

Data protection notice for the data subjects

Preamble

Pursuant to Article 13 of GDPR, and in connection with the processing of personal data envisaged by the Joint Controllership Agreement between the Contractor and the Customer (both defined in section 1 of this notice), we would like to inform you about the principles of processing of the personal data provided by you as data subject.

Please note that this notice concerns exclusively the data processing carried out by the Contractor. According to the Joint Controllership Agreement, the Contractor and Customer shall process your personal data each complying with their respective obligations as data controllers under the applicable data protection laws. Therefore, for any queries you have about how the Customer processes your personal data as a result of the Joint Controllership Agreement, we invite you to contact directly the Customer and forward to the latter your data protection request.

Definitions

For the purposes of this notice, "**Data Protection Laws**" means any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including: (i) EU Regulation 2016/679 ("**GDPR**"); (ii) GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 (the "**UK GDPR**"); (iii) any laws or regulations ratifying, implementing, adopting, supplementing or replacing the GDPR; (iv) in the UK, the Data Protection Act 2018; (v) any laws and regulations implementing or made pursuant to EU Directive 2002/58/EC (as amended by 2009/136/EC); and (vi) in the UK, the Privacy and Electronic Communications (EC Directive) Regulations 2003; in each case, as updated, amended or replaced from time to time; and the terms "data subject", "personal data", "processing", "joint controller" and "controller" shall have the meanings set out in the Data Protection Act 2018.

"**Choco Group**" means the worldwide Choco group of companies of which Choco Communications GmbH is the parent company.

"**Privacy Policy for the Choco App**" means the privacy policy set out by Choco Communications UK Ltd, [here](#) available, that defines the scope, the legal basis, data subject rights and the personal data processed for the provision of the App in accordance with the Data Protection Laws.

1. The Joint Controllers

Choco Communications UK Ltd., 6th Floor, One London Wall, London, United Kingdom, email address: legal@choco.com, Data Protection Officer's email address: datenschutz@choco.com (hereinafter "**Contractor**", "**we**" or "**Choco**");

The **Customer**, as identified in the Main Agreement.

You can find the essence of the Joint Controllership Agreement (hereinafter "**JCA**") under this URL: <https://legal.choco.com/jca#uk>

2. Data Protection Officer

For any questions or comments about the processing of your personal data, and/or if you wish to exercise your data subject rights, please refer to the following email address: datenschutz@choco.com. Please note that not only Choco's Data Protection Officer will receive your request but also Choco Legal Team. If you wish to solely contact Choco's Data Protection Officer and/ or if you wish to send confidential information, please refer in your email to Choco's Data Protection Officer and ask the latter to contact you.

3. The purpose and legal basis for the data processing

a) Exclusively for the provision of the Integrated Services (defined in the preamble of the JCA), Contractor and Customer shall process personal data as joint controllers, determining together the purposes and means of personal data being processed according to article 26 of GDPR (together hereinafter "**Joint Controllers**").

b) For the scope of providing the Integrated Services, your Mandatory Information (name, telephone number, email address, and address) will be processed based on Art. 6 (1) (b) GDPR, while your Voluntary Information (nickname, pictures, and screenshots) will be

processed based on your consent as set out by Art. 6 (1) (a) GDPR, both Mandatory and Voluntary information are defined by Art. 1 (3) of the Privacy Policy for the Choco App.

Please note that in case of failure to provide the Mandatory Information, you will not be able to communicate and/or place your orders to the Customer, while if such failure regards the Voluntary Information, you will not be able to fully experience all Choco functionalities when interacting with the Customer.

The Joint Controllers may process the data for other legitimate purposes subject to the consent of the data subjects as per Art. 6 (1) (a) GDPR or the processing is necessary for the purposes of the legitimate interests pursued by the Joint Controllers, where such interests outweigh your rights and interests in the protection of your personal data within the meaning of Art. 6 (1) (f) GDPR.

c) The scope and the nature of this data processing, the type of data processed and the group of data subjects, including the involvement of the Joint Controllers in this processing are further described in Annex 1 of the JCA.

4. Disclosure of your personal data

a) Joint Controllers may transfer your personal data to recipients on the condition a legal basis exists and/ or you gave your consent to the data processing. Moreover, your personal data is processed by service providers who act as data processors within the meaning of the GDPR. Joint Controllers will ensure that any third parties with whom they share your personal information are subject to equivalent obligations of the DPA and the applicable laws.

b) Choco as Joint Controller may disclose your personal data to:

I. Companies part of the [Choco Group](#);

II. Your employer, in connection with your role as an employee or contractor of a company or other legal entity;

III. Third parties that assist the Contractor in providing its services to you. For the third parties, performing business or operational services, infrastructure provisioning, IT services, and administrative services for Choco or on Choco's behalf, please refer to Annex I of the Privacy Policy for the Choco App; and

