

## Data Processing Addendum

This Data Processing Addendum (“DPA”) forms an integral part of the Terms of Service (“ToS”) between TalkJS. and between the Customer agreeing to these terms and applies to the extent that TalkJS processes Personal Data on behalf of the Customer, in the course of its performance of its obligations under the Terms of Service. By accepting the Terms of Service the Customer accepts the terms in this DPA-

If you have any questions or concerns with respect to this Addendum or the services you may contact us at [hey@talkjs.com](mailto:hey@talkjs.com).

### 1. Definitions

For the purposes of this Addendum, the following terms, whenever used with a capital, in both the single and plural form, shall have the meaning as defined hereinafter:

1.1.1. **Additional Services:** services as described in article 6;

1.1.2. **Agreement:** The terms of this Addendum, including **Commercial Terms** and **Terms of Service**;

1.1.3. **Contact Persons:** the natural person(s) who represent TalkJS in this Agreement and the natural person(s) that are capable of legally representing TalkJS;

1.1.4. **Commercial Terms:** the commercial terms that are agreed between TalkJS and Licensee, which are agreed in Writing or online to form an integral part of the Agreement.

1.1.5. **Terms of Service:** All the offers, agreements or services of whatever nature of TalkJS are subject to the terms of service (as made available on [talkjs.com/terms](https://talkjs.com/terms)) which TalkJS has correctly provided to Licensee.

1.1.6. **Documentation:** any manuals, instructions, readme files and other information concerning the TalkJS Services, made available by TalkJS on [talkjs.com/docs](https://talkjs.com/docs);

1.1.7. **Defect:** a defect in the TalkJS Services that leads to impaired Functionality of the TalkJS Services;

1.1.8. **Functionality:** the degree of certainty that the processing of data within the TalkJS Services is done correctly. This means that the processing takes place in accordance with the description thereof in the specifications that can be found at [talkjs.com/features](https://talkjs.com/features);

1.1.9. **GDPR:** regulation (EU) 2016/679, also known as the General Data Protection Regulation;

1.1.10. **Licensee:** the contract party of TalkJS or the party who accepted these terms of service;

1.1.11. **License:** the license as described in article 3 of this Agreement;

1.1.12. **Licensee Data:** all data entered in and/or generated by the Licensee and/or Users connected to the Licensee via the TalkJS Services, that are not the property of TalkJS;

1.1.13. **TalkJS Services:** the software as a service solution provided by TalkJS to the Licensee;

1.1.14. **User:** a natural person communicating with the chat application of the TalkJS Services;

1.1.15. **Written / In Writing:** also includes e-mail;

1.2. All the definitions and terms used in this article which have not been priorly defined in section 1.1 of this Agreement have the same meaning as they do in the GDPR. If a term doesn't exist in the GDPR or this Agreement, a meaning should be given that is closest to an existing definition in the GDPR.

## 2. Data protection

2.1. Parties shall act in accordance with the provisions of the GDPR and any future national or European statutory and other rules on the processing of personal data that may be in force from time to time, as far as such provisions legally apply to a Party. If future statutory and other rules reveal a need to adjust the Agreement, the parties will consult with each other for the purpose of making new arrangements that reflect the meaning of the Agreement as much as possible.

2.2. TalkJS shall be considered as the data processor and the Licensee as the data controller. TalkJS shall only store, copy or use Licensee Data, including email addresses, telephone numbers and names of Users, to the extent necessary to perform its obligations under the Agreement and/or for maintenance. TalkJS does not have any control over the purposes and means of the processing of personal data. Nothing in the Agreement is intended to transfer control over personal data to TalkJS in any way. TalkJS shall inform Licensee with undue delay if, in its opinion, an instruction given by Licensee infringes any applicable privacy regulation.

2.3. If the Licensee processes personal data, it will only process general personal data. In no circumstance will TalkJS accept any responsibility or liability for the processing of sensitive personal data.

2.4. TalkJS shall take appropriate technical and organizational measures to ensure an appropriate level of security to protect personal data on the TalkJS Services against destruction, loss, alteration, unauthorized disclosure or access. The standard measures taken by TalkJS can be viewed via [www.talkjs.com/security](http://www.talkjs.com/security).

