

Privacy Policy v4

We at ClearScale LLC and the subsidiaries we own or control worldwide (collectively, "ClearScale") respect your privacy. We are publishing this new version of ClearScale's Privacy Policy (the "Policy") to clearly disclose our practices and approach to data protection.

This Policy governs how we collect, protect, store, process, transfer and use the personally identifiable information we collect from and about you. This Policy applies to ClearScale's online and offline activities.

ClearScale complies with the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information from European Union member countries and Switzerland. ClearScale has certified that it adheres to the EU-U.S. Privacy Shield Framework and Swiss-U.S. Privacy Shield Framework principles of notice, choice, onward transfer, security, data integrity, access, recourse, enforcement and liability.

To learn more about the Privacy Shield Framework, and to view ClearScale's certification, please visit <https://www.privacyshield.gov>.

All employees of ClearScale who handle Personal Data from Europe and Switzerland are required to comply with the Principles stated in this Policy.

If you have any questions about this Policy, please feel free to contact us by email, info@clearscale.net, or via mail at:

Privacy Officer

ClearScale LLC
71 Stevenson St, Suite #400
San Francisco, CA 94105 USA

1. Scope

This Policy applies to all Personal Data received by ClearScale in the United States from the EEA and/ or from Switzerland, either directly from individuals, from its affiliates or from other third party organizations, and in any format whatsoever, including electronic, paper or oral transmission.

This Policy also applies to ClearScale's Agents that process Personal Data received by ClearScale in the United States from the EEA and/ or from Switzerland on behalf of ClearScale.

2. Definitions

"Individual Customer" means an Individual customer or client of ClearScale from EU or Switzerland. The term also shall include any individual agent,

representative, of an individual customer of ClearScale and all employee of ClearScale where ClearScale has obtained his or her Personal Data from such Individual Customer as part of its business relationship with ClearScale.

"Data Subject" means an identified or identifiable natural living person. An identifiable person is one who can be identified, directly or indirectly, by reference to a name, or to one or more factors unique to his or her personal physical, psychological, mental, economic, cultural or social characteristics. For Customers residing in Switzerland, a Data Subject also may include a legal entity.

"Employee" means an employee (whether temporary, permanent, part-time, or contract), former employee, independent contractor, or job applicant of ClearScale or any of its affiliates or subsidiaries, who is also a resident of a country within the European Economic Area.

"Europe" or "European" refers to a country in the European Union.

"Personal Data" as defined under the European Union Directive 95/46/EC means data that personally identifies or may be used to personally identify a person, including an individual's name in combination with country of birth, marital status, emergency contact, salary information, terms of employment, job qualifications (such as educational degrees earned), address, phone number, e-mail address, user ID, password, and identification numbers. Personal Data does not include data that is de-identified, anonymous, or publicly available. For Switzerland, the term "person" includes both a natural person and a legal entity, regardless of the form of the legal entity.

"Personally identifiable information (PII)" as used in US privacy law and information security, is information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context.

"Sensitive Data" means Personal Data that discloses a Data Subject's medical or health condition, race or ethnicity, political, religious or philosophical affiliations or opinions, sexual orientation, or trade union membership.

"Third Party" means any individual or entity that is neither ClearScale nor a ClearScale employee, agent, contractor, or representative.

"Agent" means any third party that collects or uses Personal Data provided by ClearScale to perform tasks on behalf of ClearScale under the instructions of, and solely for, ClearScale

"Processing" of personal data means any operation or set of operations which is performed upon personal data, whether or not by automated means, such as collection, recording, organization, storage, adaptation or alteration,

retrieval, consultation, use, disclosure or dissemination, and erasure or destruction.

"Controller" means a person or organization which, alone or jointly with others, determines the purposes and means of the processing of personal data

"Processor" means a natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller.

3. Privacy Principles

The privacy principles set forth in this Policy have been developed based on the Privacy Shield Principles. A detailed description of the EU-U.S. Privacy Shield Principles can be found on the website of the U.S. Department of Commerce.

4. Notice and Choice

ClearScale provides notice about its use of PII in this Policy, in our web pages, and in other locations where we collect PII. You can choose whether or not to provide your PII to us. If you choose not to provide PII, you can continue to interact with ClearScale, but you may not be able to take advantage of certain offers, options, events and services that depend upon ClearScale having access to accurate PII.

You can update your marketing communications preferences by going to the unsubscribe page or by following the unsubscribe instructions you have received in a marketing email. Please note that transactional, relationship and legally required communications will not be affected by the choices you have made about marketing communications.

ClearScale will offer individuals in the EEA or Switzerland the opportunity to choose (by either opt-out or opt-in) if their Personal Data is (a) to be disclosed to a third party that is not an Agent, or (b) to be used for a purpose materially different from the purpose for which it was originally collected or subsequently authorized by the individual.

