel this license by removing the information in question and/or terminating the Agreement.
- 13.3. If Customer sends information to Fangage, for example a bug report or suggestion for improvement, Customer grants Fangage a perpetual and unlimited license to use this information for the Service. This does not apply to information Customer expressly marks as confidential.
- 13.4. Fangage shall refrain from accessing data Customer stores or transfers using the Service, unless this is necessary for a good provision of the Service or Fangage is forced to do so by law or order of competent authority. In these cases, Fangage shall use its best efforts to limit access to the information as much as possible.

Article 14. Term and termination

- 14.1. The Agreement is entered into for the initial period indicated on the Quotation and shall each time be tacitly renewed with successive periods of equal duration, unless either Party provides the other Party with a notice of non-renewal:
 - a. at least seven (7) days before the renewal date in the event of a period with a duration of no more than one (1) month; and

b. at least thirty (30) days before the renewal date in the event of a longer period.

14.2. Other than as specifically provided for in the Agreement, the Agreement may not be terminated by either Fangage or Customer.

14.3. Terms and conditions which by their nature are meant to remain in force after termination, shall remain fully in force after the Agreement ends for whatever reason, including but not limited to:

a. Article 13 (Intellectual Property Rights);

b. Article 16 (Confidentiality);

c. Article 18 (Limitation of Liability).

Article 15. Privacy and data protection

15.1. In the course of implementation of the Agreement, personal data may be processed within the meaning of the General Data Protection Regulation. In the event of such processing of personal data, the Parties agree on the conditions for data processing included in Annex 1, which sets out the agreements for the processing and security of such personal data.

Article 16. Confidentiality

16.1. Parties shall refrain from disclosing or using for any other purpose than within the scope of these Terms and Conditions, any trade secrets and other information of the other Party that has been designated as confidential or the confidential nature of which is known or can reasonably be deemed to be known by the other Party.

16.2. The Parties accept the duty to observe strict secrecy towards third parties with respect to all that has been arranged for in these Terms and Conditions. In addition, the Parties accept the duty to observe strict secrecy with respect to all information regarding the activities and organization of the other Party, except in so far as such information was already part of the public domain without any involvement of the other Party.

16.3. Information on customers, prospective customers and opportunities is considered confidential information within the meaning of paragraph 1 of this Article.

16.4. After termination of the Agreement for whatever reason, the Parties shall erase all confidential information.

Article 17. Competition

17.1. For the duration of the Agreement, Customer shall not develop competing services or use the same for benchmarking purposes. Additionally, for the duration of the Agreement, Customer shall not disclose any information to third parties for the purpose of enabling them to develop competing products or services.

17.2. If Customer (partially) violates the provisions of this Article, Customer shall forfeit to Fangage an immediately payable fine of EUR 25.000,- (in words: twenty-five thousand euros) per breach and EUR 2.500,- (in words: one thousand euros) for each day the breach continues, notwithstanding and in addition to Fangage's rights to claim compensation for all damages and losses suffered as a result of the non-performance of this Article or to take other legal measures in order to enforce the provisions of this Article.

Article 18. Limitation of liability

- 18.1. The liability of Fangage for direct damage incurred by Customer due to a culpable failure of Fangage to comply with its obligations under these Terms and Conditions, or due to an unlawful act committed by Fangage, its employees or third parties engaged by it, is limited per damage-causing incident, whereby a series of connected incidents count as a single incident, to an amount equal paid by Customer under the Agreement in the six (6) calendar months prior to the damage-causing incident. However, in no case will the total compensation for direct damage exceed the amount of EUR 1.000,-.
- 18.2. The liability of Fangage for indirect damage is excluded. Indirect damage is exclusively understood to mean:
- a. consequential loss;
 - b. loss of earnings;
 - c. missed economies;
 - d. loss of (business) data; and
 - e. damage due to business stagnation is excluded.
- 18.3. Except for the cases referred to in Article 18.1, Fangage bears no liability whatsoever for damages, regardless of the grounds on which the claim for damages is based. The liability limitations referred to in the Agreement will however lapse if and insofar as the damage is the result of willful misconduct or deliberate recklessness by Fangage management or managerial staff.
- 18.4. The obligation for Fangage to pay compensation will only arise if Customer sends written notice to Fangage of this damage within six (6) months
- 18.5. Customer indemnifies Fangage against all third-party claims for compensation for damage due to a culpable failure of Fangage to comply with its obligations under the Agreement or these Terms and Conditions, costs or interest relating to the Agreement and/or the Service.
- 18.6. Fangage shall have no liability to Customer insofar as the Service is provided to the Customer under a Trial Service Plan or a free Service Plan.
- 18.7. Fangage shall have no liability to Customer under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control (force majeure), including, without limitation, cybercrime, (distributed) denial of service attacks, failure of a utility service or transport or telecommunications network, war, riot, fire, flood, storm or unforeseeable default of suppliers, provided that Customer is notified of such an event and its expected duration.

