

# Data Transfer Agreement

This Data Transfer Agreement (hereinafter referred to as this “Agreement”) is made and entered into by and between MUTOH INDUSTRIES LTD. (hereinafter referred to as the “Company”) and \_\_\_\_\_ (hereinafter referred to as the “Recipient”) as a part of the agreement on the Services (hereinafter referred to as the “Service Agreement”).

## 1. Definitions

- 1.1. In this Agreement, unless otherwise defined, the following terms shall have the following meanings:
  - 1.1.1. “Agreement” means this Data Transfer Agreement and all annexes.
  - 1.1.2. “Services” means MUTOH CLUB the Company provides.
  - 1.1.3. “Controller” means any natural or legal person, public agency, department or other organization that determines the purpose and manner of processing personal data, either alone or jointly with others.
  - 1.1.4. “Processor” means any natural or legal person, public agency, department or other organization that processes personal data on behalf of the Controller.
  - 1.1.5. “Personal Data” means personal data provided to the Recipient under or in connection with the Service Agreement.
  - 1.1.6. “Data Subject” means a natural person who, directly or indirectly, is identified or identifiable by Personal Data.
  - 1.1.7. “Data Transfer” means the transfer of Personal Data from the Company to the Recipient, the transfer of Personal Data from the Recipient to a third party (including a subcontractor), or the transfer of Personal Data between different business offices within the Recipient.
  - 1.1.8. “GDPR” means the 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 (General Data Protection Regulation).
  - 1.1.9. “Document” means a document (including an electromagnetic record such as an electronic mail).

## 2. Transfer and Use of Personal Data

- 2.1. The Company will provide Personal Data to the Recipient and the Recipient will acquire it as follows:
  - 2.1.1. Acquisition as Controller  
In the event the Recipient acquires Personal Data for the purpose of processing by the Recipient itself, the Recipient shall acquire the Personal Data as a Controller. In this case, the purpose of processing Personal Data of the Recipient shall be limited to the purpose of using Personal Data of the Recipient notified to the Data Subject in the Privacy Policy of the Services.
  - 2.1.2. Acquisition as Processor  
In the event the Recipient acquires Personal Data for the purpose of the Company’s processing, the Recipient shall acquire Personal Data as a Processor. In this case, the purpose of processing Personal Data of the Recipient shall be limited to the purpose of using Personal Data of the Company notified to the Data Subject in the Privacy Policy of the Services.
- 2.2. In processing Personal Data, the Recipient must comply with all applicable data protection laws (including the GDPR and the Japanese Act on the Protection of Personal Information at all times). The Recipient shall not use Personal Data by means that encourage or may induce illegal or unjust acts, or acquire Personal Data by means of deception or other illegal means.
- 2.3. The Recipient shall process Personal Data in accordance with the Company’s instructions for any of the cases in Articles 2.1.1 or 2.1.2 and shall not process Personal Data without reference to the Company’s documented instructions, including this Agreement.
- 2.4. To the extent necessary for the achievement of the purposes of use set forth in Articles 2.1.1 or 2.1.2, the Recipient shall endeavor to keep Personal Data accurate and up-to-date and to erase Personal Data without delay when Personal Data no longer needs to be used.

## 3. Processing by Employees

- 3.1. In processing Personal Data, the Recipient warrants to the Company that the access to Personal Data by officers, employees, and other Employees of the Recipient (hereinafter referred to as the “Employee(s)”) is essential for the purposes of use in Articles 2.1.1 or 2.1.2 and is strictly limited to those who need access, and that the Employee is under an obligation of confidentiality covering Personal Data under a confidentiality agreement with the Recipient.
- 3.2. The Recipient shall exercise necessary and appropriate supervision over the Employee in order to ensure the secure control of Personal Data when allowing the Employee engaged in the work to process Personal Data.