For Sensitive Personal Data, ClearScale will give individuals the opportunity to affirmatively and explicitly consent (opt-in) to permit ClearScale to (a) disclose their Sensitive Personal Data to a third party that is not an Agent or (b) use Sensitive Personal Data for a purpose materially different from the purpose for which it was originally collected or subsequently authorized by the individual.

ClearScale will provide individuals with reasonable, clear and conspicuous and readily available mechanisms to exercise these choices.

4.1 Information We Collect

Personally Identifiable Information (PII) is information that can be directly associated with an individual (such as name, email address, or telephone number), or information about activities directly linked to an individual (such as products and services you have used or purchased).

We collect PII from you in the following ways:

Information provided to us directly

You, or someone acting on your behalf, may provide PII to us when you interact with us online and offline. For example:

- We may gather such things as name, physical address, email address and phone number when you contact or communicate with us;
- We may gather information such as the products and services you purchase, download or register to use, as well as financial information such as credit card numbers when you engage in transactions with us;
- We may gather user preferences, product interests, industry focus, community choices and other customer profile information when you register for an online account, subscribe to a newsletter, participate in communities or an event, program, class or promotion, or click on a URL; or
- We may accept your resume or CV when you apply for a job.

Information we collect through technology: Products and Services

Certain ClearScale products and services that you purchase, download, or register to use may connect and transmit telemetry and system/product data to ClearScale (or its authorized agents). This data may include, but is not limited to, system model, operating system, host ID and IP address.

We use this information to tell you when updates and new product versions are available, provide agreed upon diagnostic, monitoring and management services, as well as enhance our products and services, and better communicate with you.

Furthermore, in the course of using ClearScale products and services, you or someone else in your organization may provide us with information about your systems infrastructure and access to your systems infrastructure. In addition, ClearScale may 'self-discover' this information by analyzing additional parts your systems infrastructure that you did not explicitly input into the product. This information may include, but is not limited to:

- Names and IP addresses of servers
- Operating systems of servers
- Applications installed on servers
- Usernames and passwords of server and database administrators

- Usernames and passwords of application users
- Keys to systems infrastructure
- Performance of elements within the systems infrastructure
- Configuration information for elements within the systems infrastructure
- Operational logs of elements within the systems infrastructure
- Locations of files and databases within the infrastructure

Information we collect through our Website:

When you are on ClearScale's website, we collect information about the pages you visit. Some web pages use cookies, web beacons and similar technologies to automatically collect information from you. When you visit a ClearScale website, we may send one or more cookies (small text files containing a string of characters) to your computer to uniquely identify your browser. We may use "web beacons" (electronic images also known as pixel tags or clear gifs) to recognize a cookie on your computer when you view or act upon a web page, an advertisement that we've placed on a third-party web page or an email we've sent.

These cookies, web beacons and similar technologies enable us to collect certain types of information about your visit to ClearScale's websites or online service such as:

- Internet Protocol Address;
- Browser type;
- Browser language;
- Operating system;
- Referring site (site you visited before coming to our site);
- Date and time of visit;
- URL of pages visited; and
- Other browsing behavior, such as products and white papers downloaded.

We may link this information to PII to provide better service to you and to improve ClearScale's product and services offerings. If you do not wish to have navigational patterns analyzed, please disable cookies in your browser.

Most browsers allow you to remove and block cookies and web beacons. Please note that if you choose to erase or block cookies, you will need to re-enter your user ID and password to access certain parts of ClearScale's website. You may also notice that you will be served only generic information not tailored to your specific interests.

In addition, if you block cookies, you may not be able to use certain ClearScale website features or take full advantage of our ClearScale service offerings.

Information from other sources

We sometimes obtain information from other sources, such as mergers and acquisitions, data brokers, or commercial lists, and merge this with information we have previously collected.

If you give us PII on behalf of someone else (or someone else gives us PII on your behalf), the person providing the PII must have consent to do so from the person whose information is being provided to ClearScale. Some ClearScale events, websites or services may be co-branded and offered in conjunction with another company. For example, ClearScale might co-sponsor a webinar in conjunction with one of its partners and allow you to register for such webinar through the ClearScale website. If you provide PII in these cases, both ClearScale and the other company(ies) may receive the information collected and use the information according to each company's privacy policy and agreement with you.

