**Appendix No. 1 to the Terms and Conditions for the provision of electronic services concerning the NapoleonCat Service available at** [**https://napoleoncat.com/terms/**](https://napoleoncat.com/terms/)

DATA PROCESSING AGREEMENT

1. The Parties

This Agreement is concluded by and between:

1. a User, or respectively, a Trial User, using the Services available through the Site (as defined in the Terms and Conditions), who is the data controller (hereinafter referred to as the "User")

and

1. the Service Provider (within the meaning of the Terms and Conditions), i.e. Napoleon sp. z o.o. with its registered office in Warsaw, at ul. Szpitalna 8A lok. 5, 00-031 Warsaw, entered in the register of entrepreneurs kept by the District Court for the Capital City of Warsaw XII Economic Department of the National Court Register under number 0000470410, with the share capital of PLN 5,118,000, NIP 521-365-09-77, as the Processor (hereinafter referred to as the "Service Provider").
2. The User and the Service Provider shall hereinafter be referred to collectively as the "Parties".)
3. Definitions
	1. Capitalized terms in the Agreement and the Appendix shall have the following meanings:

Application – refers to the software provided by the Service Provider as a service (software as a service), by means of which the User may manage pages/accounts/profiles and his/her presence (or the presence of the User's Client) on the Internet Services, as well as analyze the activity of pages/accounts/profiles on the Internet Services. The number and type of functionalities of the Application made available to a given User depends on which Package the User has selected.

Terms and Conditions - means these "Terms and Conditions for the Provision of Electronic Services" regarding the NapoleonCat Service available at https://napoleoncat.com/terms.

RODO - means Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 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 (General Data Protection Regulation) (OJ EU. L. of 2016 No. 119, p. 1).

Internet Service - means the social media operated as part of the Services under the Base Agreement (e.g., Facebook, Instagram, Twitter, YouTube, Google+ and Pinterest), together with the direct communication channels associated with these sites (e.g., the Facebook Messenger platform).

Base Agreement - means a set of documents binding the Parties governing the provision of Services under the Collaboration, including the Terms and Conditions, an order specifying a particular Service Package, and a separate contract for the provision of Services (if any), hereinafter referred to as the "Base Agreement".

Service - benefits received by the User on the basis of the Base Agreement, consisting in particular of providing the User with certain functionalities available in the Application. The type and scope of the Services depend on the choice of the Package.

End User - means the end user of the Internet Service.

User's Client - means the entity on whose behalf or for whose benefit the User acts, in particular by managing the presence of this Client on the Social Services. For the purposes of this management, the User uses the Services. In the case of Users who act on their own behalf within the framework of the Collaboration, there is no concept of "User Client".

