

Data Processing Addendum

In order that you as a service user and data controller (referred to as “Controller” or “you” or “User”) may use or continue to use our AI Chatbot Services (“Services”) offered by us, Chatwize (KVK: 90238257) of 's-Hertogenbosch, Netherlands and data processor (referred to as “Chatwize” or “Processor”), you agree that certain Personal Data you submit as part of your use of our Services and these data processing terms (“Terms”) shall apply (notwithstanding any other terms and conditions applicable to the delivery of the Services to the contrary) in order to address the compliance obligations imposed upon Chatwize and its Users pursuant to applicable Data Protection Law and in particular, Regulation (EU) 2016/679 (GDPR) and the UK’s Data Protection Act (UAVG).

These Terms shall constitute a separate agreement, or they may be incorporated by reference in the relevant Services agreement, as the case may be.

1. DEFINITIONS

- 1.1. In this Agreement, capitalized words shall have the meaning as set out below or, as the case may be, elsewhere in this Agreement:
 - 1.1.1. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with, a party from time to time during the Term.
 - 1.1.2. “Data Protection Law” means the data privacy laws applicable to the processing in connection with the Services, including, where applicable, the GDPR or the UAVG or similar law, or the applicable data privacy laws of any other relevant jurisdiction.
 - 1.1.3. “User(s)” means any user of Chatwize.
 - 1.1.4. “Contractual Clauses” means the standard contractual clauses of the European Commission for the transfer of personal data across borders, as amended or replaced from time to time, or any equivalent set of contractual clauses approved for use under Data Protection Law; and
 - 1.1.5. “Personal Data” means the personal data processed by Processor in connection with the Services on behalf of users during the Term and may include Financial Data, Personal Data, and Special Categories Data as specifically required and transferred by the user. The processing may include activities auxiliary to Chatwize services, such as administrative and other services. This will include names and other information about data subjects included in User materials.
 - 1.1.6. The words “data subject”, “personal data”, “processing” and variations, “controller” and “processor” shall have the meaning attributed to them in Data Protection Law.

2. APPOINTMENT

- 2.1. Chatwize is designated by its Users, Affiliates and Business Affiliates (collectively “Instructing Parties”) to provide and manage various services, including the Services on their behalf. Accordingly, Personal Data may contain personal data in relation to which User and its Instructing Parties are controllers. Chatwize confirms that it is authorized to communicate to User any instructions or other requirements on behalf of User in respect of processing of Personal Data connection with the Services.
- 2.2. Processor is appointed by User to process Personal Data on behalf of User and/or the Instructing Parties, as the case may be, as is necessary to provide the Services or as otherwise agreed by the parties in writing.

3. DURATION

The Terms shall commence on the Effective Date and shall continue in full force and effect until such time as all Services have ceased and all Personal Data in the Processor’s possession or within its reasonable control has been returned or destroyed (the “Term”).

4. DATA PROTECTION COMPLIANCE

- 4.1. In relation to its processing of Personal Data, save as otherwise required by law, Chatwize agrees to:

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- 4.1.1. process Personal Data only as required in connection with the Services and in accordance with User and its Instructing Parties documented lawful instructions from time to time;
- 4.1.2. inform User and its Instructing Parties if, in Chatwize's opinion, an instruction infringes Data Protection Law;
- 4.1.3. ensure that all personnel authorized by Chatwize to process Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- 4.1.4. implement appropriate technical and organizational measures to appropriately safeguard Personal Data having regard to the nature of the personal data which is to be protected and the risk of harm which might result from any Security Breach (as defined below), at a minimum the measures set out in the Schedule;
- 4.1.5. promptly inform User and its Instructing Parties of any data subject requests under Data Protection Law or regulatory or law enforcement requests relating to Personal Data. Chatwize shall not acknowledge or otherwise respond to the subject access request except with User and its Instructing Parties prior written approval, which shall not be unreasonably withheld;
- 4.1.6. provide such assistance as User and its Instructing Parties may reasonably require in order to ensure Chatwize's compliance with Data Protection Law in relation to data security, data breach notifications, data protection impact assessments and prior consultations with a competent authority;
- 4.1.7. at User and its Instructing Parties choice, without delay delete or return all Personal Data to User and its Instructing Parties, and delete existing copies of all Personal Data in the Processor's possession or within its reasonable control (including those held by a Sub processor); and
- 4.1.8. make available to User and its Instructing Parties information reasonably necessary to demonstrate Chatwize compliance with these Terms and allow for, and contribute to, audits and inspections carried out by User and its Instructing Parties.

