CHILIpublish

ANNEX II – PRIVACY AND DATA PROTECTION

Version: 01 April 2023 (Service Agent)

Content:

Overview

CHILI publish helps customers maintain control of their privacy and data security in a myriad of ways:

- Data Security: We provide our customers compliance with high security standards, such as encryption of data in motion over public networks, Distributed Denial of Service ("DDoS") mitigations.
- Disclosure of Customer Service Data: CHILI publish only discloses Service Data to third parties where disclosure is necessary to provide the services or as required to respond to lawful requests from public authorities.
- Trust: CHILI publish has developed security protections and control processes to help our customers ensure a secure environment for their information.
- Data Hosting Locality: Customers who purchase CHILI GraFx might have the ability to select the region (from the available CHILI publish regional options) where the data center which hosts their Service Data is located.
- Access Management: CHILI publish provides an advanced set of access and encryption features to help customers effectively protect their information. We do not access or use customer content for any purpose other than providing, maintaining, and improving the CHILI publish services and as otherwise required by law.

What is Service Data?

Service Data is any information, including personal data, which is stored in or transmitted via the CHILI GraFx
services, by, or on behalf of, our customers and their end-users.

What is Support Data?

Support Data is any information, including personal data, provided by Customer via CHILI GraFx support platform. The support platform is governed by Access Control.

What is Platform Data?

Platform Data covers user account and subscription data (incl. contract details, credentials, permissions, …).

Who owns and controls Service Data?

From a privacy perspective, the customer (or, as the case may be, the customer's end user) is the Controller of Service Data, and CHILI publish is a (sub-)processor. This means that throughout the time that a customer subscribes to services with CHILI publish, the customer (or the customer's end user) retains ownership of and control over Service Data in its account.

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Who are CHILI publish's sub-processors?

CHILI publish may use sub-processors, including affiliates of CHILI publish as well as third party companies, to
provide, secure or improve the Services, and such sub-processors may have access to Service Data. CHILI publish maintains an up-to-date list of the names and locations of all sub-processors.

How does CHILI publish use Service Data?

We use Service Data to operate and improve our services, help customers access and use the services, respond to customer inquiries, and send communications related to the services.

What steps does CHILI publish take to secure Service Data?

CHILI publish prioritizes data security and combines enterprise-class security features with comprehensive audits of our applications, systems, and networks to ensure customer and business data is always protected.

Where will Service Data be stored?

CHILI publish leverages Microsoft AZURE data centers in different regions. The Customer can select a data center in a region, offered by CHILI publish (see Annex V – Data centers)

Support and Platform Data are stored within West-Europe.

What happens to Service and Support Data upon termination or expiration of a Customer's agreement with CHILI publish?

CHILI publish will archive the Service data processed through the Software for a period of two (2) years after the termination or expiration of the agreement. Service and Support Data which is necessary for the purpose of self-defense in a potential legal procedure will be stored for a period of ten (10) years after the termination/expiration of the agreement.

The Service Data will be destroyed within the two-year period, unless there would be a penalty or threatened legal procedure, in which case the Service and/or Support Data is kept for as long as necessary for the purpose of self-defense. Support data processed through the Support platform will be stored for statistical purposes related to the Support platform.

How does CHILI publish respond to legal requests for Service Data?

In certain situations, we may be required to disclose personal data in response to lawful requests by public
authorities, including to meet national security or law enforcement requirements. We may disclose personal data to respond to subpoenas, court orders, or legal process, or to establish or exercise our legal rights or defend against legal claims.

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GDPR

CHILI publish's approach has been anchored with a strong commitment to privacy, security, compliance and transparency. This approach includes supporting our customers' compliance with EU data protection requirements, including those set out in the General Data Protection Regulation ("GDPR"), which replaced the EU Data Protection Directive and became enforceable on May 25, 2018.

If a company collects, transmits, hosts or analyzes personal data of EU citizens, GDPR requires the company to use third-party data processors who guarantee their ability to implement the technical and organizational requirements of the GDPR. To further earn our customers' trust, our DPA has been updated to provide our customers with contractual commitments regarding our compliance with applicable EU data protection law and to implement additional contractual provisions required by the GDPR.

What is the GDPR?

The General Data Protection Regulation ("GDPR") is the European privacy regulation. The GDPR addresses the
processing of personal data and the free movement of such data. It aims to strengthen the security and protection of personal data in the EU and harmonize EU data protection law. Broadly, it sets out a number of data protection principles and requirements which must be adhered to when personal data is processed.