#### 4. Secure Control System

- 4.1. The Recipient shall properly implement appropriate technical and organizational measures, including all measures required by Article 32 of the GDPR, to ensure a certain level of security that appropriately responds to risks, taking into account the latest technology, implementation costs, nature, scope, process and purpose of processing, and risks of various probability and severity to the rights and freedoms of natural persons.
- 4.2. In assessing the appropriate level of security, the Recipient shall consider the risks posed by the processing, in particular the risks of infringement of Personal Data.
- 4.3. The departments, names, and e-mail addresses of the Personal Data processing supervisor of the Company and the Recipient shall be as follows. When either party needs to contact the other party regarding the processing of Personal Data, either party shall do so to the following persons. The Company and the Recipient shall promptly notify in writing any change in such information.

[The Company]

Department Legal Department Name Atsushi Chiba E-mail address MUTOH\_Club\_PD@mutoh.co.jp

[Recipient]

Department \_\_\_\_\_ Name \_\_\_\_\_ E-mail address \_\_\_\_\_

#### 5. Disclosure and Provision to Third Parties

- 5.1. The Recipient shall treat Personal Data as confidential and shall not disclose or provide it to any third party including subcontractors without the Company's prior written approval.
- 5.2. In the event the Recipient discloses or provides Personal Data to a third party with the prior written approval of the Company (including the transfer for the purpose of subprocessing), the Recipient shall execute a data transfer agreement (data processing agreement) equivalent to or greater than this Agreement and shall exercise necessary and appropriate supervision over such third party in order to ensure the secure control of Personal Data.

#### 6. Data Subject's Rights

- 6.1. The Recipient shall assist the Company, to the extent possible, with appropriate technical and organizational measures, taking into account the nature of processing, in the performance of the Company's obligations, which the Company reasonably understands as obligations to address the requirements for exercising the Data Subject's rights under the GDPR.
- 6.2. With respect to the Personal Data acquired by the Recipient as a Controller, the Recipient shall comply with the provisions of each of the following items:
  - 6.2.1. If a Data Subject exercises any right that is permitted by applicable law with respect to the Personal Data (including, but not limited to, requests for disclosure, correction, addition or deletion of the content, suspension of use, erasure, and discontinuation of provision to a third party), or files complaints or other requests, it is the responsibility of the Recipient to respond to such requests; and
  - 6.2.2. If the Recipient refuses the Data Subject's request for reasonable and lawful reasons (including the case of not taking any action or taking any action that is different from the request), the Recipient shall make efforts to explain the reasons for refusal to the Data Subject.
- 6.3. The Recipient shall comply with the provisions of the following items with respect to the Personal Data that it has acquired as a Processor:
  - 6.3.1. If a Data Subject requests the exercise of rights permitted by applicable law (including, but not limited to, requests for disclosure, correction, addition or deletion, suspension of use, erasure, and suspension of provision to a third party), or files complaints or any other requests, it shall be the responsibility of the Recipient to promptly notify the Company in order for the Company to respond to such requests; and
  - 6.3.2. Except as required by the Company's written instructions or applicable law to which the Recipient is subject, the Recipient shall not respond to the request of the Data Subject. If the Recipient is compelled to respond the request in accordance with the requirements of applicable law, the Recipient shall notify the Company of the legal requirements prior to such response to the extent permitted by applicable law.
- 6.4. With respect to the Personal Data acquired by the Recipient as a Controller, the Recipient shall place the following items in a condition that is accessible to the Data Subject (including cases where the Recipient publicly announces in advance and responds without delay to inquiries from the Data Subject):
  - (a) Name and address of the Recipient and name of its representative;
  - (b) Purpose of use of all Personal Data acquired as a Controller;
  - (c) With respect to the Personal Data obtained as a Controller, if the Recipient stipulates that a commission shall be collected from the

- Data Subject upon request as set forth in Article 6.2.1, the amount of such commission (limited to cases permitted by applicable law);
- (d) Details of measures taken for the secure control of the Personal Data obtained as a Controller; and
  - (e) Contact for submitting complaints regarding the processing of the Personal Data obtained as Controller.

