

# FORENOVA DATA PROCESSING AGREEMENT

*Last Updated: May 21, 2024*

This Data Processing Agreement, including its annexes (collectively referred to as the “DPA”) is incorporated into and forms part of EULA between Customer, and if applicable, Customer’s Affiliates, and ForeNova. It sets forth the legal terms and conditions that govern the processing of Personal Data by the Product and Services.

## 1 DEFINITIONS

1.1 Within the context of this Data Processing Agreement, the terms “Controller”, “Data Subject”, “Personal Data”, “Processing” (including “Process” or “Processed”), “Processor”, and “Personal Data Breach”, have the same meaning as set out in Article 4 of the GDPR. The foregoing also applies to other terms that are capitalized in this Data Processing Agreement and defined in the GDPR.

1.2 In addition to the terms referred to in Article 1.1 the following terms are used in this Data Processing Agreement:

- (a) “Affiliate” means any entity that is either directly or indirectly controlled by a party (such as a subsidiary) or exercises control over the party (like a parent company) or is jointly controlled in a manner where “control” means having the authority, whether through ownership of voting securities, contractual agreements, or other means, to direct or influence the management and policies of the entity.
- (b) “Agreement” or “EULA” means the End User License Agreement between ForeNova and Customer pursuant to which ForeNova provides Products or Services to Customer which result in the Processing of Personal Data by ForeNova as Processor.
- (c) “Customer” means the counterparty of ForeNova to an Agreement.
- (d) “Data Processing Agreement” means this data processing agreement, including any of its annexes.
- (e) “Data Protection Laws” means the laws and regulations of a country containing rules for the protection of individuals with regard to the Processing of Personal Data such as – but not limited to – the GDPR, insofar applicable to the Processing of Personal Data under the Agreement.
- (f) “Datasheet” means the datasheets attached in Annex 1.
- (g) “EEA” means the European Economic Area, encompassing countries that have signed the ‘Agreement on the European Economic Area’.
- (h) “ForeNova” means ForeNova Technologies B.V. or any of its Affiliates that entered into an Agreement with Customer.
- (i) “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), as amended, consolidated or replaced from time to time.
- (j) “Relevant Personal Data” means the Personal Data Processed by ForeNova as the Processor on behalf of Customer in the course of the provision of the Products and Services.
- (k) “Sub-Processor” means a Processor in the sense of paragraph 4 of Article 28 of the GDPR that is engaged by ForeNova for carrying out specific Processing activities on behalf of Customer.
- (l) “Authorized Sub-Processors” means any Sub-Processors ForeNova is authorized to engage, including, but not limited to the Sub-Processors indicated in the Agreement, this Data Processing Agreement, the applicable Datasheets, and the Sub-Processors List attached as Annex 3.

- (m) “Security Incident” means any unauthorized access to End User Data stored on ForeNova’s equipment or within ForeNova’s facilities, or unauthorized access to such equipment or facilities resulting in the loss, disclosure, or alteration of End User Data that compromises the privacy, security, or confidentiality of such data.
- 1.3 All capitalized terms not defined by the previous paragraphs, will have the meanings set forth in the Agreement.

## **2 PURPOSE OF THIS DATA PROCESSING AGREEMENT**

- 2.1 This Data Processing Agreement forms an integral part of the Agreement and sets out the obligations of ForeNova and Customer with respect to the Processing of Relevant Personal Data in connection with the performance of the Services and/or the delivery of Products under the Agreement.
- 2.2 To the extent that there is any conflict between this Data Processing Agreement other parts of the Agreement, this Data Processing Agreement shall prevail.

## **3 ROLES AND SUBJECT MATTER**

- 3.1 As between ForeNova and Customer, ForeNova will process Relevant Personal Data under the Agreement in the capacity as Processor engaged by Customer, where Customer itself either acts as Controller or Processor, as the case may be.
- 3.2 The details of the Processing activities, in particular, the categories of Relevant Personal Data, categories of Data Subjects, and the purposes for which the Relevant Personal Data is Processed, are specified in the Agreement and the relevant Datasheets.

