



# BIOMÉRIEUX AUGMENTED-DX Portal

## Data Processing Terms (Global)

### 1. APPLICABILITY

These BIOMÉRIEUX AUGMENTED-DX Portal Data Processing Terms (Global) ("**Data Processing Terms**") shall govern Processing activities relating to Personal Data that is collected, processed, or hosted by bioMérieux or its Sub-Processors.

These Data Processing Terms shall include the applicable Data Processing Details documentation ("**Data Processing Details**") that is made available alongside these Data Processing Terms at the [Data Processing Terms](#) page. The applicable Data Processing Details provide specific information regarding Processing and Sub-Processors. In the event of a conflict between these Data Processing Terms and the General Terms or the Additional Terms, these Data Processing Terms shall control.

### 2. DEFINITIONS

These terms as defined shall apply to these Data Processing Terms, inclusive of any applicable product-specific Personal Processing Details.

- 2.1 "**Anonymized Data**" shall have the meaning set forth in the General Terms.
- 2.2 "**Applicable Law**" shall have the meaning set forth in the General Terms.
- 2.3 "**Applicable Terms**" shall mean the General Terms and any applicable Additional Terms, or any other applicable underlying agreement.
- 2.4 "**Affiliate**" shall have the meaning set forth in the General Terms.
- 2.5 "**Additional Terms**" shall have the meaning set forth in the General Terms.
- 2.6 "**bioMérieux**" shall have the meaning set forth in the General Terms.
- 2.7 "**bioMérieux Instrument**" shall have the meaning set forth in the General Terms.
- 2.8 "**bioMérieux Solution**" shall have the meaning set forth in the General Terms.
- 2.9 "**Controller**" shall have the meaning ascribed to "controller" under the equivalent or corresponding term as defined in the Data Privacy Laws of the Applicable Jurisdiction.
- 2.10 "**Customer**" shall have the meaning set forth in the General Terms.
- 2.11 "**Data Privacy Laws**" shall have the meaning set forth in the General Terms.
- 2.12 "**Data Subject**" shall mean an identified or identifiable natural person to whom the Personal Data relates. It shall have the same meaning ascribed to "data subject" under GDPR, or to the equivalent or corresponding term as defined in the Data Privacy Laws of the Applicable Jurisdiction.
- 2.13 "**Data Subject Access Request**" shall mean an inquiry made by a Data Subject in exercise of access rights granted to the Data Subject under applicable Data Privacy Laws.
- 2.14 "**Instrument**" shall have the meaning set forth in the General Terms.
- 2.15 "**Personal Data**" shall have the meaning set forth in the General Terms.
- 2.16 "**Personal Data Breach**" shall have the meaning ascribed to "personal data breach" under the equivalent or corresponding term as defined in the Data Privacy Laws of the Applicable Jurisdiction.
- 2.17 "**Pseudonymized Data**" shall have the meaning set forth in the General Terms.
- 2.18 "**Processing**" shall have the meaning ascribed to "processing" under Data Privacy Laws applicable in the applicable jurisdiction. "**Processes**" and "**Process**" shall be construed accordingly.
- 2.19 "**Processor**" shall have the meaning ascribed to "processor" as defined in the Data Privacy Laws of the Applicable Jurisdiction.
- 2.20 "**Sub-Processor**" shall mean a natural or legal person, public authority, agency or other body appointed by or on behalf of Processor to process Personal Data on behalf of the Controller or shall have the meaning ascribed to the equivalent or corresponding term as defined in the Data Privacy Laws of the Applicable Jurisdiction.
- 2.21 "**User**" shall have the meaning set forth in the General Terms.
- 2.22 "**User Information**" shall have the meaning set forth in the General Terms.

### 3. PROCESSING OF PERSONAL DATA

3.1 **Data Processing.** Where necessary, Customer shall inform bioMérieux of the existence of Personal Data which may be accessed by or transmitted to bioMérieux as set forth in the applicable Data Processing Details.

