

Personal Data Processing Agreement

Pursuant to Article 28(3) of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereinafter the "GDPR")

This Data Processing Agreement was last updated on July 05, 2022.

This Data Processing Agreement, including its Annexes (hereinafter the „Agreement“) forms an addendum to the Contract on the Connection and Provision of CloudTalk Services, under which the CloudTalk provide the Customer with a services specified in the Connection Contract and the Controller undertakes to pay the agreed fees for the services provided (hereinafter the "Connection Contract").

In the course of providing the Services to Customer pursuant to the Connection Contract, CloudTalk may Process Personal Data on behalf of Customer. This Agreement reflects the parties' agreement with regard to the processing of Personal data. Personal data means any information relating to an identified or identifiable natural person who can be identified, directly or indirectly, in particular by reference to a generally applicable identifier or an identifier such as a name, surname, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person (hereinafter the "Personal Data").

The terms "Controller" and "Processor" shall have the meaning ascribed by the GDPR. The Parties acknowledge that GDPR applies to the processing of Personal Data if and to the extent conditions set forth by Art. 3 of the GDPR are fulfilled. To the extent GDPR applies to the processing of Personal Data under this Agreement, the Customer acts as a Controller and CloudTalk acts as a Processor (the Controller and the Processor hereinafter collectively referred to as the "Parties" or individually as the "Party"). The Parties acknowledge that regardless of whether GDPR applies to the processing of Personal Data under this Agreement, other data protection laws may also apply to the processing of Personal Data.

The Parties agree to comply with the following provisions with respect to any Personal Data, each acting reasonably and in good faith.

Article I Initial Provisions

1. The Controller has the legal status of a controller under the GDPR, i.e. a person which, alone or jointly with others, determines the purposes and means of the processing of Personal Data and processes Personal Data on its own behalf.
2. The Processor has the legal status of a processor under the GDPR, i.e. a person which processes Personal Data on behalf of the Controller.
3. By entering into this Agreement, the Controller declares, confirms and guarantees to the Processor, that:
 - a. he processes Personal Data of data subjects in accordance with legal regulations, in particular with the GDPR,
 - b. he provides sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing of Personal Data will meet the requirements of the GDPR and ensure the protection of the rights of the data subject.
4. By entering into this Agreement, the Processor declares, confirms and guarantees to the Controller, that:
 - a. he processes Personal Data of data subjects in accordance with legal regulations, in particular with the GDPR,
 - b. he provides sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing of Personal Data will meet the requirement of the GDPR and ensure the protection of the rights of the data subject.
5. In the context of point 3 of this Article of the Agreement, the Parties have agreed to enter into this Agreement in accordance with Article 28(3) of the GDPR.

Article II Subject of this Agreement

The subject of this Agreement is as follows:

- a. the arrangement of mutual rights and obligations of the Parties in the processing of Personal Data of data subjects by the Processor on behalf of the Controller, and
- b. the mandate given to the Processor by the Controller to process Personal Data which the Controller processes in his information systems.

