



# YouTestMe

Data Processing Agreement

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This Data Processing Agreement is made on **DATE** (the "Effective Date") between YouTestMe, with its principal place of business at Toronto, Ontario, Canada, and **CLIENT**, with its principal place of business at **CITY, STATE, COUNTRY** (the "Client").

## 1 DATA PRIVACY

YouTestMe will use the Client's Data only for the purpose of fulfilling its duties under this Agreement and for the Client's sole benefit, and will not share such the Client's Data with or disclose it to any Third-Party without the prior written consent of the Client or as otherwise required by law. By way of illustration and not of limitation, YouTestMe will not use such the Client's Data for YouTestMe's own benefit and, in particular, will not engage in "the Client's Data mining" of the Client's Data or communications, whether through automated or human means, except as specifically and expressly required by law or authorized in writing by the Client.

YouTestMe will provide access to the Client's Data only to those YouTestMe employees, agents, personnel, YouTestMe's and sub-contractors who need to access the Client's Data to fulfill YouTestMe's obligations under this Agreement.

YouTestMe will ensure it maintains the confidentiality, integrity and availability of the Client's Data by ensuring appropriate security controls are applied.

## 2 CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

### 2.1 No Disclosure

Except as provided for by law or otherwise by this Agreement, YouTestMe and the Client will keep strictly confidential, and will not, without the prior express written consent of YouTestMe and the Client, publish, release, disclose or permit to be disclosed Confidential Information to any person or corporation, either before, during or after termination of this Agreement, except as reasonably required to complete the Services.

### 2.2 Return of Property and Data

YouTestMe agrees to return to the Client the Client's Data at the termination or expiration of the Service-Level Agreement, upon the Client's written request made within thirty (30) days after such termination or expiration, as provided herein. This provision applies to all the Client's Data that is the possession of subcontractors, agents or auditors of YouTestMe. Within fifteen (15) days after the date of the Client's request, YouTestMe will make available to the Client for download a file of the Client's Data in an agreed-upon machine readable (a commercially reasonable standard such as comma separated value (.csv) or extendible markup language (.xml)) format along with attachments in their native format as stored on the SaaS. Such service shall be done at no cost to the Client. Once YouTestMe has received written confirmation from the Client that all the Client's Data has been successfully transferred to the Client,

YouTestMe shall within thirty (30) days, unless legally prohibited, purge or physically destroy all the Client's Data from its hosted servers or files.

### **3 SECURITY**

#### **3.1 Security**

YouTestMe shall disclose its non-proprietary security processes and technical limitations to the Client such that adequate protection and flexibility can be attained between the Client and YouTestMe. For example, virus checking and port sniffing – the Client and YouTestMe shall understand each other's roles and responsibilities. YouTestMe and the Client recognize that security responsibilities are shared. YouTestMe is responsible for providing a secure application service and/or infrastructure within the context of the Services being provided to the Client. The Client is responsible for securing the Client owned and operated infrastructure.

#### **3.2 Import and Export of Data**

The Client shall have the ability to import or export the Client's Data in piecemeal or in entirety at its discretion without interference from YouTestMe. This includes the ability for the Client to import or export the Client's Data to/from other service providers.

#### **3.3 Access to and Extraction of Data**

The Client shall have access to the Client's Data during the Term. YouTestMe shall within seven (7) business days of the Client's request, provide the Client, without any contingencies whatsoever (including but not limited to payment of any fees due to YouTestMe), an extract of the Client's Data in a mutually agreed upon machine readable format, anytime during the Term of this Agreement. Such provision of the Client's Data, shall be charged to the Client on a time and materials basis, as agreed to by the parties, at the hourly rates of YouTestMe as set out in Appendix 5 – Additional Work.

#### **3.4 Data Ownership**

All the Client's Data shall become and remain the property of the Client.