## **4 GENERAL OBLIGATIONS OF THE PARTIES**

- 4.1 Regarding the Processing of Relevant Personal Data by ForeNova under the scope of this Data Processing Agreement, ForeNova and Customer commit to fulfilling their corresponding obligations as set forth by applicable Data Protection Laws.
- 4.2 ForeNova shall Process the Relevant Personal Data only on documented instructions from Customer pursuant the Agreement, unless required to do so by Union or EU member state law to which ForeNova may be subject. In the latter case, ForeNova shall inform Customer of that legal requirement before Processing, unless the law prohibits this on important grounds of public interest. Subsequent instructions may also be given by Customer to ForeNova throughout the duration of the Processing of Personal Data. These instructions shall always be documented. ForeNova shall Process the Personal Data only for the specific purpose(s) and duration of the Processing, as set out in the Agreement, this Data Processing Agreement, and the applicable Datasheets, unless ForeNova receives further (to be documented) instructions from Customer. Such instructions may include configuration and specific use of the Products and Services by Customer.
- 4.3 ForeNova shall immediately inform Customer if, in ForeNova’s opinion, instructions given by Customer infringe applicable Data Protection Laws. This opinion may not be construed as a legal advice from ForeNova.
- 4.4 Customer acknowledges that it is and will remain solely responsible for:
- (a) determining the purposes and the means of the Processing of Relevant Personal Data under this Data Processing Agreement and ensuring that any instructions given to ForeNova are at all times in compliance with Data Protection Laws;
  - (b) approving the technical and organizational measures applicable to the protection of Relevant Personal Data as specified in the Agreement;

- (c) securing all necessary consents and rights for the processing of Personal Data;
- (d) maintaining the accuracy, quality, and legality of Personal Data at all times;
- (e) providing ForeNova with the minimum amount of Personal Data necessary for the provision of the Products and Services;
- (f) forwarding its web traffic or internal traffic to ForeNova via valid forwarding mechanisms that allow for automatic failover.

## **5 USE OF SUB-PROCESSORS**

- 5.1 ForeNova will not engage Sub-Processors to Process Relevant Personal Data without the prior written specific or general authorization of Customer. ForeNova shall remain fully responsible to Customer for the performance of the Sub-Processor's obligations in accordance with its contract with ForeNova.
- 5.2 Customer hereby agrees and gives ForeNova authorisation to have Relevant Personal Data Processed by (a) any of ForeNova's Affiliates that are established in and/or outside the EEA, and (b) the Sub-Processors that are expressly indicated in the Agreement ("Authorized Sub-Processors"). Notwithstanding the foregoing, and as required by applicable Data Protection Laws, ForeNova will notify Customer of any intended changes concerning the addition or replacement of any Sub-Processor within a reasonable time before implementing such change. This advance notice allows Customer to assess and, if desired, to object to such change. Upon request, ForeNova will provide Customer with the necessary information to exercise its right to object. If Customer objects, ForeNova will endeavor to offer alternate options for the delivery of the respective Products and Services that do not involve the new Sub-Processor(s), without prejudice to any of Customer's termination rights.
- 5.3 Where ForeNova engages Sub-Processors, it will impose on these Sub-Processors the same obligations, in substance, with respect to the Processing of Relevant Personal Data as to which ForeNova is bound by this Data Processing Agreement. ForeNova shall ensure that the Sub-Processor complies with the obligations to which ForeNova is subject pursuant to this Data Processing Agreement and the GDPR.

## **6 INTERNATIONAL TRANSFERS**

- 6.1 Any transfer of Relevant Personal Data by ForeNova to a third country or an international organization shall be done only on the basis of documented instructions from Customer or in order to fulfil a specific requirement under Union or EU member state law to which ForeNova is subject and shall take place in compliance with chapter V of the GDPR.
- 6.2 Customer agrees that where ForeNova engages a Sub-Processor in accordance with Article 5 for carrying out specific Processing activities on behalf of Customer and those Processing activities involve a transfer of Relevant Personal Data within the meaning of chapter V of the GDPR, ForeNova and the Sub-Processor can ensure compliance with chapter V of the GDPR by using standard contractual clauses adopted by the European Commission in accordance with of Article 46(2) of the GDPR, provided the conditions for the use of those standard contractual clauses are met.

## **7 SECURITY AND CONFIDENTIALITY**

- 7.1 ForeNova has, upon execution of this Data Processing Agreement, implemented the technical and organizational security measures as indicated in the Agreement, including Annex 2 of this DPA, to safeguard Relevant Personal Data against accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access, and against all other forms of unlawful Processing. Customer hereby approves these security measures and acknowledges that these security measures are subject to technical progress and development and that ForeNova may update or modify the security measures from time-to-time, provided that the measures are not downgraded to a level under what is required pursuant to Article 32 of the GDPR.

