

**DATA PROCESSING CONTRACT PURSUANT TO ARTICLE 28 OF THE GDPR**  
**PASCOM ONE****AGREEMENT**

between

- controller- hereinafter referred to as the Client -

and

**pascom GmbH & Co. KG**  
Berger Straße 42  
94469 Deggendorf, Germany

- processor - hereinafter referred to as the Agent

**1 Subject matter and duration of the processing****1.1 Subject matter**

The subject matter of the data processing contract includes the provision and operation of pascom ONE as Software as a Service (SaaS). pascom ONE is a cloud hosted Voice-over-IP telephone system and offers termination services in the public telephone network (PSTN). The provision of the solution is effected as a Software as a Service via the Internet and is based on user subscriptions. The following services are provided, among others:

Unified Communication functions such as desktop-, mobile- and web clients for telephony, video conferencing, screen sharing, group chat, fax- & file transfer, single line and multi-line TAPI, Contact Centre, IVR & analytics and interfaces/connectors.

In addition to the provision of the SaaS solution, the order also includes the administration and support of the pascom ONE service. The pascom ONE service is only available for business customers.

For the purpose of termination services within the public telephone network, the “Number Hosting” service provided by the company Colt Technology Services GmbH (Gervinusstr. 18-22, 60322 Frankfurt a. M.) is used. Colt acts as the responsible body for the provision of the telephony service pursuant to the TKG (Telecommunications Act), including the billing of connection charges, which is carried out by a Colt affiliated company in India. The BCR and the standard contractual clauses of the EU Commission constitute the legal basis here.

## 1.2 Duration

The duration of this contract corresponds with the duration of the pascom ONE subscription as ordered by the Client.

## 2 Substantiation of the contents of the contract

### 2.1 Nature and purpose of the proposed data processing

A more detailed description of the subject matter of the contract with regard to the nature and purpose of the Agent's tasks will emerge from the services assigned within the pascom licence. The processing (hosting) of the personal data is carried out exclusively within the EU/EEA.

### 2.2 Type of data

The following types/categories of data constitute the subject matter of personal data processing:

- Contact details (e.g., telephone numbers, e-mail)
- Surname, first name of the user
- Contract master data
- Contractual billing and payment data
- Usage and behavioural data (metadata)
- Voice and video recordings
- Documents:

### 2.3 Categories of data subjects

The categories of the data subjects affected by this processing include:

Customers, interested parties, employees, suppliers, business partners and applicants of the Client

## 3 Technical and organisational measures

3.1 The Agent must document the implementation of the technical and organisational measures necessary that are stated in the preliminary stages of the processing contract before commencing with processing, particularly with regards to the specific execution of the commissioned processing, and must present this to the Client for inspection. You will find the latest and current technological measures of the respective technical and organisational measures here:

[https://www.pascom.net/doc/en/howto/faq\\_dataprotection/pascom\\_toms\\_en.pdf](https://www.pascom.net/doc/en/howto/faq_dataprotection/pascom_toms_en.pdf)

3.2 The Agent must establish security in accordance with Articles 28 (3)(c) and 32 of the GDPR, particularly in combination with Article 5 (1)(2) of the GDPR. Overall these measures concern measures for data security and aim towards safeguarding against any risk to the appropriate level of security regarding the confidentiality, integrity, availability and capacity of the systems. This requires consideration regarding the technological stand, implementation costs and the nature, scope and purposes of the processing as well as the differing probability of occurrence and severity of the risk to the rights and freedoms of natural persons in the sense of Article 32 (1) of the GDPR.

3.3 The technical and organisational measures are subject to technological advancements and further development. In this respect, the Agent is permitted to implement alternative adequate measures. In doing so, the level of security shall not fall short of the measures specified. Significant alterations shall be documented.

## **4 Rectification, restriction and erasing of data**

4.1 The Agent may not rectify, erase or restrict the data processed on behalf of the Client (controller) without authorisation, but only after documented instructions from the Client. If a data subject approaches the Agent directly concerning this matter, the Agent shall pass the request on to the Client immediately.

4.2 If they are included within the scope of services, the erasure procedure, the right to be forgotten, rectification, data portability and information are to be secured by the Agent promptly following the documented instructions given by the Client.

