

# Terms

Version 3.0

## 1. Scope and Definitions

**1.1** Pinpoll GmbH (hereinafter referred to as "**Pinpoll**") registered in the commercial register of the regional court in Linz under the registration number FN 433631 v, with its head office in Linz and the business address Hopfengasse 3, 4020 Linz, provides at its homepage <https://pinpoll.com> (hereinafter referred to as "**Website**") software solutions in order to gather and analyse data of users for operators of websites.

**1.2** These terms are applicable to the use of all products and services of Pinpoll (hereinafter together referred to as "**Software Solutions**").

**1.3** These terms are relevant for clients of Pinpoll, who use the software solutions provided by Pinpoll (hereinafter referred to as "**Customers**"). If several provisions of these terms refer to data subjects according to GDPR, it will be mentioned explicitly.

## 2. Registration and Account Creation

**2.1** In order to use the software solutions of Pinpoll, a registration at <https://pinpoll.com> is required to create an account (hereinafter referred to as "**Pinpoll Account**") by providing a traceable e-mail address and a strong password. Anonymised e-mail addresses will not be accepted. After a trial period, a paid plan is required. To use paid plans, financial data shall be captured and transferred to Pinpoll's Payment Service Provider. Currently, a company called Stripe acts as the Payment Service Provider for Pinpoll: <https://stripe.com>

Pinpoll only stores the last four digits of the credit card and / or account number, as well as the name of the credit card brand and / or bank. In addition, data about the invoice recipient (e.g., company name, tax number, business address) are stored. The statement of a valid tax number indicates to Pinpoll that the client represents a company. This information is required for correct invoicing.

**2.2** A Pinpoll account may be used for free during a trial period. After the trial period, a paid plan has to be activated. Costs shall be charged against the credit card or bank account provided in the course of the first charge 1 (in words: one) month or, if preferred, year in advance. Annual plans may be paid on account. Pinpoll reserves the right to add further payment methods or remove existing.

**2.3** All statements with regard to the Pinpoll account shall be made correctly and truthfully. The password shall be kept confidential and not be passed on to third parties. The loss of the password, the knowledge of the password by third parties as well as every suspicion of unauthorized use shall be notified to Pinpoll immediately, but at least within 48 (in words: forty-eight) hours. Until the date of due notification, all activities shall be attributed to the person who has created the Pinpoll account.

**2.4** A registered Pinpoll account shall be revocable by Pinpoll, as well as by the customer at any time. Pinpoll reserves the right to delete any Pinpoll accounts that have not been used for 12 (in words: twelve) months in the course of database cleaning measures.

### **3. Software Licenses**

**3.1** Pinpoll grants its customers the personal, non-transferable, non-exclusive and revocable right of use of the software provided by the services of Pinpoll. This grant of use shall only serve the possibility to use the services provided by Pinpoll according to these terms.

**3.2** The revocation according to clause 3.1 shall not affect the legality of the processing until the date of revocation.

### **4. Use of Published Contents**

The customer grants Pinpoll all rights with regard to the content created with the software provided. The customer especially, but not exclusively, grants Pinpoll the right to publish or let publish, to spread or let spread and to make or let make publicly available content in any other way for free and with no restriction as to date and territory. Furthermore, the customer grants Pinpoll the right to use and to publish or let publish content in media, also in a shortened or otherwise adapted version. One such media would be the Pinpoll Magazine: <https://magazine.pinpoll.com>

### **5. Services of Third Parties**

The website of Pinpoll contains links to websites, services or other contents of third parties that do not belong to Pinpoll and that cannot be controlled by Pinpoll. Pinpoll does not support the websites, the information or the services of these third parties and does not bear any responsibility with regard to that. The access to the website, service or content of third parties shall occur at the user's own responsibility, Pinpoll shall not be liable for the access or the use of the website, service or content of the third party.

### **6. Warranty**

**6.1** Pinpoll offers its software solutions without any warranties and without any explicit or implicit guarantee.

**6.2** Pinpoll does not guarantee any warranties with regard to the stable, complete and sound availability of the services, especially caused by defaults, delays or interruptions, loss or deletions, virus, abuse or actuality of data. Pinpoll endeavours support as quickly as possible with regard to their technical and economical possibilities. A continuous availability of the software solutions shall not be guaranteed and shall not be owed contractually. Upon request and at additional costs, specific service commitments may be agreed upon in the forms of an SLA.

**6.3** The use of the software solutions provided by Pinpoll shall be at the customer's own risk. This refers especially, but not exclusively, to the use of the created content. Pinpoll does not guarantee any warranties with regard to the correctness, completeness and reliability of the information and

data obtainable by the services of Pinpoll. The provision of the necessary technical conditions for the use of the software solution of Pinpoll shall be up to the customer.