The GDPR also established the European Data Protection Board ("EPDB"), which ensures that the data protection law is applied consistently across the EU and works to ensure effective cooperation amongst data protection
authorities.

How does the GDPR apply to customers?

CHILI publish customers that collect and store personal data are considered data controllers under the GDPR. Data controllers bear the primary responsibility for ensuring that their processing of personal data is compliant with relevant EU data protection law, including the GDPR and uniquely determine what personal data is submitted to, and processed by, CHILI publish in accordance with the Services.

In its capacity as data (sub-)processor, how does CHILI publish handle requests made by End-Users?
If CHILI publish receives a data subject request from a Customer's End-User (i.e., a user of the Services to whom a Customer has provided our Services), CHILI publish is a (sub-)processor, and CHILI publish will, to the extent that applicable legislation does not prohibit CHILI publish from doing so, promptly inform the End-User to contact our Customer directly about any request relating to his/her Personal Data such as access or
deletion. CHILI publish will not further respond to a data subject request without Customer's prior consent.

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What are the "Standard Contractual Clauses"?

The European Commission has approved a set of standard provisions called the Standard Contractual Clauses
("SCC") which provide a data controller a compliant mechanism to transfer personal data to a data processor
outside the European Economic Area ("EEA"). The Model Clauses are appended to the CHILI publish DPA to help provide adequate protection for data transfer outside of the EEA or Switzerland.

Does CHILI publish replicate the Service Data it stores?
CHILI publish periodically replicates data for purposes of archival, backup and audit logs.

Data Processing Agreement

CHILI publish offers active Customers a Data Processing Agreement ("DPA") to reflect the parties' agreement with regard to the processing of personal data.

What is a Data Processing Agreement ("DPA")?
CHILI publish offers customers a robust Data Processing Agreement governing the relationship between the
Customer (acting as a data controller or, as the case may be, a data processor) and CHILI publish (acting as a data processor or, as the case may be, a sub-processor). The DPA facilitates CHILI publish's customers' compliance with their obligations under EU data protection law and contains strong privacy commitments, and has been updated to confirm our compliance with the GDPR. The DPA also contains data transfer frameworks to ensure that our customers can lawfully transfer personal data to CHILI publish outside of the European Union by our Standard Contractual Clauses.

Can a Customer use Customer's own DPA?

No. The CHILI publish DPA is specific to CHILI publish's Services, privacy practices and representations made to
regulators.

What if I have additional questions about the DPA?

If you have additional questions, please contact your CHILI publish Account Executive or alternatively, open a case with the CHILI publish Security Manager by contacting privacy@chili-publish.com

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Data Processing Agreement ("DPA")

In accordance with article 2.4 of the Agreement, the Parties wish to determine their respective rights and
obligations as to the Processing of Personal Data by CHILI, in accordance with 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 (hereafter: 'GDPR').

This DPA applies when CHILI Processes Personal Data on behalf of the Customer in the capacity of Sub-Processor to the Customer's End Users in connection with the Customer's use of the Services. The Customer is the main Processor of the Customer's End Users and CHILI is a Sub-Processor of the Customer's End Users regarding the Processing of Personal Data under this DPA.

PARTIES HAVE AGREED AS FOLLOWS:

Article 1 Definitions

The words and expressions used in this Annex II are to be interpreted to have the following meaning:

1.1 Controller: one or all (as the case may be) of the Customer's End Users and whose Personal Data CHILI shall process under this DPA in the capacity as Sub-Processor;

1.2 Processor: Customer;

1.3 Sub-Processor: CHILI;

1.4 Personal Data: Data that only includes information relating to natural persons who can be identified or who are identifiable, directly from the information in question; or who can be indirectly identified from that information in combination with other information.

1.5 Service Data: is any information, including Personal Data, which is stored in or transmitted via the CHILI publish services, by, or on behalf of, our customers and their end-users.

1.6 Data Subject: the identifiable natural person to whom the Personal Data relates and who can be identified, directly or indirectly, by that Personal Data;

1.7 Process/Processing: Any operation or set of operations which is performed on Personal Data or on sets of 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 of Personal Data.

Article 2 Scope of application

2.1 Unless Parties agree otherwise in writing, the provisions of this Annex II are applicable to every type of Processing Of Personal Data performed by the Sub-Processor on the basis of the Agreement.

In case of any contradiction or inconsistency between this Annex II and the Agreement, the provisions of this Annex II prevail.