#### **3.5 Data Protection**

Protection of personal privacy and the Client's Data shall be an integral part of the business activities of YouTestMe to ensure there is no inappropriate or unauthorized use of the Client information at any time. To this end, YouTestMe shall safeguard the confidentiality, integrity and availability of the Client's Data and comply with the following conditions:

- a) YouTestMe shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Information and the Client's Data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures YouTestMe applies to its own Personal Information and the Client's Data of similar kind;

- b) without limiting the foregoing, YouTestMe warrants that all the Client's Data will be encrypted in transmission (including via web interface) using Transport Layer Security (TLS) at an encryption level equivalent to or stronger than 128-bit AES encryption;
- c) at no time shall any the Client's Data or processes — that either belong to or are intended for the use of the Client or its officers, agents or employees — be copied, disclosed or retained by YouTestMe or any party related to YouTestMe for subsequent use in any transaction that does not include the Client;
- d) YouTestMe shall not use any information collected in connection with the service issued from this Agreement for any purpose other than fulfilling the Service;
- e) all facilities used to store and process the Client's Data will implement and maintain administrative, physical, technical, and procedural safeguards and best practices at a level sufficient to secure such the Client's Data from unauthorized access, destruction, use, modification, or disclosure. Such measures will be no less protective than those used to secure YouTestMe's own the Client's Data of a similar type, and in no event less than reasonable in view of the type and nature of the Client's Data involved; and
- f) YouTestMe shall at all times use industry-standard and up-to-date security controls, technologies and procedures including, but not limited to firewalls, strong authentication, anti-malware protections, intrusion detection and prevention, regular patch management and vulnerability scanning, security event logging and reporting, and transport encryption in providing the Services under the Service-Level Agreement.

Prior to the "Go-Live Date" YouTestMe will at its expense conduct or have conducted the requirements in subsection (c). The Client can send the written request to YouTestMe, no less than 7 business days prior to the "Go-Live Date", requesting from YouTestMe to conduct the requirements in subsections (a) and (b) at the Client's expense. YouTestMe will conduct the requirements in subsections (a) and (b) upon the payment of the expenses by the Client and prior to the "Go-Live Date". The Client can send the written request to YouTestMe, requesting from YouTestMe to conduct the requirements in subsections (a), (b) and (c) and thereafter at the Client's expense at any time after the "Go-Live Date". YouTestMe will at its expense conduct the requirements in subsection (c) at least once per year, and immediately after any actual or reasonably suspected the Client's Data Breach:

- a) audit of YouTestMe's security policies, procedures and controls;
- b) a vulnerability scan, performed by a Client-approved Third-Party, of YouTestMe's systems and facilities that are used in any way to deliver Services under this Agreement; and
- c) a formal penetration test, performed by qualified personnel of YouTestMe's systems and facilities that are used in any way to deliver Services under the Service-Level Agreement.

Any time during the Term of the Service-Level Agreement, if YouTestMe intends to use the Client's Data facilities of a different hosting service provider for storing the Client's Data, YouTestMe shall provide at least thirty (30) days prior written notice of its intention to the Client with proof in writing of the new hosting service provider meeting the requirements of being certified under ISO 27017 (or standards that succeed them, and which are acknowledged by both parties as equally or more effective). For greater clarity, failing to do so would result in a substantial breach of the Agreement.

YouTestMe will provide the Client with a summary of the reports or other documentation resulting from the above audits, certifications, scans and tests in subsections (a), (b) and (c) within seven (7) business days of YouTestMe's receipt of a request from the Client.

Based on the results of the above audits, certifications, scans and tests, YouTestMe will, within thirty (30) calendar days of receipt of such results, promptly modify its security measures in order to meet its obligations under this Agreement, and upon request provide the Client with written evidence of remediation, based on the results of the above audits, certifications, scans and tests, YouTestMe will, within thirty (30) calendar days of receipt of such results, promptly modify its security measures in order to meet its obligations under this Agreement, and upon request provide the Client with written evidence of remediation, provided that to the extent that completing such modifications to its security measures is not practicable within thirty (30) calendar days, YouTestMe will have commenced such modifications within thirty (30) calendar days and will thereafter diligently pursue the implementation until completion within one hundred and eighty (180) days.

