

DATA PROCESSING AGREEMENT

ADOPTED AND EFFECTIVE FROM 01 JANUARY 2025

1 INTRODUCTION

- 1.1 This data processing agreement ("**DPA**") governs the personal data processing conducted by Evocon as a data processor ("**Processor**") on behalf of Customer acting as personal data controller ("**Controller**") within the scope of providing the Service under the Evocon Terms of Service ("**Terms of Service**").
- 1.2 The Parties acknowledge that this DPA and processing activities conducted during the fulfilment of the Terms of Service in relation to the personal data are governed by the Regulation (EU) 2016/679 of the European Parliament and of the Council ("**GDPR**") and other relevant legislative acts, governing the processing of personal data (altogether with the GDPR "**Legislation**").
- 1.3 All and every term, unless specifically defined herein, is being used in the meaning of the GDPR or the Terms of Service.
- 1.4 For matters not stipulated in this DPA, the Terms of Service applies. In the event of a conflict or ambiguity between this DPA and the Terms of Service, this DPA prevails.
- 1.5 The Processor's personal data processing's subject-matter, nature, types of personal data and categories of data subjects and processing duration are specified in **Annex 1** to this DPA.

2 RIGHTS AND OBLIGATIONS OF THE PARTIES

2.1 The Controller shall:

- 2.1.1 ensure that all instructions for the processing of the personal data under the Terms of Service, this DPA or as otherwise agreed or stipulated shall comply with the Legislation, and such instructions will not in any way cause the Processor to be in breach of the Legislation;
- 2.1.2 comply with Legislation, including ensure the accuracy, quality and lawfulness of the personal data processed by the Processor and inform the data subjects of the processing operations carried out by the Processor;
- 2.1.3 notify the Processor prior to concluding the Terms of Service if the Controller requires the Processor to adopt specific procedures, regulations, security measures or similar. Notwithstanding the foregoing, the Processor is entitled to invoice the Controller separately for complying with any such requests of the Controller.

2.2 The Processor shall:

- 2.2.1 process the personal data on behalf of the Controller only based on documented (e.g., received *via* e-mail or any other documented form) instructions given, received and updated (including the ones regulated herein), from time to time, from the Controller and in accordance with the Legislation, unless required to do so by the Legislation to which the Processor is subject. In such case, the Processor shall inform the Controller of that legal requirement before processing, unless the Legislation prohibits this on important grounds of public interest;
- 2.2.2 inform the Controller if, in the Processor's opinion, instructions given by the Controller infringe data protection provisions set forth in the Legislation;
- 2.2.3 ensure that all of its employees, subcontractors, members of the management board, or other persons to whom the Processor has provided access to the personal data are subject to confidentiality obligation or to an appropriate statutory confidentiality obligation and are aware of their duties and obligations in relation to the personal data processing;
- 2.2.4 take measures required pursuant to Article 32 of the GDPR and the Legislation, including implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk related to processing of the personal data and

avoid alteration, loss or non-authorized processing thereof or access thereto. The Processor has the right to change and update from time to time and as seen necessary by the Processor any and all technical and organizational measures applied at the moment of concluding this DPA;

- 2.2.5 provide assistance to the Controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Controller's obligation to respond to the data subject's requests for exercising their rights laid down in Chapter III of the GDPR;
 - 2.2.6 not communicate to the data subjects nor perform the data subjects' request directly and independently. The Processor shall forward any requests received from the relevant data subjects for exercising any of their rights to the Controller as soon as reasonably possible after the receipt of such a request;
 - 2.2.7 assist the Controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR, to the extent that it is reasonable, appropriate and not unduly burdensome, while taking into consideration the nature of personal data processing and the information available to the Processor;
 - 2.2.8 notify the Controller in a form reproducible in writing without undue delay, but no later than within forty-eight (48) hours after becoming aware of a personal data breach concerning personal data processed by the Processor on the basis of the DPA. Such notification shall contain at least the information required in Article 33 (3) of the GDPR. For clarity, a personal data breach as such shall not automatically mean that the Processor has infringed this DPA, the Terms of Service and the Legislation, provided that the necessary procedures as defined in this DPA, the Terms of Service and the Legislation have been duly applied by the Processor;
- 2.3** The Processor is entitled to invoice the Controller for additional costs and remuneration, in addition to the fees provided under the Terms of Service, for fulfilling its obligations under Sections 2.2.4 and 2.2.6 of the DPA in case the Processor assesses the costs for fulfilling its obligations to be excessive and unreasonable (e.g. due to the repetitive nature of the requests, volume of data to be processed). The Processor shall notify the Controller of such costs in advance and prior to issuing such invoices. The invoices shall be issued and paid, adhering to the invoicing regulations agreed in the Terms of Service, if any.
- 2.4** The Processor acknowledges that according to Article 28 (10) of the GDPR if it infringes the DPA and the Legislation by determining the purposes and means of the processing, the Processor shall be considered a separate controller in respect of that processing.

