

KVH Data Processing Addendum



This Data Processing Addendum ("Addendum") is between KVH and Subscriber, each being individually referred to herein also as a "Party" and collectively as the "Parties."

The Parties acknowledge and agree that this Addendum forms part of the underlying Agreement. Pursuant to the Agreement and for the provision of the Services, KVH may Process Personal Data on behalf of Subscriber, and its Authorized Affiliates. This Addendum is entered into to provide adequate safeguards with respect to the protection of privacy and security of Personal Data passed from Subscriber to KVH for Processing or accessed by KVH on the authority of Subscriber for Processing. The Parties agree to comply with the following provisions with respect to any Personal Data Processed by KVH on behalf of Subscriber in connection with the provision of the Services.

Any defined terms not otherwise defined herein shall have the meanings set forth in the Agreement.

1. Definitions

Authority Affiliate means any affiliate of Subscriber which (a) are subject to the Data Protection Laws and regulations of any member of the EU or European Economic Area or the United Kingdom and (b) are permitted to use the Services pursuant to the Agreement.

California Law as used in this Agreement means the California Consumer Privacy Act, as amended by the California Privacy Rights Act ("CPRA").

Data Protection Laws means (a) 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) or "GDPR"; and (b) United Kingdom Data Protection Act of 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; (c) California Law and (d) all laws, regulations or requirements or regulatory guidance, in any jurisdiction, relating to data protection, privacy and confidentiality of Personal Data, in each case to the extent applicable to a Party.

Personal Data Breach means a confirmed 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.

Personal Data, Process(ing), Processor, Subprocessor, Controller, Data Subject, shall have the same meaning as set forth under the GDPR.

"Sell," "share," "business purpose," "commercial purpose," "data protection impact assessment," and "supervisory authority" (or any equivalent terms) each have the meaning ascribed to them under applicable Data Protection Laws.

"Standard Contractual Clauses" means the standard data protection clauses (controller-to-processor module) between the transfer of personal data from controllers in the EEA to processors established in third countries which do not ensure an adequate level of data protection, as described in Article 46 of the GDPR and approved by the European Commission in decision 2021/914/EC, dated 4 June 2021.

2. Roles of the Parties and Scope of Services

2.1 KVH provides certain Services as detailed in the Agreement. The Parties acknowledge and agree that to the extent applicable, KVH acts as a Processor with respect to its Processing of Personal Data.

2.2 The scope, manner and purpose as well as the categories of Personal Data and the Data Subjects affected are set out in the Agreement and [Schedule 1](#) to this Addendum.

3. Obligations of the Processor

When KVH processes Personal Data as a Processor or service provider on Subscriber's behalf (and not when KVH processes Personal Data as a controller, business or third party), the terms in this Section 3 shall apply:

3.1 **Instructions.** KVH will Process Personal Data only on behalf of Subscriber and at all times in compliance with Subscriber's written instructions based on this Addendum, and all applicable Data Protection Laws. If KVH cannot comply with Subscriber's instructions for whatever reason, it agrees to promptly notify Subscriber, in which case Subscriber may suspend the transfer of Personal Data and/or terminate this Addendum. KVH will have no liability for any harm or damages resulting from its compliance with unlawful Instructions received from Subscriber. Where KVH believes that compliance with any instructions by Subscriber would result in a violation of any applicable law on data protection, KVH shall notify Subscriber thereof in writing without delay.

3.2 **Data Security.** KVH implements appropriate technical and organizational measures to protect Subscriber's Personal Data and Subscriber Content against misuse and loss in accordance with the requirements of the Applicable Data Protection Laws. An overview of the technical and organizational measures (Description of Technical and Organizational Measures) can be provided upon request. KVH regularly monitors compliance with these measures.

3.3 **KVH Personnel and Data Confidentiality.** Access to Personal Data by KVH will be limited to personnel who require such access to perform KVH's obligations under the Agreement and who are bound by obligations to maintain the confidentiality of such Personal Data at least as protective as those set forth herein and in the Agreement.

3.4 **Government Access Request.** KVH will promptly notify Subscriber regarding any legally binding request for disclosure of Personal Data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation. KVH will reasonably assist Subscriber in compliance with applicable law, including the obligation to carry out data protection impact assessments and prior consultations with

supervisory authorities, taking into account the nature of the Processing and the information available to KVH.