4.2. How We Use Information We Collect

We use PII to conduct business, provide information and support for products and services, better understand your needs and interests, refine and develop our business, improve services, personalize communications and ensure a quality experience for users of the ClearScale website and services. For example, we may use your information to:

- Communicate, interact and build our relationship with you;
- Contact you with relevant promotions and information about ClearScale and affiliated third-parties;
- Process, fulfill and follow up on transactions and requests for products, services, support, training and information;
- Create and maintain an account and register products and services;
- Engage in market research;
- Measure, analyze and improve our products and services, the effectiveness of our websites, and our advertising and marketing;
- Personalize content and advertising;
- Help identify and communicate offers of products, programs and services that may be of interest to you;
- Send "refer-a-friend" email on your behalf with your consent;
- Consider your employment application;
- Comply with legal requirements; or
- Enforce terms of service and website terms of use, and prevent fraud and other prohibited or illegal activities.

4.3. How We Share and Disclose PII

(a) Personally Identifiable Information: ClearScale will not rent or sell your personally identifiable information to others. We may store personal

information in locations outside the direct control of ClearScale (for instance, on servers or databases co-located with hosting providers). Any personally identifiable information you elect to make publicly available on our Sites or the ClearScale Service, such as posting comments on our blog page, will be available to others. If you remove information that you have made public on our Sites or the ClearScale Service, copies may remain viewable in cached and archived pages of our Sites or the ClearScale Service, or if other users have copied or saved that information.

(b) Non-Personally Identifiable Information: We may share non-personally identifiable information (such as anonymous usage data, referring/exit pages and URLs, platform types, number of clicks, etc.) with interested third parties to help them understand the usage patterns for certain ClearScale Services and those of our partners. Our partners also have the option to publish the results for their websites on the ClearScale Service. Such results consist solely of non-personally identifiable information. Non-personally identifiable information may be stored indefinitely.

We may share or disclose your PII as follows:

- To corporate subsidiaries we own or control to support their business and marketing processes;
- To our service providers and suppliers, who are acting and using your information on our behalf;
- Based on a good faith belief that such disclosure is necessary to protect the rights or safety of any person or entity;
- Based on a good-faith belief that disclosure is necessary to respond to judicial process, valid government inquiry, or is otherwise required by law;
- In the event that ClearScale or any of its assets are acquired, your information may be transferred with the company or the asset;
- To other third-parties for purposes you have allowed or consented to; or
- When posted by you or an authorized third-party to our wikis, forums, blogs, message boards, chat rooms and other social networking environments.
- ClearScale may be required to disclose an individual's personal information in response to a lawful request by public authorities, including to meet national security or law enforcement requirements.

5. Onward Transfer

ClearScale is a global organization, with operations, processes and systems that cross borders. We are certified under the <https://www.privacyshield.gov> and strive to comply with all applicable laws designed to protect privacy in the jurisdictions in which we do business. If you choose to provide us with information, including PII, you understand that we may transfer it within ClearScale locations and systems in the United States or

to the locations and systems of ClearScale's subsidiaries, joint venture partners, and third-party service providers around the world.

ClearScale will transfer Personal Data to Agents only for limited and specific purposes. ClearScale will obtain contractual assurances from its Agents that they will safeguard Personal Data in a manner consistent with this Policy and that they will provide at least the same level of protection as is required by the relevant Privacy Shield Principles. ClearScale recognizes its responsibility and potential liability for onward transfers to Agents. Where ClearScale has knowledge that an Agent is using or disclosing Personal Data in a manner contrary to this Policy and/or the level of protection as required by the Privacy Shield Principles, ClearScale will take reasonable steps to prevent, remediate or stop such use or disclosure. If ClearScale transfers Personal Information to non-agent third parties acting as a Controller, ClearScale will apply the Notice and Choice principles and will obtain contractual assurance from these parties that they will provide the same level of protection as is required under the principles, unless a derogation for specific situations under European data protection law applies.

ClearScale is liable for appropriate onward transfers of personal data to third parties.

6. Access and Accuracy

We want to maintain the accuracy of your contact information. If you need to update or correct it, please do so by logging into your ClearScale account.

You also may update your information by emailing info@clearscale.net, or writing to:

Privacy Officer

ClearScale LLC

71 Stevenson St, Suite #400

San Francisco, CA 94105 USA

and we will make reasonable efforts to incorporate the changes as soon as possible. Before we make any changes, we may ask you to verify your identity and/or provide other details to help us respond to your request. We may keep a copy of the prior information for our records.

We provide individuals with reasonable access to their PII in order to have it corrected, amended or deleted where it is inaccurate or inappropriate for the specified purposes of processing.

The Customer has the right to request from ClearScale LLC access to and rectification or erasure of their personal data, to object to or request restriction of processing concerning the data, or to the right to data portability.

7. Security, Data Integrity and Purpose Limitation

We maintain administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of the PII we have collected. These safeguards are designed to protect against, but are not a guarantee against, the loss, misuse and unauthorized access, disclosure, alteration and destruction of PII. In addition, we use standard security protocols and mechanisms to transmit sensitive data such as passwords and credit card details.