Article 19. Changes to the Agreement

- 19.1. The Agreement may only be amended or supplemented by a written agreement between the Parties, except where otherwise specified in these Terms and Conditions or the Agreement.
- 19.2. Fangage has the right to transfer its rights and obligations under the Agreement to a third party that takes over the Service or the relevant business activity from it.

Article 20. Miscellaneous

- 20.1. The Agreement (and the orders resulting from it) shall be governed by Dutch law. All disputes arising from or associated with the Agreement shall be submitted to the competent court in Amsterdam.
- 20.2. With respect to notices and correspondence the Parties elect domicile at the addresses specified in the Quotation.
- 20.3. If a provision in the Agreements prescribes that a notification must be performed 'in writing', this requirement will also be satisfied if the notification is made by e-mail or communicated via the Service, provided it is sufficiently established that the message was actually sent by the alleged sender and the integrity of the message has not been prejudiced.
- 20.4. The version of any communication of information as recorded by Fangage shall be deemed to be authentic, unless Customer supplies convincing proof to the contrary.
- 20.5. By signing the Agreement, the Parties listed above represent and warrant that they are authorized to sign the Terms and Conditions between Fangage and Customer.
- 20.6. If any provision of the Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

Fangage - Annex 1: Data Processing Agreement

Version 2.0 | This privacy- and cookie statement was most recently revised on 6 November 2020.

This data processing agreement (hereinafter: “**DPA**”) forms an integral part of the Agreement concluded between Fangage (hereinafter referred to as: “**Processor**”) and the Customer (hereinafter referred to as: “**Controller**”) regarding the use of the Service.

All capitalized terms not otherwise defined in this Data Processing Agreement will have the meaning ascribed to such terms in the License Terms and Conditions.

The Customer is deemed to be the controller within the meaning of article 4 (7) of the EU General Data Protection Regulation (“**GDPR**”) and Playable Platform is deemed to be the processor within the meaning of article 4 (8) of the GDPR. Where, in this Data Processing Agreement, reference is made to terms that are defined in the GDPR, such as “**data subject**” and “**personal data**”, such terms will have the meanings given to them in the GDPR.

Parties wish to set out their rights and obligations in writing by means of this DPA with due observance of the requirements of article 28.3 of the GDPR.

Article 1. Processing objectives

- 1.1. Processor undertakes to process personal data on behalf of Controller in accordance with the conditions laid down in this DPA.
- 1.2. The processing will be executed within the framework of the Agreement, in order to share content with the data subjects, to interact with them and to collect information about them, and for all such purposes as may be agreed to subsequently. The personal data that is or will be processed by Processor within the framework of the Agreement and the categories of data subjects from whom they originate are listed in Appendix A.
- 1.3. Processor is allowed to synchronize the personal data of the data subjects between the different accounts the data subject has created via the online platform of Controller provided by Processor as part of the Services, with the accounts created via the online platforms of other customers of Processor. Processor is responsible for the synchronization.

Article 2. Processor obligations

- 2.1. With regard to the processing referred to in article 1, Processor shall make best efforts to comply with the GDPR.
- 2.2. Processor will inform Controller, at its first request and within a reasonable period of time, of the measures it has taken with regard to its obligations under this DPA and the GDPR.
- 2.3. Processor’s obligations arising from this DPA also apply to any parties which process personal data under Processor’s authority. Processor ensures that the correct authorisations are in place regarding access to Controller’s personal data.
- 2.4. Upon termination of the Agreement or at the first request of Controller, Processor shall return (all copies in its possession of) and at the discretion of Controller, the personal data to Controller or demonstrably destroy them.

Upon request, Processor shall provide Controller with a written confirmation of this.

Article 3. Transfer of personal data

- 3.1. Processor may process the personal data in countries within and outside the European Economic Area, provided that the requirements of Chapter V of the GDPR are met.
- 3.2. Controller hereby authorises Processor, where necessary, to conclude on its behalf a model contract for the transfer of a Controller established within the EEA to a Processor in a third country in accordance with the Commission Decision of 5 February 2010 (2010/87/EU).
- 3.3. Processor will notify Controller prior to processing outside the EEA to which third country or countries the personal data will be transferred, unless prohibited by law.

Article 4. Allocation of responsibility

- 4.1. Processor is responsible for processing personal data under this DPA, in accordance with Controller's instruction and under the express (end) responsibility of the Controller. For other processing of personal data, including but not limited to the collection of personal data by the Controller, processing for purposes not notified to Processor by Controller, processing by third parties and/or for other purposes, the Processor is explicitly not responsible.
- 4.2. Controller warrants that the content, use and instructions for the processing of personal data are not unlawful and do not infringe any rights of third parties. In this context, the Controller indemnifies Processor of all claims of third parties related to the processing of personal data.

Article 5. Involvement of Subprocessors

- 5.1. Controller hereby grants Processor permission to involve third parties that process the personal data for Controller on behalf of Processor (hereinafter: "**Subprocessors**") for the processing of personal data, pursuant to this DPA, with due observance of the GDPR.
- 5.2. At the request of Controller, Processor will inform Controller about the Subprocessor(s) it has engaged.
- 5.3. Processor will in any case ensure that the Subprocessors assume in writing the same obligations as agreed between Controller and Processor in this DPA regarding the processing of personal data.

