

# **AIR LIQUIDE GROUP PRIVACY POLICY**

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## INTRODUCTION

Air Liquide is committed to respecting the appropriate standards on privacy and data protection in all countries where it operates.

Data protection and privacy laws apply in several countries where Air Liquide is present and provide for obligations on the way Personal Data (i.e. any information relating to an identified or identifiable natural person) can be collected, used, disclosed. In addition, these laws grant individuals certain rights in relation to their Personal Data.

Thus, this Group Privacy Policy (Policy) aims to define a common framework on privacy and data protection within Air Liquide by setting out global rules to be applied by all Air Liquide entities and employees worldwide when collecting, using or transferring Personal Data from one country to another.

The Policy also aims to address the manner in which Personal Data from the European Economic Area (EEA) and Switzerland is handled to ensure that it is adequately protected when transferred within the Air Liquide Group outside the European Economic Area (EEA) and Switzerland in accordance with European Data Protection rules.

This Policy complies with 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) (“GDPR”)<sup>1</sup>.

Air Liquide will ensure that all existing and newly hired employees are made aware of this Policy and are provided with appropriate training on this Policy on a regular basis. Furthermore, Air Liquide will be auditing compliance with all aspects of this Policy.

This Policy does not substitute any applicable national data protection and privacy laws and regulations in countries where Air Liquide operates. Local laws must be followed at all times and will take precedence over the Policy where they provide for stricter standards on privacy and data protection.

The Policy will be published on Air Liquide’s website ([www.airliquide.com](http://www.airliquide.com)) and intranets.

The Appendix 1 of this Policy provides all the definitions of the terms used in this Policy.

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<sup>1</sup> As such, this Policy together with the Air Liquide Intra-Group Agreement, constitute Air Liquide’s Binding Corporate Rules (BCRs) which have been approved by European Data Protection Authorities as providing an adequate level of protection to the processing and transfer of Personal Data within Air Liquide in accordance with the European Union Data Protection Directive (95/46/CE) which regulates privacy and personal data protection practices within the European Union.

## 1. SCOPE

This Policy sets out a framework for Personal Data processing activities including the collection, use and disclosure of Personal Data carried out by or on behalf of entities of the Air Liquide Group. A description of the structure and a list of the contact details of Air Liquide Group are available on Air Liquide's website ([Air Liquide organisation & localisation](#)).

It also addresses transfers of Personal Data within Air Liquide globally, including from group entities located in the EEA and Switzerland to group entities located outside the EEA and Switzerland to ensure that such data is adequately protected when being transferred. The world map of Air Liquide operations is available on Air Liquide's website ([Air Liquide organisation & localisation](#)).

Thus, the purpose of the Policy is to provide for global rules to be followed by all Air Liquide employees worldwide when handling and/or transferring the following Personal Data for the following purposes:

- Human resources Personal Data, including Personal Data of Air Liquide' current and former employees, temporary workers, trainees and job applicants (identity information, professional contact and organization information, contract information, salary and benefits related information, job qualifications and performance information, information for management and eligibility to share holdings, emergency contact information);
- Personal Data of Air Liquide' business contacts within customers, prospects and vendors (identity information, contract information, billing information, information provided as part of satisfaction surveys);
- Health Personal Data concerning individuals to whom Air Liquide may provide specific services to address health issues (in particular respiratory issues) and medical devices (identity information, contact information and pathology, prescription and treatment).

In case of a conflict between national laws and the rules set out in this Policy, the relevant Local or Regional Data Protection Officer or Information Protection Coordinator (as the case may be) will decide on the actions that need to be taken and in case of doubt will consult with the relevant data protection authority.

## 2. GLOBAL RULES TO BE FOLLOWED BY AIR LIQUIDE GROUP FOR THE COLLECTION, USE AND DISCLOSURE OF PERSONAL DATA

### Rule N°1 – Personal data must be collected for specific, explicit and legitimate purposes

European Data Protection rules require Personal Data to be collected for specific, explicit and legitimate purposes, i.e. the reasons for which Personal Data will be used.

