

Data Processing Agreement Getdialog

This Annex is part of the Agreement and is a data processing agreement in the sense of Article 28(3) of the General Data Protection Regulation (hereinafter: “GDPR”). In this annex, the terms Processor (Getdialog) and Controller (Client) will be used.

Article 1. Scope

- 1.1. This Data Processing Agreement applies insofar as one or more Processing of Personal Data occurs during the provision of Services under the Agreement.
- 1.2. The natural persons who actually use the Services of the Processor under the Agreement, such as employees or third parties of the Controller and possibly their representatives, will hereinafter be referred to as “Data Subjects.”
- 1.3. All terms in this Data Processing Agreement have the meaning assigned to them in the GDPR.
- 1.4. If more and other Personal Data are processed on behalf of the Controller, or if processed differently than described in this article, this Data Processing Agreement also applies to those Processings as much as possible.
- 1.5. If the Processor qualifies as a ‘sub-processor’ in specific cases under the GDPR, the provisions of this Data Processing Agreement will remain fully applicable.
- 1.6. The annexes are part of this Data Processing Agreement. These are:
 - Annex A: Specification of Personal Data and Data Subjects
 - Annex B: Specification of Security

Article 2. Subject

- 2.1. The Processor processes Personal Data only on behalf and under the responsibility of the Controller. Processing will only take place in the context of the execution of the Agreement plus those purposes that are reasonably related to it or that are determined with further consent.
- 2.2. The Personal Data processed by the Processor under the Agreement and the categories of Data Subjects from whom these originate are included in Annex A.
- 2.3. The Processor will make efforts to process the Personal Data provided by or through the Controller carefully.
- 2.4. The Processor may use the Personal Data for quality purposes, such as surveying the Data Subjects or conducting scientific or statistical research into the quality of its services.
- 2.5. The parties will inform each other as soon as possible about relevant changes in the service provision or with regard to Personal Data.
- 2.6. The Personal Data to be processed on behalf of the Controller remain the property of the Controller and/or the respective Data Subjects.

Article 3. Processor Obligations

- 3.1. Regarding the Processings mentioned in Annex A, the Processor will ensure compliance with applicable laws and regulations, including but not limited to the laws and regulations in the field of Personal Data protection such as the GDPR.
- 3.2. The Processor will inform the Controller at its request about the measures it has taken concerning its obligations under this Data Processing Agreement.
- 3.3. The obligations of the Processor arising from this Data Processing Agreement also apply to those who process Personal Data under the authority of the Processor, including but not limited to employees in the broadest sense of the word.

- 3.4. The Processor will immediately inform the Controller if an instruction, in its opinion, conflicts with the GDPR or another Union or Member State data protection provision.
- 3.5. The Processor will assist the Controller as much as it can with the obligations in Articles 32 to 36 GDPR.
- 3.6. The Processor will keep a record of all categories of processing activities it carries out for the Controller under this Data Processing Agreement, according to Article 30 GDPR. The Controller has no right to inspect this register except as specified in Article 11.
- 3.7. The Processor is entitled to charge the Controller for all reasonable costs incurred in fulfilling the obligations in Articles 3.2 and 3.5.

Article 4. Transfer of Personal Data

- 4.1. The Processor may process Personal Data in countries within the European Economic Area ("EEA"). The Processor may also transfer Personal Data to a country outside the EEA, provided that the country ensures an adequate level of protection and complies with the other obligations imposed on it by this Data Processing Agreement and the GDPR.
- 4.2. The Processor will inform the Controller about which country or countries this concerns. The Processor guarantees that, considering the circumstances that affect the transfer of the Personal Data or a category of data transfers, there is an adequate level of protection in countries outside the European Union.
- 4.3. In particular, the Processor will take into account the duration of the intended processing, the country of origin and the final destination country, the general and sectoral legal rules applicable in the relevant country, and the professional rules and security measures observed in those countries when determining an adequate level of protection.

Article 5. Engaging Sub-processors

- 5.1. The Processor may use sub-processors within the framework of this Data Processing Agreement. The Controller gives explicit permission for the sub-processors included in Annex A.
- 5.2. When the Processor wants to engage new or more sub-processors, it will inform the Controller in writing ('In Writing'), including email communication provided the sender's identity and the content's integrity are sufficiently established. The Controller may object in Writing within two weeks after notification if the use of a specific third party is unacceptable. The parties will then consult to find a solution.
- 5.3. The Processor will impose the same obligations on the sub-processors it engages as those agreed between the Controller and the Processor.

Article 6. Division of Responsibility

- 6.1. The Processor is solely responsible for the Processing of the Personal Data under this Data Processing Agreement in accordance with the instructions of the Controller and under the explicit (final) responsibility of the Controller.
- 6.2. The Processor is explicitly not responsible for other Processings of Personal Data, including but not limited to the collection of Personal Data by the Controller, Processings for purposes not reported by the Controller to the Processor, Processings by third parties and/or for other purposes.
- 6.3. The Controller guarantees that the content, use, and instructions for the Processing of the Personal Data as referred to in this Data Processing Agreement are not unlawful and do not infringe any rights of third parties and indemnifies the Processor against all claims and claims related to this.

Article 7. Security

- 7.1. The Processor will take appropriate technical and organizational measures to secure Personal Data against loss or any form of unlawful processing (particularly against destruction, loss, alteration, unauthorized disclosure of, or access to provided, stored, or otherwise processed Personal Data). The Processor does not guarantee that the technical and organizational measures will be effective under all circumstances. These measures will, considering the state of the art and the costs of implementation, ensure an appropriate level of security given the risks that the processing and the nature of the Personal Data to be protected entail.
- 7.2. The technical and organizational measures taken by the Processor are described in Annex B. The Controller acknowledges having reviewed this Annex and agrees that the security measures taken ensure an appropriate level of security.