3.2 **Customer Responsibilities.** As Controller, Customer shall direct processing of Personal Data in accordance with Data Privacy Laws and these Data Processing Terms, including providing all requisite notices or obtaining all requisite consents, and obtaining all requisite rights to use and disclose the Personal Data including establishing applicable legal bases, where applicable.



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### 3.3 Customer Instructions.

- (a) bioMérieux and its Sub-Processors shall process Personal Data in accordance with Customer's documented instructions solely as necessary for the purposes of bioMérieux fulfilling its obligations under the Applicable Terms. Customer shall be responsible for communicating instructions to bioMérieux in writing. Customer agrees that these Data Processing Terms, the Applicable Terms, and any other instructions agreed to in writing between Customer and bioMérieux shall comprise Customer's complete instructions to bioMérieux regarding the Processing of Personal Data. Any additional or alternate instructions must be agreed to between Customer and bioMérieux in writing.
- (b) Customer shall, at all times, remain responsible for making sure that all instructions comply with Data Privacy Laws and these Data Processing Terms. bioMérieux and its Sub-Processors shall not bear responsibility for determining whether Customer's instructions are compliant with Data Privacy Laws and these Data Processing Terms. However, if bioMérieux and/or its Sub-Processors are of the opinion that a Customer instruction violates applicable Data Privacy Laws or these Data Processing Terms, bioMérieux shall notify Customer as soon as reasonably practicable and shall not be required to comply with any non-compliant instruction pending further discussion with Customer.

**3.4 Details of Processing.** Details of the subject matter of the Processing, its duration, nature and purpose, and the type of Personal Data and Data Subjects are specified in the Applicable Terms and these Data Processing Terms inclusive of the applicable Data Processing Details.

**3.5 Compliance with Data Privacy Laws.** Customer and bioMérieux shall comply with their respective obligations under Data Privacy Laws. Customer shall retain sole responsibility for complying with Data Privacy Laws, as applicable to a Controller, regarding the lawfulness of the Processing of Personal Data prior to disclosing, transferring, or otherwise making available, any Personal Data to bioMérieux or its Sub-Processors. To the extent that the Data Privacy Laws, including any subsequent changes to Data Privacy Laws as may be implemented from time to time, impose additional mandatory obligations on Customer and/or bioMérieux in their respective roles as outlined in these Data Processing Terms, Customer and bioMérieux agree to comply with their respective additional mandatory obligations.

## 4. SUB-PROCESSORS

### 4.1 Use of Sub-Processors.

- (a) Customer consents and gives general authorization to bioMérieux allowing for Personal Data to be received, accessed or transferred to or by bioMérieux Affiliates and Sub-Processors as mentioned in Section 3.2 below, subject to the following conditions:
  - (i) access to Personal Data shall only be granted by Customer to bioMérieux, its Affiliates and its Sub-Processors for the strict purposes of these Data Processing Terms; and
  - (ii) the Personal Data shall be strictly limited to what is necessary for bioMérieux, its Affiliates and its Sub-Processors to perform under these Data Processing Terms.
- (b) bioMérieux may use Sub-Processors with the Customer's general written authorization. Customer authorizes bioMérieux to appoint and use Sub-Processors to Process Personal Data in connection with Applicable Terms provided that bioMérieux puts in place a contract in writing with each Sub-Processor that imposes obligations that are: (a) relevant to the services to be provided by the Sub-Processors and (b) materially similar to the rights and/or obligations imposed on bioMérieux under these Data Processing Terms.
- (c) bioMérieux shall ensure that the Sub-Processor shall be subject to confidentiality obligations that limit the use of and access to Personal Data to employees or contractors of bioMérieux and Sub-Processors with a need to know and who are subject to obligations of confidentiality no less onerous than those set forth in these Data Processing Terms or the General Terms.
- (d) Where a Sub-Processor fails to fulfil its data protection obligations as specified above, bioMérieux shall be liable to the Customer for the performance of the Sub-Processor's obligations, subject to any applicable limitation of liability provision in the Applicable Terms.
- (e) bioMérieux shall oblige any Sub-Processor to immediately notify bioMérieux's global Data Protection Officer (i) when a Personal Data Breach occurs, or (ii) if it is asked by person or entity to take any action which may violate Data Privacy Laws or these Data Processing Terms.