This implies for Air Liquide to ensure that the purpose for which Personal Data is collected is:

- set within limits,
- relevant to Air Liquide's activity,
- clearly communicated to concerned individuals,
- legally allowed.

Also, it must be ensured that Personal Data collected for a specific purpose, as stated to the individual by Air Liquide, is not further used in a way which is incompatible with the initial purpose of collection.

The purposes for which Air Liquide processes Personal Data are:

- Management of human resources and payroll, including administrative management, career, performance and development plans management, compensation and benefits, management of recruitment, management of mobility and of expatriates, management of data on current and former employees holding or eligible to Air Liquide shares.
- Management of business relationships with customer, prospects and vendors including for billing, marketing and public relations, market analysis and reporting.
- Developing and maintaining global customer relationships. This includes providing healthcare support to individuals through appropriate healthcare services and products/medical devices, as well as researches and products and services development.

### Rule N°2 – Ensure that there is a legal ground for the processing of personal data

Prior to any Personal Data collection and processing Air Liquide must make sure that one of the following conditions is met:

- Air Liquide has obtained consent from the concerned individual to the collection and processing of his/her Personal Data, **OR**
- The data processing is required in order to enter into a contract with the concerned individual or for the performance of the contract with the individual; **OR**
- There is a legitimate interest for Air Liquide to process the Personal Data, provided that this does not cause an unreasonable prejudice to the interests or rights of the concerned individuals ; **OR**
- The processing of Personal Data is necessary (i) to protect the individual's vital interest (i.e. in case of a life or death situation), or (ii) to enable Air Liquide to comply with a legal obligation, or (iii) to perform tasks of public interest (such as administering justice, exercising statutory, governmental or other public functions).

Furthermore, specific conditions apply to the collection of information on an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic or biometric data for the purpose of unique identifying a natural person, health condition, and sex life or sexual orientation. Please refer to Rule n°5 to learn more.

**Rule N°3 – Ensure that only adequate, relevant and limited personal data is collected and retained for a limited period of time**

In consideration of the purpose and context of the processing as well as individuals concerned, Air Liquide must make sure that it will only collect Personal Data which is necessary and appropriate for the intended purpose of use and that such data is proportionate to the purpose of use.

Furthermore, Air Liquide will ensure that only accurate, complete Personal Data is processed and that the Personal Data is only kept as long as needed, and not “just in case”, with respect to the purpose for which it was collected and is intended to be used. Moreover, Air Liquide will keep the Personal Data as far as possible up to date.

**Rule N°4 – Be transparent to individuals whose personal data is collected on how their personal data will be used**

Air Liquide must ensure that individuals, whose Personal Data it processes, receive clear and complete information notice, in an easily accessible way, on how and by whom their Personal Data will be used.

More specifically, Air Liquide will provide information to individuals on:

- The identity of the Data Controller of Personal Data, **AND**
- The purposes for which Air Liquide collects Personal Data, and where Personal Data is used in a new way, what such new purposes are.

In addition, depending on the country concerned and on the specific circumstances of the processing to ensure that such processing is carried out fairly, Air Liquide will also provide information on:

- The contact details of the Group Data Protection Officer,
- The legal basis for the processing,
- Where the processing is based on the legitimate interests pursued by Air Liquide, the legitimate interests pursued by Air Liquide or by a third party,
- The recipients or categories of recipients of the Personal Data,
- The period of time for which the Personal Data will be stored, or if that is not possible, the criteria used to determine that period,
- Whether the provision of Personal Data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the individual is obliged to provide the Personal Data and of the possible consequences of failure to provide such Personal Data,
- The existence of automated decision-making, including profiling and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the individual,
- The rights of the individual under this Policy,
- The right to lodge a complaint either before the Data Protection Authority in the EU Member State of his/her habitual residence, place of work or place of the alleged infringement or before the competent court of the EU Member State where the Exporting Entity has an establishment or where the individual has his/her habitual residence,
- The means to exercise those rights,
- Any transfers of Personal Data outside the EEA or Switzerland and the existence or absence of an adequacy decision by the Commission, or reference to the appropriate or suitable safeguards and the means by which to obtain a copy of them or where they have been made available.

The above listed information will be given upon collection of Personal Data or as soon as practicable thereafter.