3.5 **Personal Data Breach Notification.** KVH will notify Subscriber without undue delay about a Personal Data Breach. Such notification shall include, taking into account the nature of the Processing and the information available to KVH, information relevant to assist Subscriber in complying with its own notification obligations under applicable Data Protection Laws and Regulations. Subscriber will cooperate with KVH in maintaining accurate contact information in the subscriber account portal and by providing any information that is reasonably requested to resolve any security incident, including any Personal Data Breaches, identify its root cause(s) and prevent a recurrence. Subscriber is solely responsible for determining whether to notify the relevant supervisory or regulatory authorities and impacted Data Subjects and for providing such notice.

3.6 **Requests for Exercising Data Subjects Rights.** KVH will notify Subscriber of any request received directly from Data Subjects without responding to that request, unless it has been otherwise authorized to do so in writing by Subscriber. Taking into account the nature of the Processing, KVH will reasonably assist Subscriber by appropriate technical and organizational measures to fulfill Subscriber's obligation to respond to requests for exercising the Data Subject's rights. **Error! Reference source not found.**

3.7 **California Residents.** For any Personal Data subject to California Law, KVH shall process Personal Data for the following business purposes set out by California Law: performing services on behalf of KVH, including fraud prevention services. KVH agrees that it shall not: (i) sell or share Personal Data; (ii) retain, use, or disclose Personal Data for any purpose, including a commercial purpose, other than for the business purposes specified herein; (iii) retain, use, or disclose Personal Data outside of the direct business relationship between KVH and Subscriber; or (iv) combine Personal Data with personal information that KVH receives from or on behalf of another person or collects from its own interaction with the Data Subject, unless, for (ii), (iii), or (iv) above, as otherwise permitted of a service provider by California Law.

3.8 Appointment of Subprocessors

(a) Subscriber hereby consents and generally authorizes KVH to engage Subprocessors to assist in the performance of the Services. Upon request of Subscriber, KVH shall make available to Subscriber a list of the then current Subprocessors for the Services. Any such Processing by a Subprocessor shall be done pursuant to a signed written agreement that is no less restrictive than this Addendum. No Processing by a Subprocessor will release KVH from its responsibility for its obligations under this Addendum, and KVH will be fully liable for the work and activities of each of its Subprocessors.

(b) KVH shall notify Subscriber in writing of a new Subprocessor before authorizing the new Subprocessor to Process Personal Data in connection with the provision of the Services. In order to exercise its right to object to KVH's use of a new Subprocessor, Subscriber shall notify KVH promptly in writing within ten (10) business days after receipt of KVH's notice. In the event Subscriber objects to a new Subprocessor, and that objection is not unreasonable, and KVH is not able to make available to Subscriber a change in the Services or avoid Processing of Personal Data by the objected-to Subprocessor within a reasonable period of time, which shall not exceed thirty (30) days, Subscriber may terminate the relevant portion(s) of the Services which cannot be provided by KVH without the use of the objected-to Subprocessor by providing written notice to KVH. KVH will refund Subscriber any prepaid fees for the terminated portion(s) of the Services that were to be provided after the effective date of termination.

3.9 **Audits and Information Requests.** Subscriber may during regular business hours, without unreasonably interfering with KVH's business operations, and after a reasonable prior notice, personally audit KVH, or appoint a third-party auditor being subject to confidentiality obligations, and who is not a competitor of KVH, to carry out such audit. Before the commencement of any such on-site audit, Subscriber and KVH shall mutually agree upon the scope, timing, and duration of the audit. KVH shall, upon request and within a reasonable time, provide to Subscriber all information which is necessary to carry out an audit of the Processing. KVH will charge Subscriber for the reasonable costs incurred with respect to responding to information requests and assisting with audits at the then current professional service rates.

4. Duration; Termination; Return or Deletion of Personal Data

This Addendum will become effective when the Agreement enters into effect into which this Addendum has been incorporated. This Addendum will terminate automatically upon the later of (a) termination or expiry of KVH's obligations in relation to the Services or (b) end of possession of the Personal Data by KVH, and on termination of this Addendum, KVH shall return to Subscriber or delete at Subscriber's option, all the Subscriber's Personal Data in its possession or under its control. Upon the request of Subscriber, KVH shall confirm compliance with such obligations in writing and delete all existing copies, unless applicable law requires storage of the Personal Data.

5. Obligations of Subscriber as Controller

Within and restricted to the scope of this Addendum, Subscriber agrees that it shall ensure that any disclosure of Personal Data made by it to KVH is made with the Data Subject's consent or is otherwise lawful.

6. International Data Transfers

6.1 Subscriber acknowledges and agrees that KVH may (i) retain its subsidiaries and other third parties as Sub-Processors, and (ii) such Sub-Processors will carry out the Processing of Personal Data outside the EEA, Switzerland and/or the United Kingdom, including in the United States.