### 4.2 List of Sub-Processors.

- (a) Customer acknowledges and agrees that the method by which bioMérieux will inform Customer of its Sub-Processors, and updates thereto, will be via the list of Sub-Processors identified in the applicable Data Processing Details.
- (b) Where permitted under Data Privacy Laws, Customer may reasonably object to any changes concerning addition or replacement of the Sub-Processors. Customer shall object in writing by sending the objection by email to bioMérieux's Data Protection Officer at [privacyofficer@biomerieux.com](mailto:privacyofficer@biomerieux.com). In the event of an objection, bioMérieux reserves the right to terminate the Applicable Terms and these Data Processing Terms (including ceasing any further Processing of Personal Data received from Customer) if it determines, after consulting with Customer, that compliance with the objection is not feasible.

## 5. CROSS-BORDER DATA TRANSFERS

**5.1** The Processor may transfer the Personal Data outside the location where it is initially processed. In such a case and if such transfer does not comply with the applicable Data Privacy Laws, the Processor shall provide bioMérieux with an opportunity to object within thirty (30) days after the Processor supplies bioMérieux with full details regarding such transfer including the purpose, the impacted Personal Data, the identity of the Personal Data's importer, the countries to which the Personal Data will be transferred and all appropriate documents that demonstrate the implementation of the appropriate measures to ensure the Personal Data transfer complies with the applicable Data Privacy Laws.

## 6. PERSONAL DATA BREACH

**6.1** bioMérieux shall assist Customer in meeting its own obligations in relation to the security of Processing. As required by Data Privacy Laws, bioMérieux shall notify Customer without undue delay after becoming aware of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed. bioMérieux shall provide Customer with such cooperation and assistance as may be required to mitigate against the effects of, and comply with any reporting obligations which may apply in respect of, any such breach.

## 7. DELETION OF PERSONAL DATA



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**7.1** bioMérieux shall delete or return all of Personal Data to Customer as Controller, at the end of the termination or expiry of the Applicable Terms and shall do so unless Applicable Law requires otherwise. To the extent that any Applicable Law or any agreement between bioMérieux and Customer requires retention of such Personal Data, the provisions of these Data Processing Terms shall continue to apply to the retained Personal Data. bioMérieux reserves the right to charge Customer for any reasonable costs and expenses incurred by bioMérieux in deleting or returning Personal Data pursuant to this clause if such costs or expenses exceed a nominal amount.

## 8. COOPERATION

**8.1 Data Subject Access Requests.** Where required under Data Privacy Laws, bioMérieux shall assist Customer in providing Data Subjects access to their Personal Data, and allowing Data Subjects to make Data Subject Access Requests to the extent the Data Subject may do so under Data Privacy Laws. bioMérieux shall promptly notify Customer of any Data Subject Access Request that it receives. Unless otherwise agreed to in writing, Customer shall be solely responsible for responding to such Data Subject Access Requests. bioMérieux reserves the right to charge Customer for such assistance if the cost of assisting exceeds a nominal amount. Where bioMérieux agrees to respond to a Data Subject Access Request on Customer's behalf, Customer shall direct the Data Subject to complete a request form located [here](#).

**8.2 Privacy Impact Assessments and Prior Consultation.** Where required by Data Privacy Laws, bioMérieux shall provide reasonable assistance to Customer (a) to carry out a data protection impact assessment in relation to Processing of Personal Data by bioMérieux or (b) as part of any required prior consultation(s) with supervisory authorities.

## 9. DEMONSTRATING COMPLIANCE

**9.1** bioMérieux shall, upon reasonable prior written request from Customer, provide Customer such information as may be reasonably necessary to demonstrate compliance by bioMérieux and, as applicable, the pertinent Sub-Processor(s) of their obligations under Data Privacy Laws and these Data Processing Terms. bioMérieux shall allow for and assist Customer with audits, reviews or inspections conducted by a data protection authority, or similar regulator, to the extent that bioMérieux's assistance is required under Data Privacy Laws and upon mutually agreeable terms. bioMérieux reserves the right to charge Customer for such assistance if the cost of assisting exceeds a nominal amount.

