

SPEAKAP CUSTOMER CONDITIONS OF USE

Article 1. Definitions

Annexes:	all annexes to the Agreement which form an integral part of such, including but not limited to these Conditions of Use;
Data:	all data, content and information entered by the Customer, User(s) and/or third parties - excluding Speakap and/or third parties nominated by Speakap - in the Service;
Service:	the making available of Software and Maintenance.
Error:	the substantial failure to meet the Software specifications as described on the Website. There is only an error if the Customer can demonstrate this, it can be reproduced and the Customer has reported this immediately to Speakap;
User(s):	person(s) to whom the Customer offers the option to use the Service on the basis of the Agreement;
Conditions of Use:	these conditions of use of Speakap for the Customer;
Help Desk:	the Speakap help desk where the Customer and/or User(s) can receive help on business days from 9 am to 5 pm with issues relating to the Service and/or Software;
Intellectual Property Rights:	all intellectual property rights and related rights, such as copyright, trademark rights, patent rights, design rights, trade name rights, databank rights and neighbouring rights, as well as rights of know-how and performance on a par with patentable inventions;
Customer:	a company which i) has entered into an Agreement with Speakap via the Website, or ii) has entered into a written Agreement with Speakap, for the Service;
Emergency situation:	a situation in which the availability and/or use of the Software is rendered impossible, either wholly or in critical aspects, if no immediate action is taken by Speakap;
Agreement:	the agreement entered into between Speakap and the Customer concerning use of the Service, concluded either in the form of a cooperation agreement or via the Website, including all Annexes;

Maintenance:	the maintenance undertaken by Speakap in relation to the Software, including support provided via the Help Desk;
Parties:	both Speakap and the Customer jointly;
Privacy Statement:	the privacy statement of Speakap, available for inspection on the Website;
Software:	the internal social network application developed by Speakap including updates;
Third Party Software:	software developed by third parties which is compatible with the Software, including open source software;
Speakap:	the private limited company, Speakap B.V., with its registered office at Pedro de Medinalaan 5, Amsterdam (1086 XK), listed with the Chamber of Commerce under number 51753847.
Website:	Speakap's website www.speakap.com and all web pages therein.

Article 2. Applicability

- 2.1. These Conditions of Use apply to all legal acts on the part of Speakap, all legal relationships between the Parties and to all offers and Agreements between the Parties and all the use of the Service and/or Software.
- 2.2. Deviations from and additions to these Conditions of Use will be deemed invalid unless agreed to in writing by the Parties.
- 2.3. The applicability of any purchasing conditions or other conditions of the Customer is hereby explicitly rejected.
- 2.4. Should any provision in these Conditions of Use be deemed void or voidable or be found to be wholly or partly invalid for any other reason, the remaining provisions of the Conditions of Use will continue to be fully applicable. Speakap shall replace the invalid provision with a provision that is valid and whose legal consequences, having regard to the content and scope of these Conditions of Use, correspond as closely as possible to those of the invalid or non-binding provision.

Article 3. Right of use

- 3.1. Subject to compliance by the Customer with its payment obligations, Speakap shall provide the Customer with a non-exclusive, non-transferable and non-sublicensable, limited licence to use the Software in accordance with the provisions of the Agreement and these Conditions of Use.
- 3.2. The right of use relates exclusively to the object code of the Software and not to the source

code of the Software. The source code of the Software is not made available to the Customer. No physical carrier or copy of the Software application will be provided to the Customer.

- 3.3. The Software will be installed, organised, parametrised, and configured by the Customer. Speakap is under no obligation to implement a data conversion.
- 3.4. The Customer is authorised to use the Service only for purposes of their own business or organisation and solely for the intended use. The Customer is fully responsible for the acts and omissions of its Users in their use of the Service.
- 3.5. The Customer is not authorised to bring the Service into the public domain or to duplicate, change, decompile and/or reverse-engineer the same, unless and in so far as obliged to do so under mandatory law.
- 3.6. The Customer is not authorised to sell or to lease the Service, or to alienate or grant restricted rights to such, or to make it available in any other manner or for whatever purpose to a third party. Neither shall the Customer grant a third party access – remotely or otherwise – to the Service.
- 3.7. As part of the Service, the Customer and each User of the Customer will be given a user name and password. The Customer is responsible for keeping its own user name and password combination secure, as well as for keeping the user name(s) and password(s) of its Users secure. The Customer is therefore liable for all the use made via its own user name and password and via (one of) its User(s) of the Service. Speakap is entitled to assume that the party who logs in under the Customer's user name is indeed the Customer.
- 3.8. As soon as the Customer becomes aware or has reason to suspect that the password and/or user name has come into the possession of an unauthorised party, the Customer should bring this to the immediate attention of Speakap, without prejudice to the Customer's own responsibility to take immediate and effective measures, such as changing the password.