Where the collection of Personal Data is performed indirectly (i.e. such as from a business partner, a recruitment agency), Air Liquide will make sure that the concerned individual is informed of the information listed above and of the following element:

- The categories of Personal Data concerned,
- From which source the Personal Data originate, and if applicable, whether it came from publicly accessible sources.

As an exception to these rules, Air Liquide may not provide information notice to individuals where this would involve a “disproportionate effort” or in specific cases permitted by law. In determining what does not constitute a “disproportionate effort”, Air Liquide will assess such effort against whether the absence of information would have a detrimental effect on individuals.

### **Rule N°5 – Ensure that the processing of sensitive personal data is allowed**

Depending on the country where you are located, **specific restrictions may apply to the processing of Sensitive Personal Data** i.e. information relating directly or indirectly to an individual’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic or biometric data for the purpose of unique identifying a natural person, health condition, and sex life or sexual orientation.

This is because Sensitive Personal Data, as defined above, are generally considered to be of a private nature and may present a risk to be used in a discriminatory way with adverse consequences for concerned individuals.

In accordance with European Data Protection rules, the collection of Sensitive Personal Data by Air Liquide is not allowed as a principle. However, there are exceptions, and Air Liquide can be authorized to process Sensitive Personal Data if:

- The processing of such data is necessary and relevant to achieve Air Liquide’s business purposes, **AND**
- When one of the following conditions is met:
  - ✓ Air Liquide obtains consent from the concerned individual to the processing of his/her Sensitive Personal Data, **OR**
  - ✓ The processing of Sensitive Personal Data is necessary (i) to allow Air Liquide to comply with its obligations under employment law, or (ii) to protect the vital interests of the concerned individual or another person where this person is physically or legally incapable to give his/her consent (i.e. cases of life and death), or (iii) to establish, exercise or defend a legal claim; **OR**
  - ✓ The individual has made public his/her Sensitive Personal Data.

Contact the Local or Regional Data Protection Officer or Information Protection Coordinator (as the case may be) to obtain advice on whether you are allowed or not to collect Sensitive Personal Data in accordance with applicable data protection and privacy laws.

### **Rule N°6 – Uphold rights of individuals**

In accordance with applicable data protection and privacy laws, individuals whose Personal Data is processed by Air Liquide shall be able to request Air Liquide:

- Whether Air Liquide holds Personal Data on him/her;
- To access to Personal Data processed by Air Liquide on him/her together with information on the purposes for which it is being processed and to whom the Personal Data is disclosed;
- To rectify or erase (in accordance with applicable laws and regulations) Personal Data that Air Liquide processes on him/her;
- To obtain restriction of processing (in accordance with applicable laws and regulations);
- To receive the Personal Data concerning him/her, which he/she has provided to Air Liquide, in a structured, commonly used and machine-readable format and to transmit those Personal Data to another controller without hindrance from Air Liquide to which the Personal Data have been provided;
- To object upon legitimate grounds to the processing of Personal Data by Air Liquide.

Air Liquide must ensure that individuals are informed on these rights in accordance with Rule N°4 above.

As there are often strict timescales for answering to such requests, they must be forwarded as soon as possible to the relevant Local or Regional Data Protection Officer or Information Protection Coordinator (as the case may be).

The procedure for handling individual's requests in relation to their Personal Data is further described under section 3 below.

### **Rule N°7 – Ensure that individuals are able to object to direct marketing communications**

Prior to sending any direct marketing communications, Air Liquide will ensure that concerned individuals have been informed on their right to object to the use of their Personal Data for direct marketing purposes, which includes profiling to the extent that it is related to such direct marketing, and have been provided with effective means to opt-out from receiving direct marketing communications and from profiling when it is related to such direct marketing.

Also, where an individual objects to receiving direct marketing, Air Liquide will accurately record this choice so as to ensure that no further direct marketing communications are sent to concerned individuals.

### **Rule N°8 – Prevent solely automated individual decision-making, including profiling**

European data protection laws aim to prevent that decisions with respect to an individual be taken solely on the basis of automated Personal Data processing, including profiling, without any human intervention, as such decisions may produce legal effects or similarly significantly affect the concerned individual.