Article III Mandate for the processing of personal data

1. By means of this Agreement, the Controller mandates the Processor to process Personal Data of data subjects on behalf of the Controller as follows:
 - 1.1. Subject of processing: The Processor carries out the processing of Personal Data of data subjects (natural persons) by automated means of processing in the CloudTalk information systems (hereinafter the "**Information System**").
 - 1.2. Duration of processing: From the day of entry into force of this Agreement for the duration of this Agreement.
 - 1.3. Nature of processing: Personal Data are processed on the following legal grounds:
 - a. processing of Personal Data is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract, and/or
 - b. processing of Personal Data is necessary on the basis of a special regulation or international agreement to which the country of registration of the Controller is party, and/or
 - c. consent of the data subject with the processing of Personal Data for at least one specific purpose and/or
 - d. processing of Personal Data is necessary for the purposes of legitimate interests of the Controller or a third party.
 - 1.4. Purpose of processing: the provision of services by the Processor on the basis of the Connection Contract to the Controller who uses the services.
 - 1.5. List or scope of Personal Data which are subject to processing: all data provided by the Controller by means of entering the data into the Information System.
 - 1.6. Categories of data subjects: customers/clients/users of the services of the Controller, employees of the Controller, persons in a contractual relationship with the Controller.
 - 1.7. Rights and obligations of the Controller:
 - 1.7.1. The Controller guarantees to the Processor that he processes Personal Data of data subjects in compliance with the GDPR, in particular, but not limited to, in compliance with the principles of Personal Data processing.
 - 1.7.2. The Controller guarantees to the Processor that Personal Data of data subjects that are being processed and provided to the Processor under this Agreement are accurate and up-to-date. The Controller shall immediately inform the Processor of any changes of the Personal Data provided to the Processor.
 - 1.7.3. The Controller shall immediately inform the Processor in writing (including via e-mail) of any changes of the scope of the processing of Personal Data (e.g. as a result of the exercise of rights by a data subject under Articles 16 – 22 of the GDPR).

- 1.7.4. The Controller has to right to require from the Processor to demonstrate compliance with all obligations, including the adoption of prescribed security measures for Personal Data protection.
- 1.8. Rights and obligations of the Processor:
 - 1.8.1. The Processor shall process Personal Data only for the specified purposes and keep Personal Data collected for different purposes separately.
 - 1.8.2. The Processor shall process only such Personal Data whose scope and content correspond to the specified purpose and are necessary for its achievement.
 - 1.8.3. The Processor shall ensure that Personal Data are processed only by means corresponding to their purpose.
 - 1.8.4. The Processor is entitled to carry out only the following processing activities with Personal Data:
 - a. collection, gathering, recording, organization, structuring, storage, retrieval, consultation, alignment or combination, restriction, erasure.
 - 1.8.5. The Processor shall carry out the processing of Personal Data in accordance with legal regulations.
 - 1.8.6. The Processor shall process Personal Data only on the basis of written instructions from the Controller, including with regard to transfers of Personal Data to a third country or an international organization.
 - 1.8.7. The Processor shall take measures under the provisions of Article 32 et seq. of the GDPR, i.e. taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing of Personal Data as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, to implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk.
 - 1.8.8. The Processor may engage another processor (hereinafter the “**Sub-processor**”) for carrying out the processing of Personal Data on the basis of a general written consent given to the Processor by the Controller by means of this Agreement. The list of Sub-processors as of the date of conclusion of this Agreement is annexed to this Agreement as its integral part. The Processor shall inform the Controller in writing (including via email) of the engagement of another Sub-processor prior to the engagement, if the authorization was carried out on the basis of a general written authorization, and shall identify this Sub-processor. To the extent GDPR applies to the processing of Personal Data under this Agreement, the Controller may reasonably object to such engagement. In case Controller does not send any objection to Processor in writing within ten (10) days from receiving the information, it will be deemed to have agreed to the new Sub-processor. If Controller objects, the Parties agree to negotiate to find a solution that will satisfy both Parties’ interests. If the Processor engages another Sub-processor for carrying out specific processing activities on behalf of the Controller, he shall impose the same data protection obligations on this Sub-processor as set out in the Agreement in a contract or any other legal action, in particular providing sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing will meet the requirements of the GDPR. The Processor shall be fully liable to the Controller where the Sub-processor fails to fulfill his data protection obligations.
 - 1.8.9. The Processor shall, after taking into account the nature of Personal Data processing, provide maximum assistance to the Controller by using appropriate technical and organizational means in the fulfillment of his obligations to adopt measures on the basis of a request of a data subject under Chapter III of the GDPR.