In determining the measures to be taken, TalkJS shall take account of the state of the art and the implementation costs as well as of the nature, scope, context and purposes of the processing operation concerned and the various risks, in terms of probability and severity, for the risks and freedoms of individuals.

Licensee shall take appropriate technical and organizational measures to ensure that personal data on the TalkJS Services is stored securely. This includes, but is not limited to, following all of the security recommendations given in the Documentation or suggested to Licensee by TalkJS staff.

2.5. At the first request of the Licensee, TalkJS may cooperate with the parties concerned to exercise their rights with regard to the processing of Personal Data in accordance with Articles 12 to 23 of the GDPR, including the right to information, access, removal including 'right to be forgotten', rectification, transferability, objection and rights in respect of automated individual decision making, including profiling. This cooperation will in principle be assessed as Additional Services.

2.6. TalkJS agrees to provide Licensee with the necessary information at the latter's request, to ensure that the Licensee is able to investigate TalkJS' compliance with the provisions of this article.

2.7. Licensee is entitled to engage an independent expert to investigate whether TalkJS fulfils obligations described in this article, which independent expert will be under an obligation of confidentiality in respect of the foregoing. Audits will be done maximum once per year. TalkJS shall cooperate in the audit and make all information that is reasonably relevant to the audit available as soon as possible. The costs of the audits carried out on the instructions of the Licensee must be borne by the Licensee.

2.8. TalkJS shall inform the Licensee immediately, but in any case within 48 hours, as soon as it finds that there has been any breach with respect to the personal data. This information provided must enable the Licensee to fulfil its obligations under Articles 33 and 34 of the GDPR.

2.9. TalkJS is under no obligation to perform an assessments as described under article 35 and/or 36 of the GDPR.

2.10. TalkJS shall be entitled to make use of sub-processors without the Licensee's prior Written permission. The list of sub-processors is available upon request. In case TalkJS engages a new sub-processor it will notify Licensee. Licensee may object against this engagement in Writing. If TalkJS persists in engaging a sub-processor after objection of Licensee, Licensee may terminate the agreement with immediate effect. TalkJS remains responsible for the performance of sub-processors it engages.

2.11. TalkJS agrees to maintain confidentiality over personal data it processes and it ensures that the persons authorized to process the Personal Data undertake to maintain confidentiality.

2.12. Upon termination of the Agreement, TalkJS shall:

- keep available to the Licensee all personal data via the REST API for at least three (3) weeks; or
- at request of the Licensee delete all personal data.

2.13. Licensee assesses and informs TalkJS about how long certain personal data may be stored on the TalkJS Cloud. Upon the Written request of Licensee TalkJS will delete requested data. TalkJS assesses, at its sole discretion, whether this deletion is deemed an Additional Service or not.

2.14. Licensee warrants that the data processing will be carried out in accordance with the law. This means in any case that the Licensee warrants that it is entitled to collect data or have data collected and that it is entitled to process these data and have these collected.

2.15. Licensee shall indemnify TalkJS for any loss or damage of personal data and costs resulting from any claims by third parties, expressly including the data subjects

and supervisory authorities (such as the Dutch Data Protection Authority), relating to or arising from any unlawful processing operation and/or any other violation of the GDPR or the Agreement that can be attributed to the Licensee.

2.16. TalkJS shall ensure that every processing operation of personal data that is performed by or on behalf of TalkJS, including third parties engaged by it for the purposes of the execution of the Agreement, is carried out within the European Economic Area (EEA) or to or from countries that offer an adequate level of protection in accordance with the GDPR.

2.17. TalkJS shall ensure in-transit encryption of all data.

2.18. TalkJS shall ensure at-rest encryption of all data for Licensees who have chosen the Enterprise plan of the TalkJS Services. TalkJS cannot guarantee at-rest encryption of data for Licensees who have chosen any other plan of the TalkJS Services.

### **3. Applicable law and jurisdiction**

3.1. The Agreement shall be solely governed (in form and substance) by and construed in accordance with the laws of the Netherlands.

3.2. Disputes arising from this Agreement shall be submitted to the competent court of the court Oost-Brabant (“rechtbank Oost-Brabant”) location 's-Hertogenbosch (“locatie 's-Hertogenbosch”), the Netherlands.

IN WITNESS WHEREOF, this Agreement is entered into with effect from the date first set out below.

Your Company

Signature \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Processor Company

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date Signed \_\_\_\_\_