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Article 3 Basic information relating to the Processing

3.1 Parties agree that Sub-Processor, in the context of the implementation of the Agreement, Processes Personal Data, with the aim of providing the Services (including hosting services, helpdesk services e.g. via the support portal, etc.) as described in the Agreement, to the Customer and the Customer's End Users. CHILI will only process the Personal Data that the Controller makes available via the Services. The Processor is responsible for ensuring that Sub-Processor does not process any categories of Personal Data other than those specified in Article 3.3.

The Processing concerns specifically the provision, storage, deletion and exchange of the type of Personal Data as included under Article 3.3.

3.2 The Sub-Processor may Process the Personal Data that are passed on by the Controller, as long as this is necessary for the implementation of the assignment as determined in the Agreement. After the execution of the assignment, the Sub-Processor immediately puts an end to every other use of the Personal Data than what is necessary to enable the Controller to recuperate the data that were entrusted to the Sub-Processor. The same goes for the use of data that are the result of the Processing with which the Sub-Processor was tasked.

3.3 The type of Personal Data that normally will be Processed per category of Data Subject can be described in the
following manner. Depending on the specific instructions and use case of the Processor and/ or the Controller, this may also include other types of Personal Data.

Categories of Data Subjects	Type of Personal Data
Customers of the Customer	Identification data (particularly: surname, first name, telephone number, e-mail address, IP-address), files and/databases which are uploaded in the Service
Suppliers	Identification data (particularly: surname, first name, t telephone number, e-mail address, IP-address)
Employee of Customer (or contact person)	Identification data (particularly: surname, first name, telephone number, e-mail address and IP-address)

3.4 The rights and obligations of the Sub-Processor are determined in this Annex II.

Article 4 Processing by the Sub-Processor

4.1 Sub-Processor Processes the Personal Data only on the basis of written instructions of the Controller, save for divergent legal requirements and divergent requests from the Parties concerned; In that case, the Sub-Processor informs the Processor of that legal requirement prior to the Processing, unless such legislation prohibits such notification for important reasons of general interest. The Processor shall thereafter inform the Controller about this obligation.

4.2 Sub-Processor Processes Personal Data on behalf of the Controller, in accordance with this Annex II, which constitute the Controller's instructions for the Processing of Personal Data under this DPA, with the exception of any written instructions that the Controller is obligated to provide during the term of the DPA in order to comply with applicable data protection legislation. The Processor is responsible for ensuring that the Controller's complete instructions are set out in this DPA.
4.3 Sub-Processor does not have power of control over the purpose and the means for the Processing of Personal Data. If the Sub-Processor, contrary to this Annex II and the GDPR, determines the purpose and the means for a Process, the Sub-Processor will be considered to be a Controller with regard to that particular Process.
4.4 Sub-Processor must ensure compliance with the conditions that are imposed, on the basis of the GDPR and other
legislation, on the Processing of Personal Data.
4.5 Sub-Processor only grants access to Personal Data to its employees who are subject to a confidentiality obligation and only in so far as necessary for the provision of Services on the basis of the Agreement.
4.6 Sub-Processor will inform the Processor of requests with regard to the exercise of rights relating to Personal Data that were directly obtained from a Data Subject. The Processor shall notify the Controller in a timely manner in accordance with the applicable data protection legislation.
In addition Sub-Processor will, in fulfilling his duty to respond to requests from Data Subjects regarding the exercise of their rights, provide Processor with every reasonably necessary assistance, taking into account the nature of the Processing and the information that is available to him. Sub-Processor shall, at the Processor's written request, assist the Controller in fulfilling the Controller's obligation to respond to the requests for exercising Data Subject's rights. Sub-Processor shall only be required to provide assistance insofar as it is possible and to the extent the nature of the Processing requires it.
4.7 Sub-Processor shall be entitled to engage a sub-processor(s) in the execution of the Agreement, as well as to continue to appeal to the current sub-processors, under the condition that the
protection of the Personal data remains guaranteed.

The Sub-Processor informs the Processor of intended changes regarding the addition or replacement of sub-processors, whereby the Processor is given the opportunity to object to these changes in writing, within 7 calendar days.

Before the Sub-Processor engages a sub-processor to perform specific processing activities for the account of the Processor, the Sub-Processor shall, by means of an agreement, impose at least the same data protection obligations on this sub-processor as those that are included in this Annex II.

This includes, in particular, the obligation to provide adequate guarantees with regard to the application of appropriate technical and organizational measures in order for the Processing to comply with the provisions laid down in the GDPR and for the protection of the Data Subject's rights to be guaranteed.
In the agreement with the sub-processor, the Controller should be designated as a direct beneficiary, in order for him to be able to exercise the contractual rights directly vis-à-vis the sub-processor.