- 1.8.10. The Processor shall provide the Controller with assistance in the performance of obligations in accordance with provisions of Articles 32 to 36 of the GDPR, taking into account the nature of Personal Data processing and information available to the Processor.
- 1.8.11. The Processor shall delete Personal Data or return Personal Data to the Controller after the completion of the services related to the processing of Personal Data, at the choice of the Controller, and delete any existing copies containing Personal Data, unless there is a requirement to store Personal Data under a special regulation or international agreement to which the Slovak Republic is party.
- 1.8.12. The Processor shall provide the Controller in writing (including, via email) with information necessary to demonstrate compliance with obligations and provide assistance during data protection audits and inspections carried out by the Controller or an auditor mandated by the Controller.
- 1.8.13. The Processor shall keep Personal Data collected for different purposes separately and protect Personal Data from theft, loss, destruction, unauthorized access, change and extension, using appropriate technical, organizational and personal measures corresponding to the means of Personal Data processing.
- 1.8.14. The Processor shall inform the Controller in writing (including via email) of any infringement of the protection of Personal Data without undue delay after having become aware of it.
- 1.8.15. If in fulfilling Processor's obligations under the Agreement, Personal Data must be transferred, directly or via an onward transfer, from the EEA (European Economic Area) to any country that the European Commission has not recognized as providing an adequate level of protection for Personal Data, Processor agrees to comply with the appropriate Standard Contractual Clauses (especially module two: Transfer controller to processor and module three: Transfer processor to processor) based on the Commission Implementing Decision (EU) 2021/914 as of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, which shall be deemed incorporated into, and form a part of this Agreement.

Article IV Duration of this Agreement

1. This Agreement is concluded for an indefinite period of time as of the date of its effect.
2. The Agreement shall terminate in the following cases:
 - a. by written agreement of both Parties,
 - b. closure of either Party without any legal successors,
 - c. termination of the Connection Contract.
3. Termination of this Agreement by any means is without prejudice to any agreements that by nature should remain valid even after the termination of the Agreement, in particular regarding damage claims, obligations to protect confidential information, etc., under this Agreement.

Article V Final provisions

1. This Agreement represents final and complete agreement between the Parties in relation to its subject and replaces any correspondence, memoranda, talks and other notices or documents that were related to it.
2. The Controller explicitly acknowledges and agrees that this Agreement may be amended in the same way as agreed by the parties for amendments of the Connection Contract, including Processor's right to update the terms of the Connection Contract, any of its policies and this Agreement from time to time, as decided by Processor in its sole discretion.

3. This Agreement is drafted in the English language, as agreed by the Parties.
4. Any non-exercise or delay in the exercise of any rights, remedies, powers or privileges of either Party under this Agreement and any negotiations between the Parties shall not be interpreted as and shall not mean the renouncement thereof and the exercise of a right or a partial exercise of any right, remedy, power or privilege shall not impede any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Any renouncement of infringement of any of the conditions of this Agreement or of any non-compliance with this Agreement shall not be considered the renouncement of any other subsequent infringements or non-compliance and it shall in no case have impact on the other conditions of this Agreement.
5. The invalidity or ineffectiveness of any of the provisions of this Agreement shall not result in the invalidity or ineffectiveness of the remaining provisions of this Agreement, with the exception of cases where invalid or inefficient provisions could not be separated from the remaining provisions of the Agreement without (i) resulting in the invalidity of the whole Agreement and/or (ii) resulting in the non-performance or obstruction of the purpose of this Agreement, i.e. final arrangement of mutual claims of the Parties in relation to the claims which are the subject of settlement on the basis of this Agreement. In such case, the Parties shall make all necessary steps to replace the invalid provision of the Agreement with a valid and efficient provision in such manner that the purpose and content of the new provision is as close to the original measure and objective of this Agreement as possible.
6. The Parties have agreed that this Agreement shall be governed by the legal order of the Slovak Republic and fall under the jurisdiction of the courts of the Slovak Republic.
7. The Parties declare that they have read the Agreement, understood its content and declare that they enter into the Agreement voluntarily, without any pressure and that the Agreement expresses their free will.

Annex 1 to the Agreement on Personal Data Processing

List of Sub-processors under the provisions of Article III point 1.8.8.:

The list of the Sub-processors currently engaged by the Processor is listed on Processor's website available at [CloudTalk Subprocessors](#).