ClearScale will use Personal Data only in ways that are compatible with the purposes for which it was originally collected or as subsequently authorized by the individual. ClearScale will also take reasonable steps to ensure that Personal Data is relevant to its intended use, accurate, complete, and current. ClearScale will adhere to the Privacy Shield Principles for as long it retains Personal Information received under its Privacy Shield certification.

8. Recourse, Enforcement and Liability

ClearScale utilizes the self-assessment approach to verify its compliance with this Policy. ClearScale periodically verifies that this Policy is accurate, comprehensive for the information intended to be covered, prominently displayed, completely implemented, and in conformity with the Privacy Shield Principles.

ClearScale will investigate and attempt to resolve complaints and disputes regarding use and disclosure of Personal Data in accordance with the Privacy Shield Principles. ClearScale will also investigate suspected infractions of this Policy.

If ClearScale determines that any employee of ClearScale is in violation of this Policy, such person will be subject to disciplinary action up to and possibly including termination of employment.

ClearScale encourages interested persons with questions or concerns relating to this Policy to contact us using the contact information below. Any questions or concerns regarding the use or disclosure of Personal Data should be directed to the Privacy Officer to the address set forth below.

With respect to any complaints relating to this Policy that cannot be resolved through ClearScale's internal processes, ClearScale has agreed to cooperate with the European data protection authorities and to participate in the dispute resolution procedures of the panel established by the EU data protection authorities and of the Swiss Federal Data Protection and Information Commissioner to resolve disputes pursuant to the Privacy Shield Principles. ClearScale is also subject to the investigatory and enforcement powers of the Federal Trade Commission, which is the competent supervisory authority under the Privacy Shield.

ClearScale's Where a complaint cannot be resolved by any of the before mentioned recourse mechanisms, individuals have a right to invoke binding arbitration under the Privacy Shield Panel as a recourse mechanism of 'last resort'.

In the event that ClearScale or such authorities determines that ClearScale failed to comply with this Policy, ClearScale will take appropriate steps to address any adverse effects arising directly from such failure and to promote future compliance.

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9. Compromise of Personal Information

In the event that personal information is compromised as a breach of security, ClearScale will promptly notify our customers in compliance with applicable law.

10. Storage and Processing

Your information collected through the ClearScale Service may be stored and processed in the United States, Europe, or any other country in which ClearScale or its subsidiaries, affiliates or service providers maintain facilities. ClearScale may transfer information that we collect about you, including personal information, to affiliated entities, or to other third parties across borders and from your country or jurisdiction to other countries or jurisdictions around the world.

11. Our Retention Of Your Information

(a) If you have an account with ClearScale, we will retain your information for as long as your account is active or as needed to provide you services. We will retain and use your information as necessary to comply with our legal obligations, resolve disputes and enforce our agreements.

(b) If you are a visitor to the ClearScale Sites we will retain your information for as long as necessary but no longer than one (1) year after your last visit to our Sites.

12. Limitations

ClearScale's adherence to the EU-U.S. Privacy Shield Principles may be limited (a) to the extent necessary to meet applicable national security, public interest, or law enforcement requirements, e.g. in the course of lawful requests by public authorities (b) by statute, government regulation, or case law that creates conflicting obligations or explicit authorizations, provided that, in exercising any such authorization, an organization can demonstrate that its non-compliance with the Principles is limited to the extent necessary to meet the overriding legitimate interests furthered by such authorization; or (c) if the effect of the Directive or Member State law is to allow exceptions or derogations, provided such exceptions or derogations are applied in comparable contexts.

13. Children's Privacy

ClearScale's web sites and marketing are not directed to children less than 13 years of age. ClearScale does not knowingly collect or solicit personal information from anyone under the age of 13. In the event that we learn that we have collected personal information from a child under age 13, we will delete that information as quickly as possible. If you believe that we might have any information from or about a child under 13, please contact us at info@clearscale.net

14. Identifying The Data Controller And Processor

The Data Controller for the personal data processed by us is the Client Company of ClearScale LLC. The Data Controller will pass personal data where it is applicable and necessary for project implementation. ClearScale LLC, as Data Processor acting on the instructions of the Data Controller under a written contract with them, will subsequently use that personal data to perform necessary actions toward successful implementation of the project. It is this contract which forms the "Legal Basis" for the processing of personal data carried out by ClearScale LLC in these circumstances.

15. Changes to this Privacy Policy

This Policy may be amended from time to time, consistent with the requirements of the Privacy Shield Principles. Appropriate public notice will be given concerning such amendments.

16. Effective Date

This Policy is effective as of September 17, 2018.