Where decisions are made by automated means, Air Liquide will ensure that individuals have the right to know the logic involved in the decision and will take the necessary measures to protect the legitimate interests of individuals.



### **Rule N°9 – Ensure security and confidentiality of personal data**

Air Liquide will implement appropriate technical and organizational measures to ensure the security and confidentiality of Personal Data it collects and uses.

More specifically, Air Liquide will have in place appropriate measures taking into account the nature of the Personal Data involved and the risks presented by the processing, to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where processing involves transmission of personal information over a network, and against all other unlawful forms of processing.

In this respect, Air Liquide will take appropriate steps to inform and train Air Liquide employees regarding the security and confidentiality requirements that apply to the collection, use and disclosure of Personal Data they may process during the performance of their duties.

In addition, when Air Liquide wishes to entrust the processing of Personal Data to a Data Processor - either an entity of the group or an external service provider – , acting on its behalf, Air Liquide must ensure that a written agreement is put in place with the Data Processor in compliance with article 28 of the GDPR.

The relevant Local or Regional Data Protection Officer or Information Protection Coordinator (as the case may be) will notify without any undue delay any Personal Data breaches to the Group Data Protection Officer and individuals where the Personal Data breach is likely to result in a high risk to their rights and freedoms. Furthermore, any Personal Data breaches should be documented (comprising the facts relating to the Personal Data breach, its effects and the remedial action taken) and the documentation should be made available to the Data Protection Authority on request.

### **Rule N°10 – Implement appropriate measures for transfers**

Where Air Liquide transfers Personal Data to entities of the Air Liquide Group located in countries outside the European Economic Area (EEA), or outside Switzerland, those transfers are covered by Air Liquide's BCRs and no additional measures are to be implemented to address these transfers of Personal Data.

Where Air Liquide intends to transfer Personal Data to a third party, i.e. which is not a member of the Air Liquide Group, located in countries outside the European Economic Area (EEA), or outside Switzerland, as these transfers are not covered by the BCRs:

- Air Liquide must ensure that those countries have been recognized by the European Commission as providing an adequate level of protection to Personal Data.
- If the country where the third party is located has not been recognized by the European Commission as providing an adequate level of protection, Air Liquide will implement appropriate measures in accordance with European Data Protection laws to ensure that Personal Data is adequately protected when being transferred to these countries by signing contracts for the transfer of Personal Data based on the standard contractual clauses adopted by the European Commission.
- Alternatively, and on an exceptional basis and only for non-massive and non-structural transfers, when the country where the third party is located does not provide adequate protection in accordance with the European Commission's decisions, Air Liquide may rely on one of the following conditions to transfer Personal Data to such country:
  - ✓ The concerned individual gives consent to Air Liquide for the transfer of his/her Personal Data, after having been informed of the possible risks of such transfers for him/her due to the absence of an adequacy decision and appropriate safeguards;
  - ✓ Air Liquide needs to carry out the transfer of Personal Data to perform or conclude a contract with concerned individual;
  - ✓ The transfer of Personal Data is necessary (i) to protect the individual's vital interests (i.e. in case of a life or death situation), or (ii) to allow Air Liquide to establish, exercise or defend a legal claim, or (iii) for reasons of public interest;

- ✓ The transfer covers Personal Data publicly available (for instance from a public register).

Contact the Local or Regional Data Protection Officer or Information Protection Coordinator (as the case may be) to obtain advice on what needs to be done before transferring Personal Data in accordance with applicable data protection and privacy laws.

### **3. OBLIGATION TO BE RESPONSIBLE FOR AND ABLE TO DEMONSTRATE COMPLIANCE WITH THE BINDING CORPORATE RULES**

Air Liquide hereby commits to comply with the accountability principle and be responsible for, and able to demonstrate, compliance with the BCRs.

In order to demonstrate compliance, Air Liquide needs to maintain a record of all categories of processing activities carried out in line with the requirements as set out in article 30.1 of the GDPR. This record should be maintained in writing, including in electronic form, and should be made available to the Data Protection Authority on request.