5. SUBPROCESSORS

- 5.1. Processor will sub-contract, outsource, assign, novate or otherwise transfer obligations under these Terms or engage any subcontractors involved in the processing of Personal Data (each a "Sub processor") only with User's prior written consent and subject to subclause 5.2.
- 5.2. When engaging a Sub processor, Processor will:
 - 5.2.1. carry out reasonable due diligence;
 - 5.2.2. enter into a contract on terms, as far as practicable, same as those in these Terms, and which may include Contractual Clauses to provide adequate safeguards with respect to the processing of Personal Data; and
 - 5.2.3. inform User of any intended changes concerning the addition or replacement of a Sub processor from time to time. If User object's to any such change on reasonable grounds, then acting in good faith the parties will work together to resolve such objection.

6. SECURITY INCIDENTS

- 6.1. "Security Breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
- 6.2. Processor will notify User without undue delay if Processor aware of any Security Breach.
- 6.3. Processor will investigate the Security Breach and take reasonable action to identify, prevent and mitigate the effects of the Security Breach. Processor will take such further action as User may reasonably request in order to comply with Data Protection Law.
- 6.4. Processor may not release or publish any filing, communication, notice, press release, or report concerning any Security Breach ("Notices") without User's prior written approval; such approval shall not be unreasonably withheld.

7. INTERNATIONAL DATA TRANSFERS

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- 7.1. "Security Breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
- 7.2. Chatwize will notify User without undue delay if Chatwize becomes aware of any Security Breach within 24 hours of discovering such Breach and provide User with:
 - 7.2.1. a detailed description of the Security Incident;
 - 7.2.2. the type of data that was the subject of the Security Incident;
 - 7.2.3. the identity of each affected person, and
 - 7.2.4. the steps Chatwize takes in order to mitigate and remediate such Security Incident, in each case as soon as such information can be collected or otherwise becomes available.
- 7.3. Chatwize shall use its best efforts to immediately mitigate and remedy any Security Incident and prevent any further Security Incident(s) at its sole expense.
- 7.4. Chatwize agrees that User shall have the sole right to determine (i) whether notice of the Security Incident is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others as required by law or regulation, or otherwise in User's discretion, (ii) the contents of such notice, and (iii) whether any type of remediation may be offered to affected persons, as well as the nature and extent of any such remediation.
- 7.5. In the event of a Security Incident involving Personal Data in Chatwize's possession or otherwise caused by or related to Chatwize's acts or omissions, and without limiting User's other rights and remedies, Chatwize will pay all costs and expenses of (i) any disclosures and notification required by applicable law or as otherwise determined as appropriate in User's reasonable discretion, (ii) monitoring and reporting on the impacted individuals' or entities' credit records if determined in User's reasonable discretion as reasonable to protect such individuals, and (iii) all other costs incurred by User in responding to, remediating and mitigating damages caused by such Security Incident.
- 7.6. Chatwize will investigate the Security Breach and take reasonable action to identify, prevent and mitigate the effects of the Security Breach. Chatwize will take such further action as User may reasonably request in order to comply with Data Protection Law.
- 7.7. Chatwize may not release or publish any filing, communication, notice, press release, or report concerning any Security Breach ("Notices") without User's prior written approval; such approval shall not be unreasonably withheld.

8. AUDIT

9. Users may, on an annual basis or more frequently as reasonably requested by User, at User's expense, conduct an audit to verify that Chatwize is operating in accordance with this UAVG. Such audit(s) may include a review of all aspects of Chatwize's performance, including, but not limited to, Chatwize's general controls and security practices and procedures. Chatwize will cooperate with User in conducting any such audit, and will allow User reasonable access, during normal business hours and upon reasonable notice, to all pertinent records, documentation, computer systems, data, personnel, and areas used to Process the User Data areas as User reasonably requests to complete such audit. User will take reasonable steps to prevent the audit from materially impacting Chatwize's operations.
10. Chatwize shall correct any deviations from Security Best Practices that are identified in any security audit as soon as practicable, but in no event more than five days after receiving notice from User outlining any deviations (provided, however, that if five days is not a practicable cure period, then Chatwize may instead present a remediation plan to User within such five day period that sets forth an achievable and reasonable timeframe, and Chatwize must thereafter diligently proceed to correct any deviations in accordance with such plan).

11. INTERNATIONAL DATA TRANSFERS

- 11.1. Chatwize will ensure that no Personal Data are transferred out of either:
 - 11.1.1. the by the User approved data environment; or
 - 11.1.2. any territory in which restrictions are imposed on the transfer of Personal Data across borders under Data Protection Laws,
 - 11.1.3. without the prior written consent of User.