Article 4. Service provision

- 4.1. Speakap shall make every effort to provide the Service with due care. The Service will be provided in accordance with a best efforts obligation.
- 4.2. The type of Data to be stored via the Service and how the Customer and its Users will make use of the Service are matters to be decided by the Customer. Speakap has no knowledge of this Data and the use of the Services by the Customer and/or its Users. Therefore it is the Customer who is responsible for legitimate usage of the Data and the Service and for ensuring that third party rights are not infringed upon. Speakap is not liable for Data stored via the Service or for the use of the Service by the Customer and/or its Users. The Customer shall indemnify Speakap against claims filed by third parties, including but not limited to Users of the Customer, alleging unlawful use of the Service by the Customer and/or its Users or of the Data stored via the Service.
- 4.3. Speakap is authorised to make changes to the content and scope of the Service. Speakap shall notify the Customer of this as promptly as possible. Unless otherwise expressly agreed in writing, Speakap shall not be obliged to maintain, change or add specific Customer-orientated features or functionalities in relation to the Service or the Software.
- 4.4. The Customer guarantees the correctness and completeness of all data provided to Speakap by the Customer or on its behalf.

Article 5. Maintenance

- 5.1. Speakap does not guarantee that the Service and/or the Software to be made available and to be kept available to the Customer functions without error or disruption.
- 5.2. Any questions the Customer may have in regard to the Services and/or the Software can be put to the Help Desk in the manner outlined on the Website. The Help Desk shall endeavour to respond appropriately to the Customer's queries within a reasonable time frame.
- 5.3. Speakap cannot guarantee that Errors will not occur or that they will be resolved. However, Speakap will make every effort to resolve any Errors that do occur in the Service as promptly as possible.
- 5.4. Under no circumstances will Speakap be obliged to resolve Errors if they are due to user errors or improper use on the part of the Customer and/or User(s), usage contrary to the Agreement or these Conditions of Use or any other cause not attributable to Speakap. If Speakap nevertheless repairs an Error, it is entitled to charge the costs of such to the Customer on the basis of the hourly rate of Speakap then in force.
- 5.5. Speakap has the right at all times to apply temporary solutions or workarounds or problem-avoiding limitations in the Software. Under no circumstances will Speakap be obliged to restore corrupted or lost data.
- 5.6. Speakap is not liable for the purchase and/or proper functioning of the infrastructure of the Customer and/or User(s). Speakap is not liable for any loss or costs arising in connection with transmission errors or failures or non-availability of computer, data or telecommunications facilities, including the Internet.
- 5.7. Speakap may (temporarily) take the Services out of service wholly or in part and/or restrict the use of such where it deems this necessary for reasons such as Maintenance. Where Speakap deems this necessary, it shall give the Customer advance notification of this. Where an Emergency situation requires the Service to be put out of service immediately or the usage of such to be restricted, Speakap shall inform the Customer of this as soon as reasonably possible.

Article 6. Security

- 6.1. Speakap attaches great importance to safeguarding the security of its Services and the Data. For this reason, Speakap employs comprehensive security systems and modern technologies to secure the Services, Software and the Data.
- 6.2. Logging in to the Service always takes place via a secured connection and passwords are stored on the servers in encrypted format.
- 6.3. The Data is copied automatically on a regular basis in encrypted format to another data centre based at another location.
- 6.4. Speakap makes use of a modern data centre which has the appropriate technical and organisational (access) measures in place to guarantee the security of the servers.
- 6.5. Further details of Speakap's security policy can be found on its Website.

Article 7. Intellectual Property Rights

- 7.1. All Intellectual Property Rights to the Services and/or Software, with the exclusion of the Data, are held exclusively by Speakap or its licensors. The Customer is not permitted to remove or change any details pertaining to the confidential nature or to the Intellectual Property Rights governing the Service, Software, files or materials.
- 7.2. Speakap may arrange for the implementation of technical measures to protect the Service,

Software, files or materials in connection with an agreed limitation in the content or duration of the licence. These technical measures may not be removed or bypassed either by the Customer or on its behalf.