- 7.2 ForeNova shall grant access to the Relevant Personal Data undergoing Processing to members of its personnel only to the extent strictly necessary for performance of the Agreement. ForeNova shall ensure that persons authorized to Process the Relevant Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 7.3 Customer is responsible for reviewing this Data Processing Agreement and evaluating for itself whether the Products and Services and ForeNova' commitments under the Agreement and this Data Processing Agreement in particular, will meet Customer's needs, including with respect to any obligations of Customer under Data Protection Laws as applicable.
- 7.4 In the event of a Personal Data Breach affecting Relevant Personal Data, ForeNova will, without undue delay (a) inform Customer of the Personal Data Breach; (b) investigate and provide Customer as soon as reasonably possible with available detailed information about the Personal Data Breach; and (c) take reasonable steps to mitigate the effects and minimize any damage resulting from the Personal Data Breach as required by applicable Data Protection Laws. ForeNova shall reasonably cooperate with Customer in any post Personal Data Breach communication efforts.
- 7.5 If it is established that the Personal Data Breach is primarily attributable to ForeNova, or falls within the scope of ForeNova's Processing activities, and that Personal Data Breach is not the result of an instruction from Customer, ForeNova will bear its own costs with regard to all activities it has performed and all measures it has taken in accordance with this Article 7. In all other cases, ForeNova has the right to charge the costs it has made pursuant to the Personal Data Breach to Customer.
- 7.6 ForeNova will implement and maintain an incident response plan that specifies actions, including containment, investigation, reporting, and remediation, to be taken in the event of a Security Incident. Upon verification of a Security Incident, ForeNova shall, within 72 hours: i) notify Customer, considering the nature of ForeNova's processing of Personal Data and the information available to ForeNova; ii) provide timely information relating to the Security Incident as it becomes known or as reasonably requested by Customer; and iii) promptly take reasonable steps to contain, investigate, and mitigate the Security Incident. ForeNova shall reasonably cooperate with Customer in any communications following a Security Incident.

## **8 ASSISTANCE**

- 8.1 ForeNova shall notify Customer without undue delay of any request it has received from a Data Subject with regard to the Data Subject's rights under applicable Data Protection Laws. ForeNova shall not handle the request itself, unless authorized to do so by Customer or if ForeNova is required thereto by applicable law. ForeNova shall assist Customer in fulfilling its obligations to respond to Data Subject requests, taking into account the nature of the Processing and shall follow Customer's instructions in doing so.
- 8.2 If a law enforcement agency sends ForeNova a demand for Relevant Personal Data relating to a Data Subject, ForeNova will attempt to redirect the law enforcement agency to request that Relevant Personal Data directly from Customer. As part of this effort, ForeNova may provide Customer's contact information to the law enforcement agency. If compelled to disclose Relevant Personal Data to a law enforcement agency, then ForeNova will give Customer reasonable notice of the demand to allow Customer to seek a protective order or other appropriate remedies to the extent ForeNova is legally permitted to do so. ForeNova will only make an exception to the aforementioned notification commitments in emergency circumstances where notice could, in ForeNova sole discretion, result in danger or harm to an individual or group.
- 8.3 If ForeNova is legally required to respond to a request mentioned in paragraph 8.1 and 8.2, ForeNova will notify the Customer and provide it with the contact information of the requesting party unless legally prohibited from doing so by applicable law.
- 8.4 Taking into account the nature of the Processing and information available to ForeNova, ForeNova shall assist Customer to ensure its compliance with the following obligations, insofar applicable:

- a. the obligation to carry out an assessment of the impact of the envisaged Processing operations on the protection of Personal Data (a 'data protection impact assessment') where a type of Processing is likely to result in a high risk to the rights and freedoms of natural persons;
  - b. the obligation to consult the competent supervisory authority/ies prior to Processing where a data protection impact assessment indicates that the Processing would result in a high risk in the absence of measures taken by Customer to mitigate the risk;
  - c. the obligation to ensure that Personal Data is accurate and up to date, by informing Customer without delay if ForeNova becomes aware that the Personal Data it is Processing is inaccurate or has become outdated;
  - d. the obligations set forth in Article 32 of the GDPR.
- 8.5 Should ForeNova determine in good faith that the request for assistance falling in scope of this Article 8 is unreasonable, overly burdensome, or outside of industry expectation for assistance with each respective matter, ForeNova and Customer agree to discuss in good faith a fee to be charged to Customer for the assistance to be or as provided outside of the reasonable expected level of assistance.