## **5 Quality assurance and other Agent duties**

The Agent has certain legal responsibilities in addition to complying with the regulations of this contract, pursuant to Articles 28 to 33 of the GDPR. To this effect, the Agent shall ensure compliance with the following stipulations:

- a) The Processor shall process Personal Data exclusively within the framework of the agreements made and in accordance with the Client's instructions, unless it is required to do so by the law of the Union or the Member States to which the Contractor is subject (e.g. investigations by law enforcement or state protection authorities); in such a case, the Contractor shall notify the Client of these legal requirements prior to the processing, unless the law in question prohibits such notification due to an important public interest (Art. 28 (3) sentence 2 lit. a DS-GVO).
- b) Written designation of a data protection officer who shall perform his/her duties in accordance with Articles 38 and 39 of the GDPR:

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BSP-SECURITY  
Thundorferstr. 10, 93047 Regensburg, Germany  
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E-Mail: michael.gruber@bsp-security.de

- c) Safeguarding of confidentiality in accordance with Articles 28, (3) (2)(b), 29 and 32 (4) of the GDPR. The Agent shall only appoint employees who are committed to confidentiality and who are made familiar with the data protection regulations relevant to them beforehand when conducting the work. The Agent and any person under the Agent's control who has access to the personal data may process these data only with respect to the instructions given by the Client, including the authorities granted in this contract, unless these persons are legally obliged to undertake processing.
- d) The implementation of and compliance with all of the technical and organisational measures required for this commissioned data processing pursuant to Articles 28 (3)(2)(c), 32 of the GDPR.
- e) The Client and the Agent shall cooperate with the supervisory authority on request while completing their tasks.
- f) The Client will promptly inform the supervisory authority about assessment activities and measures

if these are relevant to this contract. This also applies if a competent supervisory authority makes investigations into the Agent's processing personal data under the instruction of the Client in the context of a non-compliance or criminal procedure.

- g) If the Client for its part is subject to an inspection by the supervisory authority, a non-compliance or criminal procedure, a liability claim from a data subject or a third party or another claim in connection with the data processing contract with the Agent then the Agent shall support the Client to the best of its power.
- h) The Agent shall monitor internal processes regularly as well as checking technical and organisational measures in order to ensure that processing in the Agent's area of authority remains in line with the demands of the applicable data protection law and that the protection of the data subject's rights are ensured.
- i) Ensuring the technical and organisational measures implemented can be verified for the Client within the scope of their supervisory capacity according to item 7 in this contract.

## **6 Sub-contractual Relations**

6.1 Sub-contractual relations within the meaning of this regulation should be understood as those services which relate directly to the performance of the main service. This does not include supplementary services which the Agent evokes for other purposes, e.g. telecommunication services, postage/transportation services, maintenance and user services or disposing of data media or other measures for ensuring the confidentiality, availability, integrity and capacity of the hardware and software used in data processing systems. However, the Agent is obliged to establish appropriate and lawful contractual agreements and monitoring measures in order to ensure data protection and data security for the Client's data, even in the case of outsourced supplementary services.

6.2 By signing this Data Processing Contract, the Client approves the commissioning of sub-contractors as indicated in <https://www.pascom.net/en/data-protection/>.

6.3 Outsourcing further sub-contractors or changing the existing sub-contractor is permitted, provided that:

- the Agent informs the Client of this sub-contractor outsourcing in advance within a reasonable period, in written or text form and
- the Client does not raise an objection to the planned outsourcing with the Agent within 14 days in written or text form and
- a contractual agreement is established subject to Article 28, (2-4) of the GDPR.

6.4 Subcontractors may only be engaged in third countries if the special requirements of Art. 44 et seq. DS-GVO are fulfilled (e.g. adequacy decision of the Commission, standard data protection clauses, approved codes of conduct).

6.5 The contractor must contractually ensure that the agreed regulations between the client and the contractor also apply to subcontractors. In the contract with the subcontractor, the information shall be specified in such concrete terms that the responsibilities of the contractor and the subcontractor are clearly delineated. If several subcontractors are used, this also applies to the responsibilities between these subcontractors. In particular, the contracting authority must be entitled to carry out appropriate checks and inspections, including on-site checks and inspections, at subcontractors' premises or have them carried out by third parties commissioned by it, if necessary.

## **7 Supervisory Rights of the Client**

7.1 The Client has the right to conduct inspections in consultation with the Agent or to have such inspections conducted by an inspector designated on a case-by-case basis. The Client has the right to ensure the Agent's business operational compliance with this contract by the way of random inspections which shall generally be declared with sufficient time.

7.2 The Agent shall ensure that the Client can be assured of compliance with the Agent's duties in accordance with Article 28 of the GDPR. The Agent is obliged to present the Client with the necessary information on request and in particular to demonstrate the implementation of technical and organisational measures.