- 7.3. The Customer is not authorised to make or have any changes or additions made or to allow third parties to carry out maintenance or repairs to the Software, files or materials supplied by Speakap.
- 7.4. The Customer hereby grants Speakap the right to use the Customer's name and logo, if any, in miscellaneous communications, including but not limited to advertising, promotions and other such sales pitches and on the Website.

Article 8. Third Party Software

- 8.1. The Service makes use of Third Party Software. The use of Third Party Software is subject to the third-party (licence) terms, setting aside the provisions deviating therefrom in these Conditions of Use. The Customer accepts the user conditions pertaining to the relevant Third Party Software. The applicable (licence) terms of third parties can be found on the website.
- 8.2. In the event and to the extent that said third-party terms are deemed or declared to be inapplicable for any reason in the relationship between the Customer and this third party, the provisions set out in Conditions of Use will apply in full.
- 8.3. It may be that the Service contains third-party applications, content and services and/or links to the websites of third parties. The inclusion or presence of third-party applications, content and/or services within the Software or the possibility of linking the applications, content and/or services of third parties to the Service does not imply that such applications, content and/or services have been approved or checked by Speakap. Speakap is not responsible for the content and mode of operation of third-party applications, content and/or services or for any use thereof by Users. The use of third-party applications, content and/or services may be governed by the general terms and conditions and/or privacy statements of these parties.
- 8.4. The Customer shall indemnify Speakap against any loss or costs ensuing from and/or concerning claims filed by third parties, for whatever reason, in connection with use of the Third Party Software by the Customer or its Users, including any conduct on the part of the Customer in violation of the applicable conditions of use pertaining to the Third Party Software or an infringement of the Intellectual Property Rights relating to the Third Party Software.

Article 9. Prices and payment

- 9.1. Prices are dependent on the type of Service and the number of Users making use of the Service. All charges relating to the Service are payable per month in advance, unless agreed otherwise between the Parties. Payment must be made within 30 days of the invoice date, unless agreed otherwise in writing or stated otherwise on the invoice.
- 9.2. All prices are exclusive of VAT and other government levies that are or will be imposed. Unless agreed otherwise, all prices are in euros and the Customer must make all payments in euros.
- 9.3. Throughout the duration of an Agreement, Speakap shall be entitled to increase the prices for its Services annually with effect from 1 January in accordance with the consumer price index for the previous calendar year, as published by the CBS (consumer price index 'all households'), by no more than 15%. Speakap shall be entitled to implement the cost increase

at a later date.

- 9.4. Aside from the circumstance referred to in Article 9.3, Speakap shall also be entitled to increase the prices for its Services in the event of an increase in the costs incurred by Speakap or a change in the functionality of the Service. Speakap shall give notice of this price increase no later than two (2) months before the effective price increase date.
- 9.5. Where (full) payment has yet to be made to Speakap following expiry of the term referred to in Article 9.1, the Customer shall be immediately in default without any prior warning or notice of default being required. Statutory commercial interest will be payable as and from the moment of default by the Customer.
- 9.6. Where the Customer remains in default following a demand for payment, Speakap may pass on the claim for collection. In that case, all costs incurred by Speakap, such as court, legal and other costs incurred in relation to legal assistance, enforcement agents and debt-collection agencies arising from overdue payments will be payable by the Customer.
- 9.7. The Customer may not rely on any suspension, set-off or deduction. Speakap is entitled to suspend the performance of its obligations until such time as the Customer has complied with all of its due obligations.
- 9.8. In matters regarding the Services provided by Speakap and the charges payable by the Customer for the same, the relevant documents and data from Speakap's accounts or systems will constitute conclusive proof of such, without prejudice to the Customer's right to provide proof to the contrary.

