

# Terms

Version 2.0

## 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**") complete 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 "**Tools**").

**1.3** These terms are relevant for clients of Pinpoll, who use the tools provided by Pinpoll (hereinafter referred to as "**Users**"). If several provisions of these terms refer to voters, it will be mentioned explicitly.

## 2. Registration and Account Creation

**2.1** In order to use the tools 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 password. Anonymised e-mail addresses will not be accepted. With regard to the use of paid features, credit card details shall be transferred to Pinpoll's Payment Service Provider. Pinpoll only stores the last four digits of the credit card as well as the name of the credit card brand. Data about the invoice recipient (e.g., company name, tax number, business address) can be stated on a voluntary basis. The statement of the tax number indicates to Pinpoll that the client represents a company. This information is necessary inter alia with regard to correct invoicing and the assignment of the relevant plan.

**2.2** A Pinpoll account may be created for free. In order to use the different tools, one can choose between free and paid plans and features, respectively. Paid plans may be tested for free within limited duration. Companies (B2B) shall choose a paid plan that has been developed for them. With regard to paid plans, the following payment conditions shall be applicable: Costs shall be charged against the credit card provided in the course of the first charge 1 (in words: one) month in advance. Pinpoll reserves the right to add further payment methods (e.g., direct debit).

**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 user 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 users 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 user grants Pinpoll all rights with regard to the contents of votings that have been created with the software provided. The user 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 the contents of votings in any other way for free and with no restriction as to date and territory. Furthermore, the user grants Pinpoll the right to use and to publish or let publish the contents of votings in media, also in a shortened or otherwise adapted version.

### **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 tools 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 tools shall not be guaranteed and shall not be owed contractually.

**6.3** The use of the tools provided by Pinpoll shall be at the user's own risk. This refers especially, but not exclusively, to the use of the contents of the created votings. 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 tools of Pinpoll shall be up to the user.

**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 user's own frames shall be prohibited. Provided that users establish connections to linked websites, Pinpoll does not bear any responsibility with regard to the content (e.g., contents that violate provisions of law or standards of public decency; contents that are incorrect or incomplete) of the linked website or damages caused by the use of linked information.

**6.5** Provided that the user concludes a contract with the operator of the linked website, the contractual relation only affects the user 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 tools 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 tools, 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 user).

## **8. Responsibility for Contents of Votings**

**8.1** Each user bears responsibility for the votings created by him or her, as well as for its contents.

**8.2** Each voter bears responsibility for his or her given vote(s) and comments.

## **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 user and to ban the e-mail address of the respective user from future registrations.

**9.2** Provided that Pinpoll becomes subject to a legal action by a third party because of contents of votings created, the user 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 users and voters 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 user agrees to the receipt of e-mails by Pinpoll. Both frequency and content can be changed by the user.

**11.2** The consent to the receipt of e-mails can be revoked – without providing reasons – at any time via opt-out link in the respective e-mail.

## 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 users to consent will be shown in the course of the next sign-in to the Pinpoll account.

**12.1.2** In case of supplements or amendments, a specific hint and a request for voters to consent will be shown prior to the next vote, provided that with regard to the respective voting a hint and therefore a link to the given data protection declaration is made.

**12.2** Provided no consent is given to the terms supplemented or modified, further use of the tools provided by Pinpoll is prohibited. Data that has been gathered until then, 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>.

## 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. Provided that the user or voter is a customer within the meaning of the Austrian consumer protection law and has its domicile or habitual place of residence within the territory or is employed within the territory of Austria, the court at the place of domicile or habitual residence or the place of the employment of the user or voter shall be competent.

#### **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.