7.3 Demonstration of any measures which do not only concern the present contract shall occur through

- current attestation from the data protection officer
- suitable certification by an audit of IT security or data protection (ISO 27001).

7.4 The Agent can assert a claim for payment for enabling the Client to carry out inspections.

## **8 Reporting Infringements by the Agent**

8.1 The Agent shall support the Client in complying with the responsibilities listed in Articles 32 to 36 of the GDPR regarding the security of personal data, reporting duties of data breaches, data protection impact assessments and prior consultations. This includes but is not limited to

- a) ensuring an appropriate level of protection using technical and organisational measures which take into account the context and purpose of the processing as well as the projected likelihood and severity of a possible violation of the law occurring as a result of security gaps, and which allow immediate identification of relevant violating incidents
- b) the obligation to report violations of personal data to the Client immediately
- c) the obligation to assist the Client in the context of its information duty towards the data subject and to make all relevant information available to it immediately in connection with this
- d) supporting the Client with its data protection impact assessment
- e) supporting the Client within the scope of prior consultations with the supervisory authority

8.2 For those supporting services which are not included in the service description or which cannot be ascribed to misconduct on the Agent's part, the Agent can claim remuneration.

## **9 Client's Authority to Issue Instructions**

9.1 The Client shall confirm verbal instructions immediately (at least in text form).

9.2 The Agent must inform the Client immediately if it believes an instruction violates data protection legislation. The Agent is entitled to suspend implementation of this particular instruction until it is confirmed or altered by the Client.

## **10 Erasing and Returning Personal Data**

10.1 Copies or duplicates of data will not be produced without the Client's knowledge. This excludes security copies, provided that these are necessary to ensure proper data processing, as well as data which are

necessary in order to comply with legal obligations to retain records.

10.2 After the conclusion of the contractually agreed work or earlier on the Client's request - at the latest when the performance agreement is terminated - the Agent must return all documents they have obtained, all processing and usage reports as well as databases which are associated with the contractual relationship to the Client or to destroy these with prior agreement in a manner in keeping with data protection requirements. The same applies to test and waste materials. The record of the erasing of the data shall be submitted on request.

10.3 Documentation that serves as proof of the agreed and proper data processing are to be retained by the Agent in accordance with the respective retention period beyond the termination of the contract. The Agent can deliver these to the Client when the contract is terminated for mitigation.

## **11 Liability**

Reference is made in this context to Article 82 of the GDPR

## **12 Miscellaneous**

Agreements regarding the technical and organisational measures as well as monitoring and inspection documents (also regarding sub-contractors) shall be retained by both contractual partners for the duration of their validity and then for another three full calendar years after this.

Verbal side agreements do not exist. Written agreement or a documented electronic format is a strict requirement for side agreements.

If the Client's property or personal data to be processed is put at risk by the Agent because of actions committed by third persons (for instance through seizure or confiscation), by insolvency proceedings or a conciliation procedure or through some other occurrences, then the Agent must inform the Client of this immediately.

A plea for the right of retention in the sense of section 273 of the German Civil Code (BGB) is precluded with respect to the data processed for the Client and the associated data media.

If individual parts of this agreement are or become wholly or partially ineffective or if a gap appears, then this does not affect the validity of the rest of the agreement. In place of the ineffective clause or in order to fill a gap in the regulation, a suitable regulation shall apply which will be as close as possible to the one the parties would have intended if they had considered this point.

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Client

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Agent

## Appendix 1

### Technical Organisational Measures (ToM) (Art. 32 GDPR)

#### ToM of pascom GmbH & Co. KG Confidentiality (Art. 32 §1 b GDPR)

Building Access Control	
No unauthorised access to data processing systems	<p>Office space:</p> <ul style="list-style-type: none"> <li>Access via key / RFID chip</li> </ul> <p>AWS data centre (Frankfurt)</p> <ul style="list-style-type: none"> <li><a href="https://aws.amazon.com/compliance/iso-27001-faqs/">https://aws.amazon.com/compliance/iso-27001-faqs/</a></li> </ul>
System Access Control	
No unauthorised system usage	<ul style="list-style-type: none"> <li>Authentication with user and password</li> <li>Multi Factor Authentication (MFA)</li> <li>Firewall</li> <li>Complex passwords</li> <li>Password database (Team password Manager)</li> <li>Technical blocking of the workstation when not active</li> <li>Data carriers of the notebooks/smartphones are encrypted</li> <li>VPN dial-in for employees</li> <li>Comprehensive protection against malware on workstations and servers</li> </ul>
Data Access Control	
No unauthorised reading, copying, modification or removal within the system	<ul style="list-style-type: none"> <li>Authorisation concepts are updated once a year.</li> <li>Changes and authorisations to the IT system are documented in the ticket system</li> <li>VPN dial-in for employees</li> <li>Ongoing clean-up of AD/Samba and VPN authorisations</li> </ul>
Data Separation Control	
Separate processing of data collected for different purposes	<ul style="list-style-type: none"> <li>Multi-client capability</li> <li>Separate storage of customer data</li> <li>Separate development, test and production systems</li> </ul>