Article 10. Term and termination

- 10.1. The Agreement will be concluded for a period of one (1) year, unless provided for otherwise in the Agreement. The Agreement will be renewed by tacit agreement each time for a period of one (1) year. The Customer and Speakap are both entitled to terminate the Agreement in writing at any time following the initial period subject to a notice period of one (1) month, unless provided otherwise in the Agreement.
- 10.2. Either Party shall be entitled to terminate the Agreement wholly or in part in the event that the other Party becomes bankrupt or is subject to a moratorium, likewise where the other Party's company is affected by a stoppage or liquidation for reasons other than the reconstruction or merger of companies.
- 10.3. Termination of the Agreement on the grounds of an attributable breach by Speakap is only permitted after submission of a written notice of default. This must be as detailed as possible and a reasonable term must be allowed to remedy the breach, unless specified otherwise in these Conditions of Use.
- 10.4. Termination of the Agreement cannot undo what Speakap has already delivered and/or performed under the Agreement nor the related payment obligation, unless the Customer shows that Speakap has been in default in respect of the delivery of a substantial part of the performance. Amounts invoiced by Speakap in respect of goods or services already delivered in an appropriate manner prior to the termination of the Agreement remain, with observance of the provisions in the previous sentence, payable unabated and become immediately due and payable at the time of termination.
- 10.5. If the Agreement ends (for whatever reason), the Customer's rights under the Agreement end simultaneously, including – but not limited to – the right to use the Service. Where further arrangements have been made in this regard between Speakap and the Customer, Speakap shall provide assistance during the required data conversion process for the

agreed fee. Where no such arrangements have been made between Speakap and the Customer, Speakap shall be under no obligation upon termination of the Agreement or thereafter to provide assistance to the Customer with regard to the Customer's required data conversion. It is the Customer's responsibility to ensure that the Data has been safeguarded upon termination of the Agreement.

- 10.6. Speakap is at all times entitled to (temporarily) block the access of the Customer to the Service and/or terminate the Agreement if the Customer and/or its User(s) act(s) in conflict with the provisions in Article 3, 4.4, 7.2 and 7.3, as well as if (one) User(s) of the Customer act(s) in conflict with the conditions agreed between the User(s) and Speakap.
- 10.7. Provisions in the Agreement, including these conditions of use, which by their nature are meant to remain in place upon termination of the Agreement will continue to remain in full force thereafter.

Article 11. Privacy

- 11.1. Speakap will process the personal data of the Customer and Users when performing the Agreement. Speakap does this in accordance with the applicable laws and regulations and its privacy statement which can be viewed on the Website. In respect of the processing of the personal data of Users, Speakap qualifies as a processor in the meaning of the Dutch Personal Data Protection Act [*Wet bescherming persoonsgegevens ("Wbp")*].
- 11.2. The Customer guarantees that it is fully compliant with all legal obligations, including but not limited to the obligations provided under the Dutch Personal Data Protection Act, and that it is entitled to engage Speakap as a (sub-)processor of the relevant personal details. The Customer also guarantees that it has the right to authorise Speakap to engage its own (sub-)processors. The Customer shall fully indemnify Speakap against any third-party claims, including from (sub-)processors, which ensue for any reason and/or bear any relation to the processing of personal details by Speakap and/or which have arisen following a violation of the aforesaid Customer's guarantees.
- 11.3. Speakap shall make every reasonable effort to safeguard its systems and the data transfer between the Customer and Speakap against loss and/or any form of unlawful use. To this end, Speakap shall ensure that appropriate technical and organisational measures are in place as outlined in Article 6, taking into account the state of the art. The Customer acknowledges that it has taken cognisance of the measures put in place by Speakap and that these measures provide an appropriate level of security in regard to the personal details that are processed. The Customer shall fully indemnify Speakap against any third-party claims which are in any way based on the assertion that the technical and organisational measures put in place by Speakap are unsuitable and/or inadequate.
- 11.4. If Speakap becomes aware of a breach of the security and/or any other incident in respect of the security of personal data it will i) notify the Customer of this immediately and ii) take all reasonable measures to prevent or limit (further) breaches of the Wbp.
- 11.5. Speakap shall, insofar as this is reasonable, render its cooperation to the Customer and support the Customer in the performance of its statutory obligations in respect of the observed incident, if in the opinion of the Customer this incident qualifies as a breach of security as referred to in Article 34a Wbp ("Data Leak").
- 11.6. Speakap shall, insofar as this is reasonable, support the Customer in respect of the notification obligation resting on the Customer in respect of the Data Leak to the Dutch Data Protection Authority and/or the data subjects as referred to in Article 34a Wbp. Speakap is

never obliged to report a Data Leak to the Dutch Data Protection Authority and/or the data subject.

- 11.7. Speakap is never liable for the (correct and/or prompt implementation of the) notification duty resting on the Customer as referred to in Article 34a Wbp.
- 11.8. The provisions included in this Article pertaining to the processing of personal data qualify as a processor's agreement within the meaning of the Personal Data Protection Act.