When required, data protection impact assessments will be carried out for processing operations that are likely to result in a high risk to the rights and freedoms of individuals. Moreover, where a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by the Data Controller to mitigate the risk, the competent Data Protection Authority, prior to processing, will be consulted.

Air Liquide ensures that appropriate technical and organisational measures, which are designed to implement data protection principles and to facilitate compliance with the requirements set up by the BCRs in practice, is implemented (data protection by design and by default).

### **4. COMPLAINTS AND REQUEST IN RELATION TO THIS POLICY**

If an individual is concerned that his/her Personal Data have not been processed in accordance with this Policy, and/or wishes to exercise one of his/her rights as set out under Rule N°6 above, he/she can bring his/her complaint or address his/her request preferably in writing for the quality of treatment of the complaint or request:

- **for Air Liquide employee**, to the Local or Regional Data Protection Officer or Information Protection Coordinator (as the case may be) whose contact information are available on Air Liquide Intranet;
- **for other individual** via a specific form accessible via a link on the Air Liquide's institutional Internet website. Through this form the individual will be able to provide information regarding her/his complaint (personal contact information, nature of his/her relation with Air Liquide, type and object of her/his claim, the Air Liquide entity concerned by this complaint). Based on this information, the relevant Local or Regional Data Protection Officer or Information Protection Coordinator will initiate the treatment of the complaint. Data subject should provide valid contact information to ensure the efficiency of the procedure.

Once such request and/or complaint is received, it will be handled by the Local or Regional Data Protection Officer or Information Protection Coordinator (as the case may be) who will lead the necessary investigations together with the relevant staff internally. The Local or Regional Data Protection Officer or Information Protection Coordinator (as the case may be) will also act as a point of contact and as such will inform the concerned individual of the outcome of his/her complaint and/or request as applicable.

Regarding individuals who are in the EU, if the individual is not satisfied by the replies, the individual has the right to lodge a complaint either before the Data Protection Authority in the EU Member State of his/her habitual residence, place of work or place of the alleged infringement or before the competent court of the EU Member State where the Exporting Entity has an establishment or where the individual has his/her habitual residence.

## 5. THIRD PARTY BENEFICIARY RIGHTS

Individuals whose Personal Data will be collected and used in the EEA and Switzerland and transferred outside the EEA and Switzerland shall be able to enforce the principles set out in Appendix 6 as third party beneficiaries and pursue his or her complaint against:

- L’Air Liquide SA, if the entity responsible for a breach of the BCRs is established outside of the EEA or Switzerland, by bringing a complaint before the relevant local Data Protection Authority in the country in which L’Air Liquide SA is established (i.e. in France) or in the country in which the individual is employed or has his/her habitual residence and/or by bringing an action before the relevant local court in which L’Air Liquide SA is established (i.e. in France) or in the country in which the individual is employed or has his/her habitual residence; OR
- the Exporting Entity, if such entity is responsible for a breach of the BCRs, by bringing a complaint before the relevant local Data Protection Authority in the country in which the Exporting Entity is established or in the country in which the individual is employed or has his/her habitual residence and/or by bringing an action before the relevant local court in which the Exporting Entity is established or in the country in which the individual is employed or has his/her habitual residence

In addition, if the concerned individual can establish that he/she has suffered damage as a result of a breach of this Policy, he/she is entitled to receive compensation directly from:

- L’Air Liquide SA, if the entity responsible for a breach of the BCRs is based outside of the EEA or Switzerland, for the damage suffered; OR
- the Exporting Entity, if such entity is responsible for a breach of BCRs, for the damage suffered.

## 6. GUARANTEES PROVIDED BY BCRs

Also, where any legal requirement, to which a member of the Air Liquide Group is subject in a third country, is likely to have a substantial adverse effect on the guarantees provided by the BCRs, the concerned member of the group will inform the Data Protection Officer or Information Protection Coordinator (as the case may be) unless prohibited by any applicable law and the problem will be reported to the competent Data Protection Authority. This includes any legally binding request for disclosure of Personal Data by a law enforcement authority or state security body. In such a case, the competent Data Protection Authority will be clearly informed about the request, including information about the Personal Data requested, the requesting body, and the legal basis for the disclosure (unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation).