Article 6. Security

- 6.1. Processor shall endeavour to take appropriate technical and organisational measures regarding the processing of personal data to be carried out, against loss or against any form of unlawful processing (such as unauthorised access, alteration, modification or disclose of the personal data).
- 6.2. Despite the fact that Processor is required to adopt appropriate security measures in accordance with the first paragraph, Processor cannot fully guarantee that the security will be effective under all circumstances. However, in the event of a threat of or an actual breach of these security measures, Processor shall take all reasonable steps to limit the loss of personal data as much as possible.

- 6.3. If it appears that a necessary security measure is lacking, Processor will ensure that the security complies at a level that is not unreasonable in view of technology, the sensitivity of the personal data and the costs involved in taking the security measures.

Article 7. Notification and communication of data breaches

7.1. In the event of a data breach (which is understood to mean: breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed as referred to in article 4.12 GDPR), Processor will inform Controller without undue delay or if possible at the latest within 48 hours, on the basis of which the Controller will decide whether or not it will inform the supervisory authorities and/or data subjects concerned. Processor shall do its utmost to ensure that the information provided is complete, correct and accurate to the best of its ability. The Processor's obligation to report applies regardless of the impact of the breach.

7.2. In any case, Processor's reporting obligation to Controller includes reporting the fact that there has been a breach, as well as the following, if known to Processor:

- a. the nature of the data breach, specifying the categories of data subjects and personal data registers;
- b. the date on which the breach occurred (if no exact date is known: the period in which the breach took place);
- c. the (alleged) cause of the breach;
- d. the data and time on which the data breach became known to Processor or to a third party (Subprocessor) engaged by it;
- e. the number of people whose data has been breached (if no exact number is known: the minimum and maximum possible number of people whose data has been breached);
- f. a description of the group of people whose data has been breached, as well as the type or types of personal data that have been breached;
- g. whether the data has been encrypted, hashed or otherwise made incomprehensible or inaccessible to unauthorised persons;
- h. what the planned and/or already taken measures are to close the leak and to limit the consequences of the breach;
- i. contact information for following up on the breach.

7.3. Controller will ensure that any (statutory) reporting obligations are met. If required by law and/or regulations, the Processor will cooperate in notifying the relevant authorities and/or involved data subjects.

Article 8. Confidentiality

8.1. All personal data Processor receives from Controller and/or collects itself within the framework of this DPA is subject to confidentiality toward third parties.

8.2. This confidentiality obligation does not apply to the extent that Controller has given explicit permission to provide information to third parties, if the provision of the information to third parties is reasonably necessary in view of the nature of the assignment given and the performance of this DPA, or if there is a legal obligation to provide the information to a third party.

Article 9. Handling requests from data subjects

- 9.1. In the event that a data subject wishes to exercise one of his or her legal rights (article 15-22 GDPR) and directs his or her request to Processor, Processor will forward this request to Controller. Controller will handle the request further. Processor may inform the relevant data subject about this.
- 9.2. In the event that a data subject makes a request to exercise any of his or her legal rights to Controller, Processor will cooperate as a result that Controller can meet the request. Processor may charge a reasonable fee to Controller for this.

Article 10. Audit

- 10.1. Controller has the right to have audits conducted by an independent expert third party bound by confidentiality to verify all points in this DPA.
- 10.2. This audit only takes place in the event of a concrete and well-founded suspicion of misuse of personal data, and only after Controller has requested the similar audit reports from Processor, assessed them and presented reasonable arguments that still justify an audit initiated by Controller. Such an audit is justified if the Processor's similar audit reports do not, or insufficiently, provide a definite answer to the Processor's compliance with this DPA. The audit initiated by the Controller will take place at least 1 month after prior announcement by Controller.
- 10.3. Processor will cooperate with the audit and will make all information reasonably relevant to the audit, including supporting data, such as system logs, and employees, available as soon as possible and within a reasonable period of time, whereby a period of a maximum of 2 weeks is reasonably available.
- 10.4. The findings of the audit carried out will be assessed by the Parties in mutual consultation and, as a result, whether or not they will be implemented by one of the Parties or by both Parties jointly.
- 10.5. The costs of the audit will be borne by Processor if it appears that the DPA has not been attributable complied with and/or errors are found in the findings, which must be attributed to Processor. In any other case, the costs of the audit, including the cost of employees cooperating with the audit, will be borne by the Controller.

Fangage - Appendix A to Annex 1: Overview of categories of personal data and data subjects

Version 2.0 | This privacy- and cookie statement was most recently revised on 6 November 2020.

Categories of personal data	Categories data subjects
<ul style="list-style-type: none">• Name• Contact details• Date of birth• Gender• Social media account information• IP address• Any personal data which is entered as content of a message or attachment to the online platform	<ul style="list-style-type: none">• Controller's End Users• Website visitors