Pseudonymisation	
<p>The processing of personal data in such a manner that the data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to appropriate technical and organisational measures;</p> <p>(Art. 32 para. 1 lit. a GDPR; Art. 25 para. 1 GDPR)</p>	<ul style="list-style-type: none"> <li>Pseudonymisation is not used as standard in the company and is only used in exceptional cases, e.g. when databases are upgraded by external service providers.</li> </ul>

## Integrity (Art. 32 para. 1 lit. b GDPR)

Transfer control	
No unauthorised reading, copying, modification or removal during electronic transmission or transport	<ul style="list-style-type: none"> <li>Remote access via Virtual Private Networks (VPN),</li> <li>Secure SMTP server (STARTTLS, PFS)</li> <li>Encryption of the data carriers</li> <li>WLAN WPA2</li> <li>Secure access via my.pascom portal</li> </ul>
Input control	
Determining whether and by whom personal data has been entered, modified or removed from data processing systems	<ul style="list-style-type: none"> <li>Logging of entries (change history)</li> <li>Logging of access to customer systems</li> <li>Ticket system</li> </ul>

## Availability and resilience (Art. 32 para. 1 lit. b GDPR)

Availability Control	
	<ul style="list-style-type: none"> <li>Comprehensive virus protection</li> <li>Use of firewalls</li> <li>Current emergency manual available</li> <li>Backup and recovery concept</li> <li>Prompt installation of security patches and updates</li> <li>Data storage in two certified data centres with mirroring of critical data</li> <li>Uninterruptible power supply (UPS)</li> <li>Automated patch management</li> <li>Monitoring systems with alarms</li> <li>Data backup in a secure, off-site location</li> <li>Fire extinguishing equipment</li> <li>Air conditioning</li> </ul>
Rapid Recovery & Restore	
(Art. 32 para. 1 lit. c GDPR)	<ul style="list-style-type: none"> <li>Restoration with individual files is carried out as required and documented in the ticket system.</li> <li>Exercises and tests are carried out to restart systems in the event of an emergency.</li> </ul>



## Procedure for regular testing, assessing and evaluating (Art. 32 (1) lit. d GDPR; Art. 25 (1) GDPR)

Organisational Control	
Data protection management	<ul style="list-style-type: none"> <li>• Information security guideline</li> <li>• Obligation of employees to maintain confidentiality and telecommunications secrecy</li> <li>• Appointment of a data protection officer</li> <li>• List of processing activities (Art. 30 GDPR)</li> <li>• Organisational and technical measures (Art. 32 GDPR)</li> <li>• Risk analysis (Art. 32 GDPR)</li> <li>• Data security guidelines</li> <li>• Training and sensitisation of employees</li> <li>• Notification of security incidents (Art. 33, 34 GDPR)</li> <li>• If required: Data protection impact assessment (Art. 35 GDPR)</li> <li>• Internal information security audits</li> <li>• Internal data protection audits</li> <li>• External audits (certifications)</li> </ul>
Privacy-friendly Default Settings	
(Art. 25 para. 2 GDPR)	<ul style="list-style-type: none"> <li>• SMTP server (STARTTLS, PFS)</li> <li>• Web server with SSL (HTTPS)</li> <li>• Measures for the pascom Cloud (SaaS) <ul style="list-style-type: none"> <li>• Access to the websites only via (HTTPS)</li> <li>• Encrypted signalling (SIP/TLS)</li> <li>• Voice transmission only encrypted (SRTP)</li> <li>• Secure provisioning of end devices (HTTPS/AES256 token)</li> <li>• Encryption of client communication (TLS)</li> </ul> </li> <li>• WLAN communication WPA2</li> </ul>
Order Controls	
	No commissioned data processing within the meaning of Art. 28 GDPR without corresponding instructions from the client, e.g: clear contract design, formalised order management, strict selection of the service provider, obligation to convince in advance, follow-up checks.

**Note: the company is certified according to ISO/IEC 27001.**