If in specific cases the notification is prohibited, the requested Air Liquide entity will use its best efforts to obtain the right to waive this prohibition in order to communicate as much information as it can and as soon as possible, and be able to demonstrate that it did so. If despite having used its best efforts, the requested Air Liquide entity is not in a position to notify the competent Data Protection Authority, it must annually provide general information on the requests it received to the competent Data Protection Authority (e.g. number of applications for disclosure, type of data requested, requester if possible, etc.).

In any case, transfers of personal data by an Air Liquide entity to any public authority cannot be massive, disproportionate and indiscriminate in a manner that would go beyond what is necessary in a democratic society.

## 7. UPDATE OF THE POLICY

This Policy may be amended notably to take into account applicable data protection and privacy laws. To ensure that any changes to the Policy are recorded and made available, Air Liquide will:

- Keep an updated list of all changes to the Policy together with a list of Air Liquide Group members that are required to comply with it. This list will be held by the Digital Security Department of L'Air Liquide S.A.
- Notify all Air Liquide Group members of changes to the Policy.
- Inform concerned individuals whose Personal Data is processed in accordance with this Policy of any substantial changes to the Policy, and more specifically via Air Liquide's intranet with respect to employees, and via Air Liquide's website with respect to customer, prospects, vendors and other concerned individuals.
- Report at least once a year to the relevant Data Protection Authorities, any substantial changes to the Policy or to the list of Air Liquide Group members bound by it together with a brief explanation for such changes.

Furthermore, Air Liquide will ensure that no transfer of Personal Data is made to any new member of the Air Liquide Group until such new member effectively adheres and is bound by this Policy and can deliver compliance.

Where a modification would possibly affect the level of the protection offered by the BCRs or significantly affect the BCRs (i.e. changes to the binding character), it must be promptly communicated to the relevant Data Protection Authorities, via the competent Data Protection Authority.

## APPENDIXES

### APPENDIX 1 – DEFINITIONS

**Air Liquide:** means any Air Liquide entity worldwide

**Air Liquide Group:** means L’Air Liquide S.A and all its subsidiaries worldwide.

**Binding Corporate Rules (BCRs):** means this Policy and the Third Party Beneficiary Agreement, to which Air Liquid is bound, for the purpose of ensuring an adequate level of protection for European Personal Data transfers.

**Data Controller:** means the Air Liquide entity which alone or jointly with others determines the purposes and means of the processing of Personal Data.

**Data Processor:** means any legal entity which processes Personal Data on behalf of the Data Controller.

**European Data Protection Authorities:** means a Data Protection Authority in the European Economic Area or Switzerland.

**Intra-Group Agreement:** means the agreement between L’Air Liquide S.A and all L’Air Liquide S.A affiliated companies worldwide which grants third party beneficiary rights to individuals whose Personal Data are processed by Air Liquide.

**Exporting Entity:** means an Air Liquide Entity in the EEA or Switzerland that Transfers European Personal Data to a Relevant Country

**Personal Data:** means any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.

**Relevant Country(ies):** means the country(ies) other than those in the EEA and countries in respect of which the European Commission has issued an adequacy finding under Article 45 of the GDPR