The Client may require, at its expense, that YouTestMe perform additional audits and tests, and YouTestMe will use commercially reasonable efforts, taking into consideration the availability of its resources, to accommodate such request. Any audit or test request by the Client needs to be coordinated with YouTestMe and will be performed only on a mutually agreed basis including the timeline for the audit or test. When performed, the results of any such audit or test will be provided to the Client within seven (7) business days of YouTestMe's receipt of such results. The Client shall reimburse YouTestMe for all its reasonable out of pocket expenses in connection with such audit or test, including the cost of YouTestMe staff used for such audit.

### 3.6 Data Destruction

YouTestMe acknowledges and agrees that, at the Client's expense, upon termination or expiry of the Service-Level Agreement, or at any time during the term of the Service-Level Agreement at the Client's request, all the Client's Data in the possession of YouTestMe shall be destroyed using a "Purge" or "Destroy" method, such that ensures that the Client's Data recovery is infeasible.

YouTestMe must provide the Client with a backup of all the Client's Data prior to performing the Client's Data destruction unless otherwise instructed by the Client in writing. YouTestMe must receive confirmation from the Client that all the Client's Data to be destroyed has been received.

YouTestMe agrees to provide a "Certificate of Sanitization/Disposition" within a reasonable period forty-five (45) days or earlier of performing destruction of the Client's Data for each piece of media that has been sanitized which includes, at a minimum, the following information:

- a) type of media sanitized;
- b) description of sanitization process and method used;
- c) tool used for sanitization;

- d) verification method;
- e) date of sanitization; and
- f) signature of YouTestMe

## 4 SECURITY INCIDENT OR DATA BREACH RESPONSE

When either a Security Incident or a Client's Data Breach is suspected, investigation is required to commence without delay. If YouTestMe becomes aware of a suspected Security Incident or suspected the Client's Data Breach, YouTestMe will inform the Client Clerk immediately (unless a Client's Data Breach is conclusively ruled out, in which case notification must be within 24 hours) by contacting the Client's IT on-call staff and selecting the option for critical services.

If a Client's Data Breach is confirmed, immediate remedial action is required, YouTestMe must notify the Client Clerk immediately by contacting the Client's 24x7 IT on-call staff as described above.

Immediately upon becoming aware of any suspected Security Incident, YouTestMe shall fully investigate the Security's Incident's circumstances, extent and causes. YouTestMe must then report the results to the Client Clerk and continue to keep the Client Clerk informed on a daily basis of the progress of its investigation until the issue has been effectively resolved.

Oral reports by YouTestMe regarding Security Incidents and the Client's Data Breaches will be reduced to writing and supplied to the Client Clerk as soon as reasonably practicable, but in no event more than forty-eight (48) hours after the oral report.

For any confirmed Security Incident, YouTestMe's report discussed herein shall identify:

- a) the nature of the incident;
- b) the cause or suspected cause of the incident;
- c) what YouTestMe has done or shall do to mitigate the incident; and
- d) what corrective action YouTestMe has taken or shall take to prevent future similar incidents.

For an actual or suspected the Client's Data Breach, YouTestMe's report discussed herein shall identify:

- a) the nature of the unauthorized use or disclosure;
- b) the Client's Data used or disclosed;
- c) who made the unauthorized use or received the unauthorized disclosure (if known);
- d) what YouTestMe has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
- e) what corrective action YouTestMe has taken or shall take to prevent future similar unauthorized use or disclosure.

YouTestMe, shall cooperate fully with the Client's investigation of and response to any the Client's Data Breach, including allowing the Client to participate as is legally permissible in the breach investigation.

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YouTestMe will not provide notice of the Client's Data Breach directly to the persons whose Data were involved, regulatory agencies, or other entities, without prior written permission from the Client.

## 5 BINDING EFFECT

This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the Client and the YouTestMe

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement on the day and year first above written.

This agreement has been signed by the parties.

**YouTestMe**

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Zoran Kukoljac, Chief Executive Officer

**CLIENT**

by its authorized signatory:

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(Signature of Authorized Signatory)

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(Print Name and Position of Authorized Signatory)