## **9 AUDIT**

- 9.1 Customer has - at reasonable intervals or if there are indications of non-compliance - the right to audit through a certified internal auditor or an external auditor (i.e. an independent certified auditor that could not reasonably be considered a competitor of ForeNova), ForeNova's compliance with its obligations under this Data Processing Agreement. ForeNova has the right to require the respective auditors to agree to a non-disclosure agreement prior to the audit is initiated.
- 9.2 Auditors will only be given access during ForeNova's regular business hours and Customer is required to inform ForeNova in advance of any such audit, where such notification is reasonably possible. During the audit, Customer must ensure to cause minimal disruption to ForeNova's business operation. ForeNova shall provide the auditor with reasonable assistance, as requested.
- 9.3 After conducting an audit, Customer will either itself or request its external auditors to send a preliminary version of the audit report to ForeNova. After issuance of a definitive audit report, the parties will convene to review the report and discuss the approach for addressing any findings therein.
- 9.4 Customer will bear all costs for performing an audit, including reasonable costs incurred by ForeNova, unless the audit, performed in accordance with this Article 9, shows material findings of non-compliance by ForeNova with its obligations under this Data Processing Agreement other than on the instruction of Customer. In such a case each party shall bear its own costs of the audit.

## **10 LIMITATION OF LIABILITY**

- 10.1 The parties shall be liable for the Processing in the external relationship in accordance with the applicable Data Protection Laws. In the internal relationship, the liability of each party to the other party under this Data Processing Agreement, shall be subject to the exclusions and limitations of liability set out in the Agreement. Therefore, any claims brought by a party under this Data Processing Agreement, whether in contract, tort or under any other theory of liability, shall be subject to the exclusions and limitations set forth in the Agreement.

## **11 TERMINATION**

- 11.1 Following termination of the Agreement and/or the underlying Processing activities of ForeNova, ForeNova shall, at the choice of Customer, delete all Relevant Personal Data, and, at the request of Customer, certify to Customer that it has done so, or return all Relevant Personal Data to Customer and delete existing copies, unless Union or EU member state law requires storage of the Relevant Personal Data.

- 11.2 ForeNova is granted the authorization to delete the Relevant Personal Data if, following the termination of the Agreement and/or the underlying Processing activities, Customer has not issued any instructions to ForeNova to either delete or return the Relevant Personal Data after expiry of the applicable retention period.
- 11.3 Until the Relevant Personal Data is deleted or returned, ForeNova shall continue to ensure compliance with this Data Processing Agreement.

## **12 MISCELLANEOUS**

- 12.1 This Data Processing Agreement is governed by the law that governs the Agreement. Each party irrevocably agrees that all disputes which may arise out of or in connection with the Data Processing Agreement shall be resolved by the courts indicated in the Agreement.
- 12.2 ForeNova may modify the terms of this Data Processing Agreement in accordance with terms of the Agreement, and in addition in the following circumstances i) if required to do so by a supervisory authority or other government or regulatory entity, ii) if necessary to comply with Data Protection Laws, or iii) to implement or adhere to standard contractual clauses, approved codes of conduct or certifications, or other compliance mechanisms, which may be permitted under Data Protection Laws. ForeNova will provide notice of changes to this Data Processing Agreement to Customer, and the modified Data Processing Agreement will become effective, in accordance with the terms of the Agreement.
- 12.3 In the event of any conflict between the terms of this DPA and any privacy-related provisions in the Agreement, the terms of this DPA shall prevail.
- 12.4 If Customer has any questions about this DPA, or wish to make a request or inquiry regarding End User Data, Customer may contact ForeNova at any time via e-mail at [privacy@forenova.com](mailto:privacy@forenova.com).

**NOVAMDR DATASHEET****Purpose of this NovaMDR datasheet**

The purpose of this document is to provide Customer with the information on how Personal Data may be collected by, transferred to, or processed by ForeNova in the course of the provision of NovaMDR.

**Product Summary**

NovaMDR is a managed detection and response service that leverages human and machine intelligence to help organizations detect and respond to security threats. NovaMDR uses ForeNova's state-of-the-art, AI-based threat detection and response technologies and global threat intelligence to enhance detection accuracy and quickly respond to threats. NovaMDR's global team of security experts work around the clock, continuously analyzing threats to provide Customer with guidance on how to respond to these threats.

**Nature and Scope of Processing Activities**

In order to provide NovaMDR, the information (which may qualify as Personal Data) listed as follows may be collected and processed by ForeNova. ForeNova shall process and retain this information up to a maximum of six (6) months after the Customer's agreement in respect to NovaMDR is terminated, unless agreed otherwise.

The listed information may relate to the following categories of Data Subjects: i) employees, contractors, consultants, and individuals belonging to Customer, or Customer's clients' and partners' workforce; or ii) other individuals whose Personal Data is Processed as part of the provision of NovaMDR.

(A) The processing and storage of the Personal Data will be subject to appropriate technical and organizational measures, such as encrypted storage, as further outlined in Annex 2 of this DPA.