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4.8 The Sub-Processor must provide the Processor with all information necessary to demonstrate compliance with the obligations included in this Annex II and allow for and contribute to audits and inspections, conducted by the Controller, or an inspector authorized by the Controller. In the event the Controller wishes to conduct an inspection, such Controller shall provide Sub-Processor with reasonable prior notice and shall at the same time specify the content and scope of the inspection. Sub-Processor may charge the Processor for any reasonable costs incurred in conjunction with such audit. The Controller (or an inspector authorized by the Controller) must enter into a confidentiality agreement with the Sub-Processor.

The Sub-Processor will immediately inform the Controller if, in his opinion, an instruction of the Controller violates the GDPR or other European Union or Member State data protection provisions.
4.9 In the event the Sub-Processor Processes Personal Data outside the EEA, it will provide sufficient guarantees to ensure that the Processing will meet an adequate level of protection as determined in the GDPR. The Processor shall ensure that Sub-Processor is entitled to enter into the European Commission's standard contractual clauses for transfer of Personal Data to a third country, on the Controller's behalf.

Article 5 Notification obligation data breaches

5.1 Sub-Processor shall immediately inform Processor of a security breach relating to the Processing of Personal Data, and shall provide Processor inasmuch as possible with information about the following: (i) the nature of the infringement; (ii) the (potentially) affected Personal Data; (iii) the established and expected consequences of the infringement for the Processing of Personal Data and the persons involved; and (iv) the measures that the Sub-Processor has taken and will take to limit/mitigate the negative consequences of the infringement. The Processor is responsible for notifying the Controller about this in accordance with the applicable data protection legislation.
5.2 The Sub-Processor acknowledges that, under certain circumstances, the Processor is legally obliged to notify the supervisory authority and possibly the Data Subjects of a security breach that relates or may relate to the Personal Data Processed by the Sub-Processor. Prior to a notification, the Processor must consult and inform the Sub-Processor about the intended notification.
5.3 Sub-Processor will take all measures necessary to limit/mitigate (possible) damage and to support the Processor with regard to the notification to the supervisory authority and the Data Subjects concerned. The Sub-Processor will keep the Processor informed and updated of new developments with regard to the infringement and the measures taken by the Sub-Processor to limit and terminate the scope of the infringement and to prevent a similar occurrence in the future.

Article 6 Security measures

6.1 Sub-Processor shall take all appropriate technical and organizational measures in accordance with Article 32 GDPR in order to protect Personal Data against loss or any form of unlawful Processing.
6.2 The Processor acknowledges that the security measures taken by the Sub-Processor are appropriate in view of all relevant aspects of the Process, including the state of the art and the framework of the Agreement.

6.3 When the Sub-Processor makes substantial changes to the applicable security measures, he immediately informs the Processor of this adaption. The Processor is responsible for notifying the Controller about this.

Article 7 Obligations of the Parties

7.1 The Controller constitutes the 'data controller' with regard to the Processing of Personal Data pursuant to this Annex II, given that he alone or together with others, determines the purpose of and the means for the Processing of Personal Data.

7.2 Processor agrees and guarantees that the Processing of the Personal Data in accordance with this Annex II is consistent with the GDPR.

7.3 Taking into account the nature of the Processing and the information made available to him, the Sub-Processor will provide all the reasonably necessary assistance to the Processor in fulfilling the obligations pursuant to Articles 32 up to and including 36 GDPR.

Article 8 Termination

8.1 This Annex II commences on the signing date of this Annex II and has been entered into for an indefinite period of time. This Annex II ends at the time that the Agreement ends, with the understanding that Article 8.2 remains in effect after termination of the Agreement until the Sub-Processor has fully complied with the obligation in accordance with Article 8.2.

8.2 At first request of the Processor, the Sub-Processor will, in the event of the termination of the Agreement, return all Personal Data made available to him to the Processor and destroy all digital copies of the Personal Data, unless the Sub-Processor is legally obliged by EU or national law to store the Personal Data. Any costs that have to be incurred with regard to the return of the Personal Data, are to be borne by the Processor. If the Processor is of the opinion that the destruction may not take place, he will inform the Sub-Processor thereof in writing. In that case, the Sub-Processor guarantees the confidentiality of the Personal Data towards the Processor and he will not Process the Personal Data except for the purposes of compliance with his legal obligations or after written instructions from the Processor.

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