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11.1.4. Chatwize will ensure that Contractual Clauses or other applicable transfer mechanism, are in place to ensure adequate level of data protection.

12. INDEMNITY

Notwithstanding any provisions of the relevant Services agreement to the contrary, Processor shall and hereby agrees to indemnify User and Instructing Parties and their officers, employees, agents and subcontractors (each an “Indemnified Party”) from and against any claims, losses, demands, actions, liabilities, fines, penalties, reasonable expenses, damages and settlement amounts (including reasonable legal fees and costs) incurred by any Indemnified Party as a result of any gross negligence or wilful breach by Processor of these Terms.

13. MISCELLANEOUS

- 13.1. Clause and other headings in these Terms are for convenience only and shall not affect the meaning or interpretation of these Terms.
- 13.2. To the extent of any conflict, these Terms shall prevail over any Services agreement or other agreement.
- 13.3. Nothing in these Terms will exclude or limit the liability of either party which cannot be limited or excluded by applicable law. Subject to the foregoing sentence, (i) these Terms, including any appendices, constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions of the parties relating to its subject matter; and (ii) in relation to the subject matter of these Terms neither party has relied on, and neither party will have any right or remedy based on, any statement, representation or warranty, whether made negligently or innocently, except those expressly set out in these Terms.
- 13.4. User shall agree to any amendment to these Terms that may be required from time to time for us and Instructing Parties to comply with any amended Data Protection Laws.
- 13.5. All notices of termination or breach must be in English, in writing and addressed to the other party’s primary contact person or legal department. Notice will be treated as given on receipt, as verified by a valid receipt or electronic log. Postal notices will be deemed received 48 hours from the date of posting by recorded delivery or registered post.
- 13.6. The provisions of these Terms are severable. If any phrase, clause or provision is invalid or unenforceable in whole or in part, such invalidity or unenforceability shall affect only such phrase, clause or provision, and the rest of these Terms shall remain in full force and effect.
- 13.7. These Terms are governed by the law of the Netherlands and the parties submit to the exclusive jurisdiction of the courts of the Netherlands in relation to any dispute (contractual or non-contractual) concerning these Terms save that either party may apply to any court for an injunction or other relief to protect its property or confidential information.

14. SCHEDULE

- 14.1. **Categories of data subjects whose personal data is transferred**
Data subjects whose Personal Data is uploaded by data exporter to, or otherwise received directly or indirectly from data exporter (including from a Permitted User on data exporter’s behalf) by or through the Services, or provided by data exporter to Chatwize to input into the Services.
- 14.2. **Categories of personal data transferred**
The data exporter may transfer Personal Data to Chatwize, the extent of which is determined and controlled by the data exporter in its sole discretion. Such Personal Data may include any category of Personal Data the data exporter or its Permitted Users may enter into the Services.
- 14.3. **Sensitive data transferred**
None anticipated.
- 14.4. **The frequency of the transfer**
Continuously, for the length of the Agreement between the Parties.
- 14.5. **Nature of the processing**

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User Personal Data transferred will be processed to (i) provide the Services to the data exporter and fulfill the data importer's obligations under the Agreement; and (ii) comply with applicable law.

14.6. Purpose(s) of the data transfer and further processing

User Personal Data transferred will be processed to (i) provide the Services to the data exporter and fulfill the data importer's obligations under the Agreement; and (ii) comply with applicable law.

14.7. The period for which the personal data will be retained

User Personal Data will be retained for the length of time necessary to provide Services under the Agreement and in accordance with Chatwize's data retention processes and as otherwise required by applicable law.

14.8. For transfers to (sub-)processors, also specify subject matter, nature and duration of the processing

Chatwize's sub-processors will process User Personal Data to assist Chatwize in providing the Services pursuant to the Agreement, for as long as needed for Chatwize to provide the Services.

