



ClickSoftware Client General Data Protection Regulation Addendum

This ClickSoftware Client General Data Protection Regulation Addendum (“Addendum”) applies to each agreement between ClickSoftware (or any ClickSoftware Affiliate) and Client (or any Client Affiliate) under which ClickSoftware Processes Personal Data as part of performing under that agreement (“Agreement”).

This Addendum consists of

- the terms and conditions below,
- the Agreement, which is incorporated by reference, and
- policies or procedures referenced in this Addendum.

Term

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|---------------------------|--------------------------------|
| Addendum Expiration Date: | Coterminous with the Agreement |
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SECTION 1 Purpose

This Addendum modifies and supplements the terms and conditions in the Agreement as they relate to ClickSoftware’s Processing of Personal Data and compliance with Data Protection Law. Notwithstanding anything to the contrary in the Agreement, if there is a conflict between this Addendum and the Agreement, this Addendum will control. This Addendum will be attached to and incorporated into the Agreement.

SECTION 2 Definitions

Capitalized terms used but not defined have the meaning given in the Agreement.

“Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“ClickSoftware Group” means ClickSoftware and its Affiliates engaged in the Processing of Personal Data.

“Controller” means the entity which determines the purposes and means of the Processing of Personal Data.

“Data Protection Law” means any law, rule, regulation, decree, statute, or other enactment, order, mandate or resolution, applicable to Client or ClickSoftware, relating to data security, data protection and/or privacy, including 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 processing of personal data and the free movement of that data (“GDPR”), and any implementing, derivative or related legislation, rule, regulation, and regulatory guidance, as amended, extended, repealed and replaced, or re-enacted.

“*Personal Data*” means any information relating to an identified or identifiable natural person (“*Data Subject*”). An identifiable natural person is one who can be identified, directly or indirectly, in particular by referencing an identifier such as a name, 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.

“*Personal Data Breach*” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data, whether transmitted, stored, or otherwise Processed.

“*Processing*” means any operation or set of operations that is performed on Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction. “*Process*” and “*Processed*” will have a corresponding meaning.

“*Processor*” means the entity which Processes Personal Data on behalf of the Controller.

“*Sub-processor*” means any Processor engaged by ClickSoftware or a member of the ClickSoftware Group.

SECTION 3 GDPR requirements

- (1) Without limiting ClickSoftware’s obligation to comply with the GDPR, ClickSoftware, in its capacity as a Data Processor or sub-processor of Personal Data, will
 - (i) Process Personal Data only on documented instructions from Client, including with regard to transfers of Personal Data to a third country or an international organization, unless required to do so by European Union or Member State law to which Client is subject. In such case, Client will inform ClickSoftware of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest,
 - (ii) ensure that persons authorized to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality,
 - (iii) take all measures required in accordance with good industry practice and by Data Protection Law relating to data security (including pursuant to Article 32 of the GDPR),
 - (iv) not engage another party to Process Personal Data without Client’s prior written consent,
 - (v) taking into account the nature of the Processing, assist Client by appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of Client’s obligation to respond to requests for exercising the Data Subject’s rights laid down in Data Protection Law (including Chapter III of the GDPR),
 - (vi) reasonably assist Client in ensuring compliance with data security, Personal Data Breach, data protection impact assessments, and engaging in other consultations, pursuant to Data Protection Law (including Articles 32 to 36 of the GDPR taking into account the nature of processing and the information available to ClickSoftware,
 - (vii) at the choice of Client, promptly delete or return all the Personal Data to Client after the end of the provision of Services relating to Processing, and delete existing copies unless European Union or Member State law requires storage of Personal Data,
 - (viii) without limiting any of Client’s existing audit rights under the Agreement (if any), make available to Client all information reasonably necessary to demonstrate compliance with