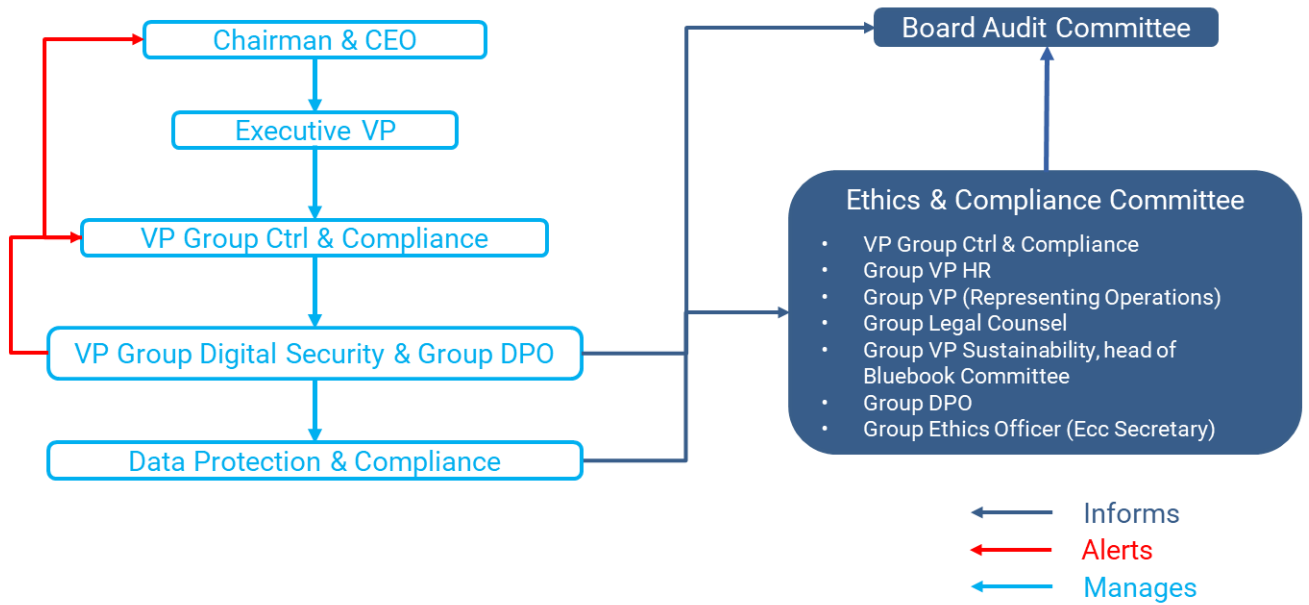
**Responsible Entity:** means

- L’Air Liquide SA if the entity responsible for a breach of the BCRs is based outside of the EEA or Switzerland; OR
- L’Exporting Entity if such entity is responsible for a breach of the BCRs.

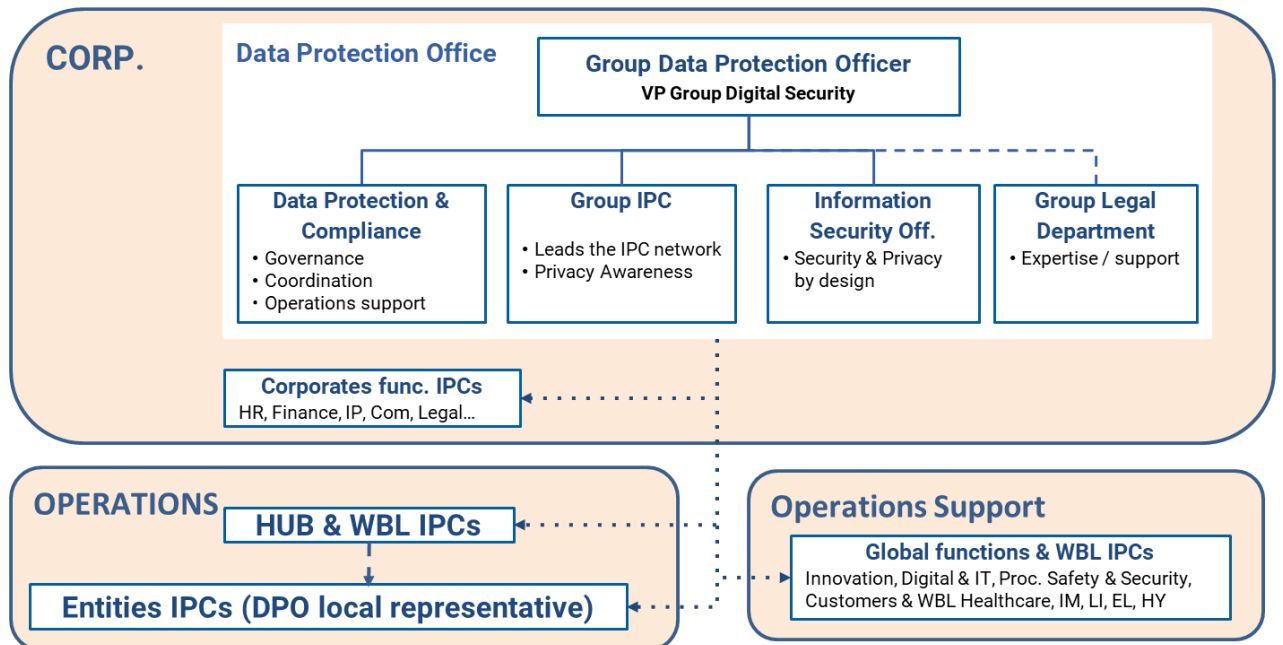
**Sensitive Personal Data:** means any data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of genetic data, biometric data for the purpose of unique identifying a natural person, data concerning health or sex life or sexual orientation.