Article 8. Notification Duty

- 8.1. The Controller is at all times responsible for reporting a Data Breach to the supervisory authority and/or Data Subjects.
- 8.2. The Processor will inform the Controller without undue delay after becoming aware of the Data Breach. A notification is made only if the event actually occurred.
- 8.3. The notification duty includes at least, insofar as known:
- the nature of the Data Breach;
 - the categories of Data Subjects and Personal Data;
 - the number of Data Subjects and Personal Data;
 - the likely consequences of the Data Breach;
 - the measures the Processor has proposed or taken to address the Data Breach and to mitigate its possible adverse effects.

Article 9. Requests from Data Subjects

- 9.1. If a Data Subject submits a request to exercise his/her legal rights (Articles 15-23 GDPR) to the Processor, the Processor will forward the request to the Controller, who will handle the request further. The Processor may inform the Data Subject of this.
- 9.2. If the Controller requires, the Processor will assist in handling requests from Data Subjects through appropriate technical and organizational measures, insofar as possible and reasonable. The Processor may charge the Controller reasonable costs for this.

Article 10. Confidentiality

- 10.1. All Personal Data received by the Processor from the Controller and/or collected by the Processor itself within the framework of this Data Processing Agreement, as well as the results of an audit, are subject to a duty of confidentiality towards third parties. The Processor will not use this information for any purpose other than described in the Data Processing Agreement unless it has been anonymized so that it is not traceable to Data Subjects.
- 10.2. This duty of confidentiality does not apply insofar as the Controller has given explicit Written permission to provide the information to third parties if the provision of the information to third parties is logically necessary considering the nature of the given assignment and the execution of this Data Processing Agreement, or if there is a legal obligation to provide the information to a third party.

Article 11. Audit

- 11.1. The Controller has the right to have audits conducted by an independent certified third party bound by confidentiality to verify all points of the Data Processing Agreement. The Controller's investigation will always be limited to the systems used by the Processor for the Processings.
- 11.2. This audit may take place once every twelve (12) months or only with a concrete suspicion of misuse of Personal Data. This suspicion must be sufficiently substantiated by the Controller.
- 11.3. The Controller will announce the audit at least six (6) weeks in advance and ensure that the audit disrupts the Processor's business operations as little as possible.
- 11.4. The Processor will cooperate with the audit and provide all reasonably relevant information for the audit, including supporting data such as system logs and employees, as soon as possible.
- 11.5. The findings from the audit will be assessed by the Processor, and the Processor may implement them at its discretion and in the manner it determines. The Processor will bear the costs of these measures unless the Controller explicitly requests these measures.
- 11.6. The costs of the audit are borne by the Controller. The Processor is entitled to charge the Controller all costs associated with this audit.
- 11.7. The Controller will provide a copy of the audit report to the Processor.

Article 12. Liability

- 12.1. Liability is aligned with the provisions of the General Terms and Conditions.

Article 13. Duration and Termination

- 13.1. This Data Processing Agreement is concluded by the Parties signing the Agreement. Amendments to this Data Processing Agreement are only valid if agreed in Writing between the Parties.
- 13.2. This Data Processing Agreement is entered into for the same duration as the Agreement.
- 13.3. Upon termination of the Data Processing Agreement, the Processor will, at the Controller's choice, return all Personal Data in its possession in original or copy form to the Controller and/or delete and/or destroy these original Personal Data and any copies thereof, unless storage of the Personal Data is legally required by Union or Member State law. The Processor is entitled to charge the Controller all reasonable costs for this.
- 13.4. The Controller may verify compliance with the previous clause at its own expense under Article 11 of the Data Processing Agreement.
- 13.5. The Processor is entitled to revise this Data Processing Agreement from time to time. It will notify the Controller of the changes at least three (3) months in advance. The Controller may terminate at the end of these three (3) months if it cannot agree with the changes.

Article 14. Governing Law and Dispute Resolution

- 14.1. The Data Processing Agreement and its performance are governed by Dutch law.
- 14.2. Dispute resolution takes place in accordance with the provisions in the General Terms and Conditions.





Annex A: Specification of Personal Data and Data Subjects

Categories of Data Subjects and Personal Data for various purposes

The Processor may process the following (special) Personal Data of the mentioned categories of Data Subjects on behalf of the Controller under Article 1.1 of the Data Processing Agreement. Depending on what is agreed in the Agreement, the following categories of Data Subjects and Personal Data apply. Data Subjects may include employees, stakeholders, or third parties of the Controller.

Provision of Services as agreed in the Agreement

Employees of the Controller: for creating the account to use the Service:

- First and last name (possibly including initials)
- (Business) email address

Employees of the Controller: for answering questions from Service users:

- First and last name (possibly including initials)
- (Business) email address
- Phone number (optional)
- Possible personal data mentioned in the questions

Stakeholders of the Controller: for using the Service:

- Data related to the Data Subject

The Controller guarantees that the Personal Data and categories of Data Subjects described in this Annex 1 are complete and correct and indemnifies the Processor for any defects and claims resulting from an incorrect representation by the Controller.

Sub-processors:

- Auth0
- Mailchimp
- Zendesk
- AWS
- Pipedrive
- Mailgun
- Mozaik
- Microsoft
- Webinar Geek

Annex B: Specification of Security

Dialog has implemented an ISMS and is has obtained ISO 27001 certification.