Data Protection Law (including the obligations laid down in Article 28 of the GDPR) and allow for and contribute to reasonably frequent audits, including inspections, conducted by Client or another auditor mandated by Client, provided that (i) each party shall bear its own costs in connection with an audit up to one (1) audit per contractual year and (ii) for any further audits during the same contractual year, Client shall bear the costs and (iii) each party shall always bear its own costs in relation to audits initiated by a competent supervisory authority and (iv) any audit or inspection shall not include penetration testing, unless mutually agreed to in writing by the parties, and

- (ix) immediately inform Client if, in its opinion, an instruction infringes Data Protection Law.
- (2) The subject matter of the Processing, including the Processing operations carried out by ClickSoftware on behalf of Client and Client's Processing instructions for ClickSoftware, will be described in statement of work, Client purchase order or a written agreement signed by the parties' authorized representatives, which forms an integral part of the Agreement.
- (3) ClickSoftware will notify Client without undue delay upon becoming aware of a Personal Data Breach.
- (4) Where Client faces an actual or potential claim arising out of or related to violation of any Data Protection Law (e.g., Article 82 of the GDPR) concerning the Services, ClickSoftware will promptly provide all materials and information reasonably requested by Client that is relevant to the defense of such claim and the underlying circumstances concerning the claim.
- (5) ClickSoftware will comply with Data Protection Law.

SECTION 4 Insurance

In addition to any other insurance required under the Agreement, ClickSoftware will maintain insurance coverage for privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs) of at least \$2,000,000 US per occurrence.

SECTION 5 Sub-Processors

5.1. Client acknowledges and agrees that (a) ClickSoftware's Affiliates may be retained as sub-processors; and (b) ClickSoftware and ClickSoftware's Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services. ClickSoftware or a ClickSoftware Affiliate has entered into a written agreement with each Sub-processor containing data protection obligations not less protective than those in this Agreement to the extent applicable to the nature of the services provided by such Sub-processor.

5.2 **List of Current Sub-processors and Notification of New Sub-processors.** ClickSoftware shall make available to Client the current list of Sub-processors for the Services in Appendix 1 of this Addendum. ClickSoftware shall provide Client with an e-mail notification of a new Sub-processor(s) before authorizing any new Sub-processor(s) to Process Personal Data in connection with the provision of the applicable Services.

5.3 **Objection Right for New Sub-processors.** Client may object to ClickSoftware's use of a new Sub-processor by notifying ClickSoftware promptly in writing within ten (10) business days after receipt of ClickSoftware's notice in accordance with the mechanism set out in Section 5.2. In the event Client objects to a new Sub-processor, as permitted in the preceding sentence, ClickSoftware will use reasonable efforts



to make available to Client a change in the Services or recommend a commercially reasonable change to Client's configuration or use of the Services to avoid Processing of Personal Data by the objected-to new Sub-processor without unreasonably burdening Client. If ClickSoftware is unable to make available such change within a reasonable period of time, which shall not exceed thirty (30) days, Client may terminate the applicable Services with respect only to those Services which cannot be provided by ClickSoftware without the use of the objected-to new Sub-processor by providing written notice to ClickSoftware.

5.4 **Liability.** ClickSoftware shall be liable for the acts and omissions of its Sub-processors to the same extent ClickSoftware would be liable if performing the services of each Sub-processor directly under the terms of this Addendum, except as otherwise set forth in the Agreement.

SECTION 6 Miscellaneous

- (a) **Counterparts.** The parties may execute this Addendum in any number of counterparts. Each counterpart is an original and all counterparts constitute one agreement binding both parties. Facsimile and electronic signatures will be binding for all purposes.
- (b) **Construction.** Neither party has entered this Addendum in reliance on any promise, representation, or warranty not contained herein. This Addendum will be interpreted according to its plain meaning without presuming that it should favor either party.
- (c) **Entire agreement.** This Addendum supersedes all prior and contemporaneous communications, whether written or oral, regarding the subject matter covered in this Addendum.
- (d) **No further amendment.** Except as modified by this Addendum, the Agreement remains unmodified and in full force and effect.

Appendix 1
List of Sub-Processors

Amazon Web Services (AWS)

MongoDB

Twilio