Article 12 Guarantees and indemnifications

- 12.1 The Customer is liable towards Speakap for, and indemnifies Speakap fully against, any loss suffered or incurred by Speakap as a result of (i) any acts of the Customer and/or a User in the use of the Service and/or the Website, including but not limited to, the placement of Data, (ii) an unlawful act of the Client and/or User, (iii) any infringement by the Client and/or User of (Intellectual Property) rights of third parties, and/or any acts of a User which conflict with the (user) conditions agreed between the User and Speakap.
- 12.2 All costs incurred and loss suffered by Speakap which in any way relate to such agreements shall be paid by the Customer.

Article 13. Liability

- 13.1 Liability on the part of Speakap in connection with an attributable failure in the performance of its obligations on account of an unlawful act and/or for any other reason will be limited to compensating the direct loss suffered by the Customer up to a maximum sum not exceeding the fee chargeable under the Agreement for one (1) calendar year. Under no circumstances will Speakap's total liability for direct loss, for whatever reason, exceed the sum of EUR 1,250,000. This limitation of liability also applies expressly for the guarantees provided by Speakap in these Conditions of Use.
- 13.2 Direct loss exclusively includes:
 - i. reasonable costs to be incurred to have the performance of Speakap correspond with these Conditions of Use. This compensation is however not paid if these Conditions of Use are set aside;
 - ii. reasonable costs incurred to determine the cause and the extent of the loss, insofar as the determination relates to direct loss within the meaning of these Conditions of Use;
 - iii. reasonable costs incurred in order to prevent or limit loss, insofar as those costs have led to a limitation of direct loss within the meaning of these Conditions of Use.
- 13.3 Any liability on the part of Speakap other than for direct loss ("indirect loss"), included but not limited to consequential loss, loss of profits, lost savings, loss of goodwill, losses due to business interruption, loss in connection with third-party claims or third-party materials, services and/or software, and losses in connection with the engagement of suppliers is excluded. Liability in respect of corruption, destruction or loss of data is similarly excluded.
- 13.4 The limitations of liability referred to in the preceding sections of this Article will no longer apply where and in so far as the loss or damage is due to intent or recklessness on the part of Speakap or its managers ("own actions").
- 13.5 Liability on the part of Speakap following an attributable failure in the performance of the Agreement only arises where the Customer has promptly issued Speakap with a proper written notice of default, duly affording a reasonable period of time in which to remedy the attributable breach, and Speakap remains in default after this period in the performance of its obligations, except in the case of a permanent attributable breach. The notice of default must

include a complete description of the failure that is as detailed as possible, in order to allow Speakap the opportunity to provide an adequate response.

- 13.6 The right to compensation for loss will be deemed relinquished if the Customer fails to report the damage in writing to Speakap as soon as possible after the damage occurs. All claims for compensation against Speakap lapse by the passage of twelve (12) months after the claim has arisen.

Article 14. Force majeure

- 14.1 Speakap is not obliged to comply with any obligation, including any guarantee agreed between the Parties, if it is prevented from doing so due to force majeure.
- 14.2 The term force majeure includes: force majeure affecting Speakap's suppliers; failure on the part of suppliers to adequately comply with obligations; defects in property, equipment, third-party software and materials; government measures; power failures; disruption of the Internet, computer network or telecommunications facilities; war; strike action; general transport problems, and the non-availability of one or more staff members.
- 14.3 In the event of force majeure, Speakap shall be entitled to suspend the performance of its obligations under the Agreement and/or to terminate the Agreement wholly or in part, without this giving rise to any liability of Speakap to pay compensation to the Customer.
- 14.4 Where the force majeure circumstances continue for more than three (3) months, the Parties are entitled to terminate the Agreement in writing, without this giving rise to any liability of Speakap to pay compensation.

Article 15. Miscellaneous

- 15.1 The Customer is not entitled to transfer the Agreement or the rights and/or obligations arising under the Agreement to a third party.
- 15.2 Speakap is entitled to transfer the Agreement wholly or in part to a third party and/or have it performed by a third party/third parties or engage a third party/third parties in the performance of the Agreement.
- 15.3 The Agreements, including these Conditions of Use, are governed by Dutch law.
- 15.4 Any disputes arising from or connected with the Agreements entered into under these Conditions of Use or any Agreements resulting from it, will be submitted to the competent court in Amsterdam.