3 AUDITING RIGHTS

- 3.1** Upon the Controller's reasonable request in a form reproducible in writing, the Processor shall provide the Controller with all information necessary (which may be redacted to remove confidential commercial information not relevant to the requirements of this DPA) to demonstrate compliance with the obligations laid down in the DPA and the Legislation, within thirty (30) calendar days of receipt of such request.
- 3.2** Where, in the reasonable opinion of the Controller, such information is not sufficient to verify the Processor's compliance with the DPA and the Legislation, the Controller may, upon sixty (60) calendar days prior notice in a form reproducible in writing to the Processor and upon reasonable grounds, conduct an audit by an independent third-party auditor mandated by the Controller. Any costs for conducting the audit shall be borne by the Controller.
- 3.3** The notification provided according to Section 3.2 shall contain a proposal for an auditing plan. If parts of the requested scope of the audit are covered by an audit carried out by a qualified auditor within the last twelve (12) months as of submitting the notification, the Processor is entitled to provide the Controller that audit report instead of the proposed audit.
- 3.4** Any audit shall be solely limited to confirming the Processor's compliance with its data protection obligations under this DPA and the Legislation, and shall exclude all information data and content which relates to:
 - 3.4.1 any other clients, agents, or partners of the Processor;

3.4.2 any of the Processor's internal accounting or financial information;

3.4.3 any Processor's trade secrets.

3.5 The Controller can perform an audit once every twelve (12) months during the Processor's regular business hours and the performance of the audit must not interrupt the Processor's business activities. Furthermore, in order to minimise the operational disturbances, the Processor can combine the audit with audits conducted by other customers. The Controller shall ensure, to the extent permitted by the Legislation, to keep confidential any information gathered during the audit that, by its nature, should be confidential.

3.6 Unless prohibited by the Legislation, the Controller must provide a copy of the audit report to the Processor. The Processor shall be entitled to use the report in other client relationships, e.g. as stated in Section 3.3, in which case the Controller is entitled to redact or remove any part of the audit report that relates to its confidential information.

4 USE OF SUB-PROCESSORS

4.1 The Processor is permitted to engage another processor ("**Sub-processor**") for the performance of the DPA under the Controller's general authorization provided hereby. The Controller acknowledges and agrees, that the Processor has engaged the Sub-processors identified in **Annex 1** to this DPA.

4.2 Should the Processor wish to engage a new Sub-processor or replace a current Sub-processor with a new Sub-processor, then the Processor is obliged to inform the Controller in a form reproducible in writing. Upon having reasonable grounds, the Controller may object, in a form reproducible in writing, to any such additions, changes or replacement within fifteen (15) calendar days as of the Processor informing the Controller. If the Controller does not object during such time period, the addition, change or replacement shall be deemed accepted.

4.3 In case the Controller exercises, pursuant to Section 4.2 its opportunity to object to the addition or replacement of a Sub-processor and the Processor does not, under reasonable grounds, agree with such objections, both Parties have the right to terminate the Terms of Service extraordinarily without notice.

4.4 In the event the Processor engages or replaces a current Sub-processor, the Processor shall engage such Sub-processor under an agreement at least in a form reproducible in writing containing in substance the same obligations as those set out in this DPA and remain fully liable to the Controller for the performance of each Sub-processor's obligations.