## 10. INFORMATION SECURITY MEASURES

### 10.1 Technical and Organizational Security Measures.

- (a) bioMérieux undertake to set up, from the beginning of the operations, appropriate devices and safety procedures, so as to guarantee the availability, the integrity, the confidentiality and the traceability of Personal Data.
- (b) Taking into account industry standards, the costs of implementation, the nature, scope, context and purposes of the Processing, and any other relevant circumstances relating to Processing of Personal Data on Processor systems, bioMérieux shall implement appropriate technical and organizational security measures to ensure that the security, confidentiality, integrity, availability and traceability of the systems involved in Processing of Personal Data are commensurate with the risk to such Personal Data.
- (c) bioMérieux shall periodically:
  - (i) test and monitor the effectiveness of the safeguards, controls, systems and procedures, and
  - (ii) identify reasonably foreseeable internal and external risks to the security, confidentiality and integrity of Personal Data, and ensure that the risks are addressed.

### 10.2 Restricted Access.

bioMérieux shall ensure that persons authorized to access Personal Data:

- (a) have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- (b) access Personal Data only upon documented instructions, unless required to do so pursuant to Applicable Law; and
- (c) have received appropriate training on their responsibilities, specifically pertaining to security and privacy measures.

**10.3 Additional Information.** As a Processor, bioMérieux is committed to providing a high level of information security regarding the data Processing that is subject to this addendum. bioMérieux shall provide an appropriate security level through organizational, technical and physical security measures as described below to the extent that bioMérieux has or gains access to Personal Data. bioMérieux shall also ensure that any Sub-Processor, including a cloud service provider, shall provide appropriate security level through organizational, technical and physical security measures that meet or exceed the controls listed below. The controls described here are general controls that apply to the various bioMérieux Solutions. bioMérieux has implemented additional specific controls that relate to the specific security postures presented by the specific solutions. Information about those additional information security controls can be obtained upon request. In addition to the controls listed below, bioMérieux has implemented a written information security plan that includes provisions governing data breach response to ensure a prompt and appropriate response in the event of any potential compromise to the availability, integrity, confidentiality or traceability of Personal Data.

- (a) *Physical Access Controls:* bioMérieux has implemented reasonable measures to prevent unauthorized persons from gaining access to Personal Data.
- (b) *System Access Controls:* bioMérieux has taken reasonable measures to prevent Personal Data from being used without authorization. These controls vary based on the nature of Processing undertaken and may include, among other controls, password-protected individual accounts, password policies, electronic or multi-factor authentication methods, audit trails, and traceability mechanisms.
- (c) *Data Access Controls:* bioMérieux has taken reasonable measures to provide that Personal Data is accessible and manageable only by properly authorized employees, database query access is controlled, and application access rights are established and enforced to ensure that employees entitled to use a Processing system only have access to Personal Data to which they have privilege of access, and that personal data cannot be read, copied, modified or removed without authorization in the course of Processing. bioMérieux has taken reasonable measures to implement an access policy under which access to system environments, Personal Data and other data is limited to authorized personnel only.
- (d) *Transmission Controls:* bioMérieux has taken reasonable measures to ensure that Personal Data cannot be read, copied, modified or deleted without authorization during transmission. These controls include encryption of data transmission using either 128-bit Symmetric Encryption keys or the then-current but no less secure industry standard encryption.



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- (e) *Input Controls:* bioMérieux has taken reasonable measures to guard against any unauthorized inclusion, modification or deletion of Personal Data from databases. bioMérieux has taken reasonable measures to ensure that the source of Personal Data is under the control of Customer at the time of Personal Data collection, and that Personal Data exported into bioMérieux databases are managed by secure and encrypted file transfer from Customer to bioMérieux.