## **7. Data Breach**

- 7.1. If the Recipient becomes aware of the occurrence or threat of data breach (including, but not limited to, leakage, loss, or damage, and the same shall apply hereinafter) of Personal Data, the Recipient shall promptly notify the Company (at the latest, within twenty-four (24) hours from the time of such awareness).
- 7.2. In the event of the breach or threatened breach of Personal Data, the Recipient shall assist the Company in investigating, mitigating, correcting or otherwise taking actions to such breach, reporting to regulatory authorities, or notifying the Data Subject, etc.

## **8. Deletion or Return of Personal Data**

- 8.1. The Recipient shall promptly delete all Personal Data (including copies thereof) upon termination of the Service Agreement or upon the Company's request. If requested by the Company, a Document certifying the deletion shall be submitted to the Company.

## **9. Right to Audit, etc.**

- 9.1. In order to confirm the status of the processing of Personal Data by the Recipient, the Company may request the Recipient to submit reports, materials, or accept audits (including requests for access to the business site of the Recipient) by giving prior written notice to the Recipient, and the Recipient shall comply with such requests.
- 9.2. The Recipient shall provide reasonable assistance to the Company, when required by the Company, with respect to data protection impact assessments, prior consultations with regulatory authorities and other data privacy authorities, and other similar measures as required by the GDPR and other applicable laws.

## **10. Data Transfer**

- 10.1. The Recipient shall not, without the Company's prior written approval, transfer or permit the transfer of Personal Data outside the territory specified below.  
[Territory] \_\_\_\_\_

## **11. Compensation for Damage**

- 11.1. In the event the Recipient breaches this Agreement for any reason attributable to the Recipient, the Recipient shall compensate for all damages, costs, and reasonable attorneys' fees incurred by the Company or the Data Subject due to such breach.

## **12. Notice**

- 12.1. All notices and communications made in connection with this Agreement shall be in writing.
- 12.2. A Document sent to the address or e-mail address of the Recipient specified in this Agreement (including the e-mail address of the Personal Data processing supervisor) shall be deemed to have reached the Recipient when it should normally arrive.

## **13. Assignment**

- 13.1. In the event that the Company changes the operator of the Services, the Company may succeed the status of a party to this Agreement to the new operator, and the Recipient hereby accepts this in advance.
- 13.2. The Recipient shall not assign, transfer, pledge as security, or otherwise dispose of its status as a party hereto or its rights or obligations hereunder, in whole or in part, to any third party without the Company's prior written approval.

## **14. Severability**

- 14.1. If any part of the provisions of this Agreement are held to be invalid under applicable law, the other provisions of this Agreement shall be effective.

## **15. Governing Law and Dispute Resolution**

- 15.1. This Agreement shall be governed by and construed in accordance with the laws of Belgium.
- 15.2. Any dispute, controversy or difference which may arise out of or in connection with this Agreement shall be finally settled by arbitration in accordance with the Arbitration Rules of CEPANI (Belgian Centre for Arbitration and Mediation). The place of arbitration shall be Brussels (Belgium).

**16. Language**

16.1. In this Agreement, the English language shall be the authentic text, and even if a translation of this Agreement into another language has been prepared for reference, only the authentic text of the English language shall have effect as an agreement.

IN WITNESS WHEREOF, the parties hereto have prepared an electromagnetic record of this Agreement, and after agreement by the Company and the Recipient, the parties shall electronically sign the electromagnetic record and each party shall retain its own electromagnetic record.

(The remainder of this page is intentionally left blank.)

Data

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The Company

Address:

3-1-3, Ikejiri, Setagaya-ku, Tokyo, Japan

Company Name :

MUTOH INDUSTRIES LTD.

Name :

Yasuhiko Isobe

Title :

President and Representative Director

Recipient

Address:

Company Name :

Name :

Title :