6.2 In relation to transfers of Personal Data that is processed in accordance with Section 2.1 of this Addendum, the Standard Contractual Clauses shall apply, completed as follows:

- (a) Module Three will apply (as applicable);
- (b) in Clause 7, the optional docking clause will apply;
- (c) in Clause 9, Option 2 will apply, and the time period for prior notice of Subprocessor changes shall be as set out in Section 6(e)(ii) of this Addendum;
- (d) in Clause 11, the optional language will not apply;
- (e) in Clause 17, Option 1 will apply, and the Standard Contractual Clauses will be governed by the laws of France;
- (f) in Clause 18(b), disputes shall be resolved before the courts of France;
- (g) Annex I of the Standard Contractual Clauses shall be deemed completed with the information set out in Schedule 1 to this Addendum; and

6.3 In relation to transfers of Personal Data protected by the UK GDPR, the Standard Contractual Clauses as implemented under sub-paragraphs above will apply with the following modifications:

- (a) the Standard Contractual Clauses shall be deemed amended as specified by Part 2 of the UK Addendum;
- (b) tables 1 to 3 in Part 1 of the UK Addendum shall be deemed completed respectively with the information set out in Schedules 1 and 2 of this Addendum (as applicable); and

(c) table 4 in Part 1 of the UK Addendum shall be deemed completed by selecting "neither party".

6.4 In the event of any conflict between this Addendum and the Standard Contractual Clauses, the provision protecting the rights and freedoms of Data Subjects to a greater extent shall prevail.

6.5 **Privacy Shield.** Although KVH does not rely on the Privacy Shield as a legal basis for transfers of Personal Data in light of the judgment of the Court of Justice of the EU in Case C-311/18, for so long as KVH is self-certified to the Privacy Shield it shall continue to process Personal Data in compliance with the Privacy Shield Principles and agrees to notify Subscriber if it makes a determination that it can no longer meet its obligation to provide the level of protection as is required by the Privacy Shield Principles.

7. Miscellaneous

7.1 Nothing in this Addendum shall be construed as an exclusion of any laws, regulations or rules pertaining to protection of Personal Data or export regulations that may be applicable to the Services provided by KVH under the Service Provider Agreement and that must be observed by KVH.

7.2 If any term or provision of this Addendum shall be held to be illegal or unenforceable in whole or in part, the validity of the remaining provisions and of this Addendum itself shall remain unaffected. The same shall apply in the event that this Addendum is incomplete.

7.3 This Addendum and any contractual obligations arising out of or in relation to it shall be governed by law governing the Agreement, except where Standard Contractual Clauses apply.

List of Schedules

Schedule 1: Description of the Processing

Schedule 1

Scope of Processing

Data Exporters	Subscriber
Data Importers	KVH Industries, Inc.
Nature of the Processing	Performance of the Services pursuant to the Agreement.
Subject Matter	To Process Personal Data as necessary to perform the Services pursuant to the parties' Agreement, as specified in any specific Order Forms or Statements of Work, and as may be instructed by the respective Data Exporters.
Duration	For the duration of the Agreement, unless otherwise agreed to in writing and pursuant to the terms of the Addendum.
Frequency of the Data Transfer	Continuous depending on the use of the Services.
Extent, Type and Purpose of the Processing	Data Exporter will determine the period required for Personal Data to be retained depending on the purpose of Processing. Data Importer will return or destroy, at the sole option of the Data Exporter, after the expiration or termination of Services, unless otherwise required to be retained by applicable law or legal order.
Data Subjects	See Agreement
Categories of Data	See Agreement
Sensitive Data/Special Categories of Personal Data	N/A
Competent Supervisory Authority	<ul style="list-style-type: none"> • Where the Data Exporter is established in the EU, supervisory authority with responsibility for ensuring compliance by the Data Exporter with Regulation (EU) 2016/679 in regards to the data transfer shall act as competent supervisory authority. • Where the Data Exporter is established in the United Kingdom, or falls within the territorial scope of application of UK Data Protection Laws and Regulations, the Information Commissioner's Office shall act as the competent supervisory authority. • Where the Data Exporter is established in Switzerland or falls within the territorial scope of application of Swiss Data Protection Laws and Regulations, the Swiss Federal Data Protection and Information Commissioner shall act as competent supervisory authority. • For other countries not listed, the supervisory authority for Personal Data subject to other Data Protection Laws will be the data protection authority in that jurisdiction respectively.

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