14.9. Subprocessors

Chatwize currently uses subprocessors to provide core infrastructure and other services. Prior to engaging any subprocessor, Chatwize evaluates their privacy, security, and confidentiality practices, and executes an agreement with the subprocessor governing applicable privacy and security obligations, including an appropriate data transfer mechanism where required. Chatwize may use the following subprocessors for hosting User data and providing or supporting the core infrastructure that helps deliver the Chatwize services: [GPT-trainer](#) (Paladin Max, Inc), [AWS \(Amazon\)](#) and [OpenAI OpCo, LLC](#)

14.10. Security measures

14.10.1. Chatwize represents, warrants, and undertakes that it has established and for so long as Chatwize Processes Personal Data it will at all times enforce, an ongoing program of Security Policies, Security Procedures, and Security Technical Controls, which reasonably ensures delivery of Security Best Practices, and which includes, without limitation, the following:

14.11. Information Security

- 14.11.1. a privacy and security incident management program;
- 14.11.2. a privacy and security awareness program;
- 14.11.3. business continuity and disaster recovery plans, including regular testing; and
- 14.11.4. procedures to conduct periodic independent security risk evaluations to identify critical information assets, assess threats to such assets, determine potential vulnerabilities, and provide for timely and appropriate remediation.

14.12. Physical Access

- 14.12.1. physical protection mechanisms for all information assets and information technology to ensure such assets and technology are stored and appropriately protected;
- 14.12.2. appropriate facility and room entry controls to limit physical access to systems that store or process User Data;
- 14.12.3. processes to ensure access to facilities and rooms are monitored and is restricted on a "need to know" basis; and
- 14.12.4. controls to physically secure all User Data and to securely destroy such information when it is no longer needed in accordance with this Agreement.

14.13. Logical Access

- 14.13.1. appropriate mechanisms for user authentication and authorization in accordance with a "need to know" policy;
- 14.13.2. controls and auditable logs to enforce and maintain rigorous access restrictions for employees, and subcontractors;
- 14.13.3. timely and accurate administration of user account and authentication management;
- 14.13.4. processes to ensure Chatwize-supplied defaults for passwords and security parameters are appropriately managed (e.g., changed periodically etc.);

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- 14.13.5.mechanisms to encrypt or hash all passwords or otherwise ensure all passwords are not stored unsecured in clear text; and
- 14.13.6.processes to immediately revoke accesses of inactive accounts or terminated/transferred users.
- 14.14. Security Architecture and Design**
 - 14.14.1.a security architecture that reasonably ensures delivery of Security Best Practices;
 - 14.14.2.documented and enforced technology configuration standards;
 - 14.14.3.regular testing of security systems and Security Best Practices;
 - 14.14.4.a system of effective firewall(s) and intrusion detection technologies necessary to protect User Data; and
 - 14.14.5.database and application layer design processes that ensure web applications are designed to protect the information data that is Processed through such systems.
- 14.15. System and Network Management**
 - 14.15.1.mechanisms to keep security patches current;
 - 14.15.2.monitor, analyze, and respond to security alerts;
 - 14.15.3.appropriate network security design elements that provide for segregation of data from other third-party data;
 - 14.15.4.use and regularly update anti-virus software; and
 - 14.15.5.the integrity, resilience and availability of any software or services utilized to Process the User Data.
 - 14.15.6.Failure by Chatwize to comply with Security Best Practices or its obligations hereunder shall constitute a breach of the Agreement.
- 14.16. Minimum technical measures**
 - 14.16.1.Firewalls which are properly configured and using the latest software;
 - 14.16.2.user access control management;
 - 14.16.3.unique passwords of sufficient complexity and regular expiry on all devices;
 - 14.16.4.secure configuration on all devices;
 - 14.16.5.regular software updates, if appropriate, by using patch management software;
 - 14.16.6.timely decommissioning and secure wiping (that renders data unrecoverable) of old software and hardware;
 - 14.16.7.real-time protection anti-virus, anti-malware and anti-spyware software;
 - 14.16.8.https;
 - 14.16.9.encryption of all portable devices ensuring appropriate protection of the key;
 - 14.16.10. encryption of personal data in transit by using suitable encryption solutions;
 - 14.16.11. multi-factor authentication for remote access;
 - 14.16.12. intrusion detection and prevention systems;
 - 14.16.13. appropriate and proportionate monitoring of personnel; and
 - 14.16.14. data backup and disaster recovery measures and procedures.
 - 14.16.15. Minimal organizational measures
 - 14.16.16. Vet all personnel including staff, contractors, vendors and suppliers (including Sub processors) on continuous basis;
 - 14.16.17. non-disclosure agreements used with all personnel;
 - 14.16.18. regular training of all personnel on confidentiality, data processing obligations, identification of Security Breaches and risks;
 - 14.16.19. apply principle of least authority, including a restricted or strictly controlled transit of data and material outside of office;
 - 14.16.20. physical security on premises including reception or front desk, security passes, clean desk policy, storage of documents in secure cabinets, secure disposal of materials, etc.;
 - 14.16.21. apply appropriate policies, as appropriate.