* 1. Other capitalized terms in this Agreement shall have the meaning given to them in the Terms and Conditions, unless otherwise expressly provided in this Agreement.
1. Data processing
	1. This Data Processing Agreement (hereinafter referred to as the "Agreement") constitutes the Parties' agreement on the terms and conditions of processing Personal Data under the Base Agreement.
	2. The Agreement shall supplement and be an integral part of the Base Agreement with respect to the processing of Personal Data unless you and the Service Provider have decided to enter into a separate Data Processing Agreement.
	3. The User entrusts the Service Provider with personal data (hereinafter referred to as "Personal Data") for processing, under the terms and for the purposes set forth in this Agreement, and the Service Provider undertakes to process the entrusted Personal Data at the instruction of the User, in accordance with this Agreement and applicable regulations.
	4. The entrustment shall take place pursuant to Article 28 of the RODO.
2. Scope and purpose of data processing
	1. The Personal Data entrusted by the User shall be processed by the Service Provider solely for the purpose of the Service Provider's performance of services, activities and actions within the scope of cooperation between the Parties (hereinafter "Cooperation") under the Base Agreement concluded between the Parties concerning the User's use of the Service and the Application ("Base Agreement").
	2. The detailed subject matter, nature and purpose of the processing, type of personal data and categories of data subjects are indicated in Appendix #1 to the Agreement.
	3. Processing by the Service Provider shall take place during the term of the Base Agreement and the Cooperation and shall be cyclical during such period.
	4. Processing shall take place at the documented direction of the User - with this Agreement and the Base Agreement constituting such an order.
3. Responsibilities of the Service Provider
	1. The Service Provider declares that it provides sufficient guarantees to implement appropriate technical and organizational measures so that the processing meets the requirements of the RODO and protects the rights of the Data Subjects.
	2. The Service Provider undertakes, when processing the entrusted Personal Data, to take the measures required under Article 32 of the RODO, including, but not limited to, implementing, taking into account the state of the art, the cost of implementation and the nature, scope, context and purposes of the processing and the risk of violation of the rights or freedoms of natural persons with different probability of occurrence and severity of the threat, appropriate technical and organizational measures to ensure a degree of security corresponding to the risk.
	3. The Service Provider shall ensure that persons authorized to process personal data undertake to maintain the secrecy of the processed data or that they are subject to the relevant statutory obligation of secrecy.
4. Principles of cooperation
	1. Upon termination of the Processing Services under the Cooperation, the Service Provider shall, at the User's option, delete or return to the User any Personal Data and delete any existing copies thereof, unless Union or Member State law prescribes the retention of Personal Data.
	2. Taking into account the nature of the processing, the Service Provider shall, as far as possible, assist the User, through appropriate technical and organizational measures, to comply with its obligation to respond to the data subject's requests for the exercise of his or her rights set forth in Chapter III of the RODO.
	3. The Service Provider, taking into account the nature of the processing and the information available to it, shall assist the User in complying with the obligations set forth in Articles 32-36 of the RODO.
	4. In the event that the Service Provider identifies the occurrence of a breach of protection of Personal Data, i.e. accidental or unlawful destruction, loss, modification, unauthorized disclosure or unauthorized access to entrusted Personal Data, the Service Provider shall, without undue delay, report it to the User, and shall provide the information that may be reasonably requested by the User in connection with such breach.
	5. The User shall cooperate with the Service Provider in the execution of the Agreement, provide the Service Provider with explanations in case of doubts about the legality of the User's instructions, as well as comply with its detailed obligations in a timely manner.
5. Audit
	1. The Service Provider shall make available to the User, upon the User's request, all information necessary to demonstrate compliance with the obligations set forth in Article 28 of the RODO, and shall allow and contribute to the User or an auditor authorized by the User to conduct audits (at the User's expense), including inspections. The User shall give the Service Provider at least 30 days' advance notice of the exercise of the right to conduct an audit, by sending the Service Provider an appropriate written notice indicating also the scope of the audit and the persons authorized to conduct it.
	2. If, for legitimate reasons, it is not possible to carry out the inspection on the date indicated by the User, the Service Provider shall inform the User of the first possible date for carrying out the inspection.
	3. The audit referred to above shall be carried out by the User, taking into account the working hours of the Service Provider, in a manner that does not disturb the work as much as possible, and with the proviso that it may not take more than 1 working day in total.
	4. After the audit, the User is obliged to provide the Service Provider with a protocol containing the findings and conclusions of the audit. The Service Provider will be obliged to implement only such post-audit recommendations that are objectively reasonable. The recommendations must not go further than the requirements of the law.
	5. The User's exercise of the rights set forth in this section shall not lead to any violation of the business secrets of the Service Provider or any third party.
6. Processing data with participation of third parties
	1. Other entities whose services are or may be used by the Service Provider with respect to the activities of processing Personal Data on behalf of the User shall be referred to as "Other Processors".
	2. The User gives his/her general written consent to further entrustment by Service Provider of Personal Data to Other Processors to the extent required or needed (in Service Provider's judgment) for Service Provider's provision of services under the Collaboration. Entrustment may concern, in particular, entities providing services related to IT infrastructure, telecommunications services, etc. to the Service Provider - in particular, providers of webmail services, hosting services and external data storage and transmission services.
	3. In the case of a planned entrustment of Personal Data to Other Processors, the following rules shall apply:
		1. 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. the information will be communicated to the User by e-mail or in the User Panel in the Application (as defined in the Terms and Conditions);
		3. You may express your objection (hereinafter "Objection") to such new Other Processor. The User is aware that expressing an Objection may affect a change in the way the Services are provided to the User, involve a reduction in the scope of the Services, or even termination of the Base Agreement.
		4. In the event of termination of the Base Agreement in accordance with the preceding paragraph, the User shall be obliged to pay the remuneration for the Service until the end of the subscription period in which the termination occurs. In the event of termination of the Base Agreement according to the principles described above, the User shall not be entitled to any claims against the Service Provider, including claims for damages.
	4. The same data protection obligations shall be imposed on the Other Processor by means of an agreement between the Other Processor and the Service Provider as under the Agreement, in particular the obligation to provide sufficient guarantees for the implementation of appropriate technical and organizational data protection measures, except for those that will not be applicable due to the nature of the specific further entrustment.
	5. If the Other Processor fails to meet its data protection obligations, the responsibility to the User for meeting the obligations of that Other Processor shall rest with the Service Provider.
7. Transfer of data to a third country
	1. You consent to the transfer of Personal Data to a third country (i.e. a country outside the European Economic Area - hereinafter "Third Country"), to the extent that this is done in the performance of the Services and provided that the transfer of Personal Data to the Third Country is done in accordance with the requirements and conditions set forth in the RODO, in particular:
		1. on the basis of decisions of the European Commission finding an adequate degree of protection in a Third Country;
		2. on the basis of standard contractual clauses adopted by the European Commission,
8. Statements and assurances
	1. The User acknowledges and accepts that when using the Web Services, the User (or the User's Client, respectively) may be deemed to be the controller of the data of the End Users of the Internet Services (also when the operator of such Internet Service is simultaneously the controller of such data) - depending on how the User (or the User's Client, respectively) uses such Internet Services. In particular, this may apply to the data of End Users with whom the User interacts (on his/her own behalf or on behalf of the User's Client), who interact with the User (or the User's Client, respectively) within these Internet Services, or who use the pages and profiles managed by the User (or the User's Client, respectively);
	2. For the purposes of this Agreement and the Base Agreement, the Parties agree, and the User represent and acknowledge, that:
		1. is the controller of any Personal Data it entrusts to the Service Provider for processing - in the case of a User acting on its own behalf when using the Services;
		2. an entity that processes Personal Data at the direction of the User's Client (being the data controller), and that the User is entitled to further entrust the processing of Personal Data to the Service Provider - in the case of a User acting at the request of or on behalf of its Client when using the Services.
	3. The User represent and warrant that is responsible for ensuring that the processing of Personal Data by the User (including within the Services) complies with applicable laws and undertakes to ensure such compliance, and in particular is obliged to entrust the Service Provider only with such data:
		1. as to which it has a valid legal basis for processing (if it is the data controller) or
		2. as to which it is entitled, as a Processor on behalf of its Customer, to further entrust it to the Service Provider, Other Processors, including Third Country,