(B) In order to identify the risk of vulnerability, risk of account leakage or interception, and security status of Customer's account so as to provide vulnerability management service, ForeNova will collect and process the following information:

- Customer Basic Information: company name, contact name, address, account name, email address, and mobile phone number;
- Customer Device Information: device name, device type, device location, device sequence number, IP address, the name and email address of the device owner, and the username and access code for the authorized device.

(C) In order to help Customer analyze and address security alerts reported by Collectors, NovaMDR will collect security alert logs and security incident logs. The generation of security alert and incident logs requires the processing of the following Personal Data by Collectors, such as NovaCommand and NovaGuard:

- Source IP, destination IP, host IP, MAC address, and device location;
- If any request is identified as potentially malicious, the request and response headers, along with request and response bodies will be reported by Collectors.

(D) In order to identify the risk of vulnerabilities, potential account breaches or interceptions, risk of weak passwords and security status of Customer's account so as to provide vulnerability management services and threat and incident management services, NovaMDR will process the following Personal Data from NovaCommand:

- Security Alert Information, including device version, attacker IP, victim IP, related IP, proxy IP, event description, proof information, and URLs;
- Security Event Information, including device version, device ID, host IP, IP address, MAC address, and proof information;
- Asset Information, including device version, adapter (such as a list of device IDs), host name, software information (such as software version), MAC address, and ports;
- Weak Password Information, including device version, IP address, and type of weak password.

(E) In order to clarify the basic conditions of the endpoint, promptly identify and address abnormal endpoints, identify unusual host behavior, abnormal files, host account threats, abnormal host script files, and monitor host operational status, ForeNova will collect asset information and endpoint security data from NovaGuard

to analyze these issues and generate security alerts and incidents, thereby facilitating the provision of threat and incident management services. The following Personal Data may be included:

- User information: username, process user, task user, domain name, URLs;
- File information: file name, file description, file size, file user;
- Software information: software name, type, version
- Operating system information: OS version, OS name;
- Network information: source and destination IP addresses and ports, host IP, host name, attack source IP, and IP list.
- Asset information: asset owner, telephone number, email address, asset name, asset number, asset location, device sequence number, user/account name.

(F) In order to scan and display the status of Customer's assets, identify the risk of vulnerabilities, weak passwords, and high-risk ports of the public network asset, the following Personal Data will be collected: username, password, IP address, and port. ForeNova hereby commits that this data will only be used for the purpose of analyzing the risk of weak passwords and will take appropriate technical and organizational measures to ensure that access to and processing of this data is strictly limited to the necessary scope.

(G) In order to provide the Customer with the feature of Microsoft 365 Log Analysis, NovaMDR will process different types of logs for the corresponding purposes according to your authorizations and instructions. The data processed by ForeNova may vary depending on your use and configurations of Microsoft 365 applications, as well as granted permissions for ForeNova. The following chart describes the details of data activities when you enable the Microsoft 365 Log Analysis, and you may also refer to the Privacy Policy of your Microsoft 365 applications for further information:

Type of Logs	Processing Purpose	Personal Information May Involved
Login Logs	Analysing the login activities of the user and Administrator	Browser name, OS name, device ID. device name, organization ID, etc.
Active Directory Logs	Analysing activities related to authentication and user directories	Workload, subscription, record type, application ID, operation and operation status.
SharePoint Online and OneDrive for Business Logs	Analysing file-related operations	User information, URLs, file name, file owner, file path, file type, file extension, etc.
Security and Compliance Center Logs	Analysing data loss prevention and information protection status, and search audit logs	Location, confidence, count and type of sensitive data, proof information, alert type, alert information, alert source, alert comments, etc.
Email Audit Logs	Analysing the mail flow, permission changes, and administrator actions Analysing potential email attacks and risks	Email headers, email organization ID, email subject, email from, email to, created data, message ID, X-mailer, attachment name, attachment MD5, and attachment size, etc.

**Customer Privacy Options**

Customer has the option to disable data uploading by operating on the console of the designated devices (NovaCommand, NovaGuard, etc.). Upon disabling this function, the related data will not be sent to ForeNova.

## **ANNEX 2 TECHNICAL AND ORGANIZATIONAL SECURITY MEASURES**

The list of current technical and organizational security measures can be found at [www.forenova.com/legal](http://www.forenova.com/legal).

### **ANNEX 3 FORENOVA SUB-PROCESSOR LIST**

This list of third parties ForeNova may engage as Sub-Processor can be found at [www.forenova.com/legal](http://www.forenova.com/legal).