5 DATA TRANSFERS OUTSIDE THE EU/EEA

5.1 The Controller allows the Processor to transfer the personal data outside of the European Union/ European Economic Area ("**EU/EEA**"), including engage any Sub-processors located outside the EU/EEA, if the Processor transfers personal data to countries in relation to which the European Commission has issued an adequacy decision or if the Processor uses other appropriate safeguards set out in Chapter V of the GDPR (e.g., standard contractual clauses adopted by the European Commission).

5.2 The Controller is entitled to request information from the Processor regarding the countries to which the personal data is transferred to and of the existence or absence of an adequacy decision by the European Commission, or reference to the appropriate safeguards.

5.3 In the event that any of the measures referred to in Section 5.1 are no longer sufficient to satisfy the requirements of the Legislation applicable to the processing of the personal data under the DPA to legalize the transfer of personal data outside the EU/EEA, the Processor shall use any reasonable efforts to implement either an alternative transfer mechanism which satisfies the requirements of the Legislation applicable to the processing of personal data under this DPA in order to legalize the transfer of personal data outside the EU/EEA or cease with such transfer.

6 DELETION OR RETURN OF PERSONAL DATA

- 6.1** After the receipt of the Controller's request in a form reproducible in writing the Processor shall delete or return all of the personal data processed for the provision of the Services according to the Terms of Service, unless storage of any personal data is required by the Legislation.
- 6.2** In the event that the Controller does not render a request as specified in Section 6.1 to either delete or return the personal data, the Processor shall delete permanently all of the relevant personal data within six (6) months as of the end of the termination of the DPA and the Terms of Service, unless otherwise agreed upon in a form reproducible in writing. The foregoing cannot be considered an obligation of the Processor to retain the said personal data for a period of six (6) months and the Processor has the right to delete the said data earlier. The Controller takes note that after the period stipulated herein, the said personal data is permanently deleted. The prior obligation does not apply to anonymised data, including but not limited to usage statistics and technical parameters.
- 6.3** The Controller acknowledges that the deletion of personal data after the termination of the DPA and the Terms of Service does not exclude the Processor's right to retain the said data in its backup systems. The Processor shall ensure that applicable safeguards are in place, the personal data is put beyond use in the backup systems and the personal data is subsequently deleted as soon as possible, i.e., on the Processor's next deletion/destruction cycle.
- 7 MISCELLANEOUS**
- 7.1** This DPA becomes effective upon entering into the Terms of Service by the Parties and is valid until the termination of the Terms of Service.
- 7.2** The termination of the DPA takes place according to the Terms of Service. Termination of the DPA causes automatic termination of the Terms of Service and *vice versa*. Termination of this DPA does not exempt the Parties from fulfilling their obligations as specified in the Legislation.

DPA ANNEX 1 – DETAILS OF DATA PROCESSING AND SUB-PROCESSORS

1 SUBJECT-MATTER OF PROCESSING

The Processor will process the personal data as necessary to provide the Service according to the Terms of Service.

2 NATURE OF THE PROCESSING

The Processor may conduct the following processing activities: receiving data, including collection, accessing, retrieval, recording and data entry; using data, including analysing by provision of the Services; returning data to the Controller; erasing data, including destruction and deletion.

3 CATEGORIES OF DATA SUBJECTS

The Processor may process personal data of the following categories of data subjects: personnel working in the production line and Controller's end users accessing the Service.

4 TYPES OF PERSONAL DATA

The Processor may process the following types of personal data: Service login usernames, e-mail addresses linked to usernames, shop-floor operator names (optional), IP-addresses. The Processor does not process sensitive personal data.

5 DURATION OF PROCESSING

The Processor will process the personal data as long it is necessary for the provision of the Service.

6 SUB-PROCESSORS

The Processor uses the following Sub-processors:

Name	Country from where the personal data is accessed	Subcontracted tasks/activities	Suitable safeguards for international data transfers (where applicable)
Amazon Web Services	Ireland	Cloud infrastructure and hosting services	N/A
Brevo	France	Transactional Customer email services	N/A
Google Inc.	Ireland	Cloud storage	N/A
HubSpot	Germany	Technical Support Ticketing System	N/A