and shall be obliged to comply with all statutory information obligations to data subjects, insofar as such obligations are applicable.

* 1. In the event that a third party takes legal action against the Service Provider or the User related to a violation of the principles of Personal Data processing, the Parties shall cooperate in order to take appropriate legal steps aimed, in particular, at the dismissal or rejection by a competent court of the third party's claims, filing an appeal or concluding a settlement as well as other legal actions.
	2. This Agreement does not change the liability rules (including limitations of liability) provided for in the Base Agreement.
1. Conclusion of the Agreement
	1. The Agreement is concluded by accepting the Terms and Conditions of which the Agreement is an integral part. In order to conclude the Agreement, the User selects the appropriate checkbox in person (in the case of a User who is a natural person) or by an Employee (as defined in the Terms and Conditions) authorized by the User.
	2. In the case of conclusion of the Agreement by the Employee on behalf of the User:
		1. The Employee and the User represent that the Employee is authorized to enter into this Agreement on behalf of the User;
		2. at the request of the Service Provider, the Employee and the User shall provide proof of authorization;
		3. The Employee shall be fully liable to the Service Provider in the event, the conclusion of this Agreement without proper authorization from the User.
	3. At the express request of the User, the conclusion of the Agreement may be made in writing or by the exchange by the Parties by e-mail of scans of copies of the Agreement signed by both Parties or in any other manner agreed by the Parties.
2. Final provisions
	1. The Agreement is concluded for the duration of the Base Agreement.
	2. In matters not regulated otherwise in the Agreement, the provisions of the Base Agreement or the Terms and Conditions shall apply.
	3. Amendments, termination or cancellation of the Agreement shall be in writing or in documentary form, otherwise being null and void.
	4. *Appendix No. 1 to the Agreement - Detailed subject matter, nature and purpose of processing, type of personal data and categories of data subjects shall constitute an integral part thereof*.

**Appendix No. 1 to Data Processing Agreement**

**Detailed subject, nature and purpose of processing, type of personal data and categories of data subjects**

1. The entrustment is made for the purpose of the Service Provider's performance of services to the User, within the framework of the Cooperation under the Base Agreement (as defined in the Agreement), consisting of the provision of tools for marketing and communication on social media (Internet Services), including in particular:
	1. tools to improve the management of the User's (or the User's client's, respectively) social media presence, including the management of profiles, fanpages, etc.,
	2. tools to improve communication with End Users in these media (e.g., publishing posts, responding to comments, etc.);
	3. tools for direct communication between the User (or the User's Customer, respectively) and End Users in direct communication platforms (e.g. Facebook Messenger);
	4. tools for analytics, monitoring and providing statistics on your (or your customer's, as applicable) social media pages and profiles;
	5. tools for analytics, monitoring and providing statistics on social media pages and profiles not belonging to the User (or the User's Client) and which are analyzed by the Service Provider at the request of the User.
2. The entrustment may concern personal data:
	1. End Users who interact in any way with the User (or the User's Customer, respectively, through the User), or to whom the User (or the User's Customer, respectively) directs communications, on the Internet Services operated as part of the Services,
	2. End Users and other individuals whose personal information is on social media pages and profiles monitored by the Service Provider on behalf of the User, other than the User's pages and profiles (or the User's Client, respectively).
3. Processing may involve the following data - depending on what data is in the social media covered by the Services:
	1. name, surname, nickname or other data identifying the End User on the Internet Service, a photo or graphic identifying the User on the Internet Service, including those that may contain an image of the End User;
	2. the processing may also involve unstructured data, such as content generated by the persons referred to above, with potential and probable personal data content (e.g., posts, comments, social media posts, text documents, images, recordings, videos)
	3. the content of correspondence or other communication between the End User and the User (or the User's Customer, respectively) on the Internet Services, including direct communication platforms (e.g. Facebook Messenger).
4. The detailed scope of the processed data will depend in each case on the scope of the Services of the Service Provider, provided under the Cooperation.
5. Entrusting the processing of Personal Data may include the following activities: collection, recording, organizing, structuring, storing, adapting, retrieving, viewing, using, disclosing by transmission, dissemination or otherwise making available, matching or combining, limiting, deleting or destroying.