**6.4** Pinpoll does not guarantee any warranties with regard to banners or external links that are placed on the website. This covers all announcements, offers or advertising messages. Embedding of such content to the customer's own frames shall be prohibited. Provided that customers establish connections to linked websites, Pinpoll does not bear any responsibility with regard to the content of the linked website (e.g., contents that violate provisions of law or standards of public decency; contents that are incorrect or incomplete), or damages caused by the use of linked information.

**6.5** Provided that the customer concludes a contract with the operator of the linked website, the contractual relation only affects the customer and the respective operator of the linked website. Pinpoll does not guarantee any warranties with regard to these operators / service providers.

## **7. Liability**

**7.1** Claims for damages against Pinpoll, its organs, its representatives, employees or proxies in relation to the provision of software solutions by Pinpoll and / or related services shall be excluded, provided that the damage is not caused by intentional behaviour or blatant gross negligence. The liability for injury of life, body or health (personal injuries) shall not be limited.

**7.2** Furthermore, the liability shall be excluded with regard to service interruptions, loss of data and information, breakdown of data processing devices, lacking or outdated availability of software solutions, except that Pinpoll has to bear responsibility because of intentional behaviour or blatant gross negligence.

**7.3** Provided that Pinpoll is liable, the liability is limited to positive damages and, therefore, does not cover, especially, but not exclusively, lost profit and consequential damages (e.g., lawyer's fees). The liability shall be limited to monetary compensation, compensation for damage in kind shall be excluded.

**7.4** The liability of Pinpoll shall be excluded in general for circumstances exceeding Pinpoll's responsibility (e.g., abuse or loss of passwords, disturbances in the computer system of the customer).

## **8. Responsibility for Content**

**8.1** Each customer bears responsibility for the content created by him or her with the software solutions of Pinpoll.

## **9. Violation of the Terms**

**9.1** In case of a serious and continuous violation of these terms, Pinpoll reserves the right to delete the Pinpoll account of the respective customer and to ban the e-mail address of the respective customer from future registrations.

**9.2** Provided that Pinpoll becomes subject to a legal action by a third party because of content created with the software solutions of Pinpoll, the customer shall indemnify and hold Pinpoll harmless.

## **10. Data Protection**

In the course of the creation of the Pinpoll account and with regard to the software provided by Pinpoll, personal data of customers and data subjects according to GDPR will be processed. Further explanations are provided in the data protection declaration.

## **11. Consent to and Withdrawal of the Receipt of E-Mails by Pinpoll**

**11.1** With the creation of the Pinpoll account and the consent to these terms, the customer agrees to the receipt of e-mails by Pinpoll. Both frequency and content can be changed by the customer. Notifications may be cancelled anytime here: <https://account.pinpoll.com/settings/notifications>

Communication with the customer that is relevant for operating the system, is excluded.

**11.2** Communication with a customer also ends upon account deletion, since their e-mail address is deleted past recovery.

## **12. Amendment of the Terms**

**12.1** Pinpoll reserves the right to supplement or amend these terms.

**12.1.1** In case of supplements or amendments, a specific hint and a request for customers to consent will be shown in the course of the next sign-in to the Pinpoll account.

**12.1.2** Data subjects according to GDPR need to be informed by the customer, if terms change.

**12.2** Provided no consent is given to the terms supplemented or modified, further use of the software solutions provided by Pinpoll is prohibited. Data that has been gathered until then by the customer, may still be used by Pinpoll.

**12.3** In case of a contradiction between these terms and the relevant supplementary provisions, the supplementary provisions shall prevail in the individual case.

**12.4** The terms in their current version shall apply, available at <https://pinpoll.com/#terms>.

## **13. Place of Performance and Jurisdiction**

**13.1** Place of performance is the head office of Pinpoll.

**13.2** The terms are governed by Austrian law, excluding international conflict-of-law provisions.

**13.3** All disputes or claims arising from or in connection with these terms shall be settled at the local court of Linz. Customers of Pinpoll are businesses and hence, the Austrian consumer protection law does not apply.

#### **14. Miscellaneous**

**14.1** In the event that any provision of these terms should become void or unenforceable, the other provisions of these terms remain in full force and effect. The void or unenforceable provision shall be deemed to be replaced by a valid, enforceable and mutually acceptable provision that comes as close as possible to the economic result of the void or unenforceable provision. This applies mutatis mutandis to gaps in this agreement.

**14.2** Any amendment of or supplement to or modification of these terms, including this provision, shall be valid only if made in writing.

**14.3** In case of doubt, the German version prevails.