IV. Third parties that provide the Contractor with tools for the statistical recording and analysis of general usage behavior on the basis of access data, and other operational tasks aiming to improve and ensure the functionality of the Choco App, as specified within Art. 4 ("Analysis tools") of the Privacy Policy for the Choco App.

c) The Joint Controllers are under the duty to disclose or share your personal data in order to comply with any legal obligation, any lawful request from government or law enforcement officials and as may be required to meet national security or law enforcement requirements or prevent illegal activity. Any disclosure of the personal data is justified by the fact that the processing is necessary to fulfill a legal obligation to which the Joint Controllers are subject in accordance with Art. 6 (1) (c) GDPR in the national legal requirements for the disclosure of data to law enforcement authorities.

d) In the context of the further development of Joint Controllers' business, the structure of their companies may change by changing the legal form, founding, acquiring, or transferring subsidiaries, parts of companies, or components. In accordance with such operations, the customer information may be shared together with the part of the company to be transferred. Each time personal data is passed on to third parties to the extent described above, Joint Controllers shall ensure that this is done in accordance with the applicable data protection laws. Any disclosure of personal data is justified by the fact that Joint Controllers have a legitimate interest in adapting their corporate form to the economic and legal circumstances if necessary and your rights and interests in the protection of your personal data within the meaning of Art. 6 (1) (f) GDPR does not prevail.

5. Data Transfer to third countries

a) **Your personal data may be shared with entities who are outside the European Economic Area ("EEA").**

b) **We would like to inform you that the EU-US Privacy Shield (adequacy decision) has been declared invalid and that in case of data transfers to insecure third countries (here: USA), there is no adequate level of data protection according to EU standards. In particular, there is a risk that your data may be processed by U.S. authorities, for control and for monitoring purposes, possibly also without any legal remedy.**

c) If Joint Controllers provide any personal data about you to non-EEA entities, the Joint Controllers will take appropriate measures to ensure that the recipient of your personal data protects it adequately in accordance with their obligations under the JCA and the applicable data protection laws.

d) Joint Controllers have concluded with service providers based in third countries, depending on the contractual constellation, either a data processing agreement according to Art. 28 GDPR or a joint controllership agreement according to Art. 26 GDPR, moreover, the Joint Controllers ensure that the recipient of your personal data may adequately protect it, namely by:

(i) Ensuring there is an adequacy decision by the European Commission, which means that the recipient country is deemed to provide adequate protection for such personal data; or

(ii) Having in place the standard contractual clauses with the recipient which have been approved by the European Commission for transfers outside the EEA. The standard contractual clauses include certain safeguards and require the implementation of additional security measures to protect your personal data.

6. Data Storage

The Joint Controllers may process and share with one another the collected personal data for the period required to perform the Integrated Services set forth in the Main Agreement, and no statutory requirements oblige the Joint Controllers to continue storing it for a longer period. In addition, the Joint Controllers will also delete your personal data as soon as you submit to one of them your request, please note that also in this case your personal data will be deleted insofar no statutory requirements require the Joint Controllers to continue storing it for a longer period.

7. Data Subjects' rights

a) As data subjects you are entitled to the following rights according to Art. 15 – 21, 77 GDPR:

- Right to access to their personal data (Article 15 of GDPR);
- Right to rectification (Article 16 of GDPR);
- Right to erasure ("right to be forgotten", Art. 17 GDPR);
- Right to restriction of processing (Art. 18 GDPR);
- Right to data portability (Art. 20 GDPR);
- Right to object (Art. 21 GDPR);
- Right not to be subject to a decision based solely on automated processing (Art. 22 GDPR);
- Right to lodge a complaint with a supervisory authority (Art. 77 GDPR).

In case the data processing is based on your consent, you have the right to withdraw your consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.

In case the data processing is based on our legitimate interest, Art. 6 (1) (f) GDPR, you have the right to object, on grounds relating to your situation, at any time.

b) Your requests for the assertion of data protection rights and our answers to them will be kept for documentation purposes for a period of up to three years and, in individual cases, for the establishment, exercise or defense of legal claims even beyond. The legal basis is Art. 6 (1) (f) GDPR, based on Joint Controllers' legitimate interest in defending against any civil law claims pursuant to Art. 82 GDPR, the avoidance of fines pursuant to Art. 83 GDPR and the fulfillment of their accountability under Art. 5 (2) GDPR.

c) As a data subject you have the right to lodge a complaint with a supervisory authority, in particular in the Member State of your habitual residence, place of work or place of the alleged infringement if you consider that the processing of personal data relating to you infringes the GDPR-regulations.

8. Automated decision-making processing

Please note that for the processing of your personal data carried out by the Contractor as result of the JCA, there is NO type of automated decision-making process pursuant to Art. 22 GDPR.

9. Changes to this Notice

The Joint Controllers will always keep their notices up to date. Therefore, we reserve the right to change the present notice from time to time and to introduce changes in the processing of your personal data.