15. CROSS BORDER DATA TRANSFER MECHANISMS

- 15.1. In the event the Services are covered by more than one Transfer Mechanism, the transfer of personal data will be subject to a single Transfer Mechanism in accordance with the following order of precedence:

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- 15.2. Chatwize's binding corporate rules as set forth in this Schedule
- 15.3. the applicable Standard Contractual Clauses as set forth in this Schedule
- 15.4. other applicable data Transfer Mechanisms permitted under Applicable Data Protection Law.

16. BINDING CORPORATE RULES

- 16.1. The parties agree that Chatwize will process personal data within the Chatwize Services in accordance with the data protection policies that are approved by European data protection authorities after significant consultation with those authorities and enable multinational businesses, such as Chatwize, to make intra-organizational transfers of personal data across borders in compliance with EU data protection law.
- 16.2. The parties further agree that, with respect to the Chatwize Services, the Binding Corporate Rules will be the lawful Transfer Mechanism of User Account Data, User Content, and User Usage Data from the EEA, Switzerland, or the United Kingdom.

17. STANDARD CONTRACTUAL CLAUSES

- 17.1. The parties agree that the 2021 Standard contractual clauses for international transfers as publish and available at https://commission.europa.eu/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-ccc_en will apply to personal data that is transferred via the Services from the European Economic Area or Switzerland, either directly or via onward transfer, to any country or recipient outside the European Economic Area or Switzerland that is:
 - 17.1.1. not recognized by the Information Commissioner's Office or European Commission (or, in the case of transfers from Switzerland, the competent authority for Switzerland) as providing an adequate level of protection for personal data and
 - 17.1.2. not covered by the above Binding Corporate Rules. For data transfers from the European Economic Area that are subject to the 2021 Standard Contractual Clauses, the 2021 Standard Contractual Clauses will be deemed entered into (and incorporated into this Addendum by this reference) and completed as follows:
 - 17.1.2.1. Module One (Controller to Controller) of the 2021 Standard Contractual Clauses will apply where Chatwize is processing User Account Data and
 - 17.1.2.2. User is a controller of User Usage Data and Chatwize is processing User Usage Data.
 - 17.1.2.3. Module Two (Controller to Processor) of the 2021 Standard Contractual Clauses will apply where User is a controller of User Content and Chatwize is processing User Content.
 - 17.1.2.4. Module Three (Processor to Processor) of the 2021 Standard Contractual Clauses will apply where User is a processor of User Content and Chatwize is processing User Content.
 - 17.1.2.5. Module Four (Processor to Controller) of the 2021 Standard Contractual Clauses will apply where User is a processor of User Usage Data and Chatwize processes User Usage Data.
 - 17.1.3. For each Module, where applicable:
 - 17.1.3.1. Data Exporter: User.
 - 17.1.3.2. Contact details: The email address(es) designated by User in User's account via its notification preferences.
 - 17.1.3.3. Data Exporter Role: The Data Exporter's role is set forth in this Agreement.
 - 17.1.3.4. Signature and Date: By entering into the Agreement, Data Exporter is deemed to have signed these Standard Contractual Clauses incorporated herein, as of the Effective Date of the Agreement.
 - 17.1.3.5. Data Importer: Chatwize.
 - 17.1.3.6. Contact details: Chatwize's Support Team - info@chatwize.ai.

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- 17.1.3.7. Data Importer Role: The Data Importer's role is set forth in this Agreement.
- 17.1.3.8. Signature and Date: By entering into the Agreement, Data Importer is deemed to have signed these Standard Contractual Clauses, incorporated herein, including their Annexes, as of the Effective Date of the Agreement.
- 17.2. The categories of data subjects are described in this Agreement
- 17.3. The Sensitive Data transferred is described in this Agreement.
- 17.4. The frequency of the transfer is a continuous basis for the duration of the Agreement.
- 17.5. The nature of the processing is described in this Agreement.
- 17.6. The purpose of the processing is described in this Agreement.
- 17.7. The period for which the personal data will be retained is this Agreement.
- 17.8. The Supervisory Authority shall be the Autoriteit Persoonsgegevens (www.autoriteitpersoonsgegevens.nl).
- 17.9. For transfers to sub-processors, the subject matter, nature, and duration of the processing is set forth below.
- 17.10. The Schedule Security Measures of this Agreement serves as Annex of the Standard Contractual Clauses.
- 17.11. Conflict. To the extent there is any conflict between the Standard Contractual Clauses, and any other terms in this Agreement, or the Privacy Policy, the provisions of the Standard Contractual Clauses will prevail.