**APPENDIX 2 – PRIVACY COMPLIANCE MANAGEMENT & ORGANISATION**

**Data Privacy: Management & Information**



**Data Protection Office & IPC (Information Protection Coordinator)**



**APPENDIX 3 – COMPLAINTS AND REQUESTS HANDLING PROCEDURE**

See separate document



#### APPENDIX 4 – LIABILITY

- Where the entity responsible for a breach of BCRs is established outside of the EEA or Switzerland, L’Air Liquide SA accepts responsibility for and agrees to take the necessary action to remedy the entity’ acts and to pay compensation for any damages suffered by a European data subject resulting from the entity’s violation of the BCRs.

The burden of proof stays with L’Air Liquide SA to demonstrate that such entity was not liable for the violation of the BCRs resulting in the damages claimed by the individual. If L’Air Liquide SA can prove that such entity based outside of the EEA or Switzerland is not liable for the violation, L’Air Liquide SA may discharge itself from any responsibility.

- Where the Exporting entity is responsible for a breach of BCRs, the Exporting Entity accepts responsibility for and agrees to take the necessary action to remedy its acts and to pay compensation for any damages suffered by a European data subject resulting from its violation of the BCRs.

The burden of proof stays with the Exporting Entity to demonstrate that it was not liable for the violation of the BCRs resulting in the damages claimed by the individual. If the Exporting Entity can prove that it is not liable for the violation, it may discharge itself from any responsibility.

## **APPENDIX 5 – COOPERATION WITH DATA PROTECTION AUTHORITIES**

Air Liquide will cooperate with Data Protection Authorities and other relevant regulators where required by local law. To that end, all Air Liquide Group members:

- Undertake to co-operate and assist each other in order to respond in a reasonable time period to any relevant request from the competent Data Protection Authority, and
- Agree to be audited by competent Data Protection Authorities,
- Will cooperate with the Data Protection Authorities with regard to any decisions made by such authorities.

**APPENDIX 6 – PRINCIPLES WHICH ARE ENFORCEABLE AS THIRD PARTY BENEFICIARY RIGHTS**

- Data protection principles (Art. 47.2.d of the GDPR and Section 6.1 of WP 256)
- Transparency and easy access to BCRs (Art. 47.2.g of the GDPR and Section 6.1, Section 1.7 of WP 256)
- Rights of access, rectification, erasure, restriction, objection to processing, right not to be subject to decisions based solely on automated processing, including profiling (Art. 47.2.e and Art. 15, 16, 17,18, 21, 22 of the GDPR)
- National legislation preventing respect of BCRs (Art. 47.2.m of the GDPR and Section 6.3 of WP 256)
- Right to complain through the internal complaint mechanism of the companies (Art. 47.1.i of the GDPR and Section 2.2 of WP 256)
- Cooperation duties with Data Protection Authorities (Art. 47.2.k of the GDPR and 1, Section 3.1 WP 256)
- Liability and jurisdiction provisions (Art. 47.2.e of the GDPR and f, Section 1.3, 1.4 of WP 256): in particular, the right to lodge a complaint with the competent Data Protection Authority in the Member State of his/her habitual residence, place of work or place of the alleged infringement, pursuant to art. 77 GDPR) and before the competent court of the EU Member States where the Data Controller has an establishment or where the individual has his/her habitual residence pursuant to Article 79 GDPR).

**AIR LIQUIDE GROUP PRIVACY POLICY  
COMPLAINTS AND REQUESTS HANDLING PROCEDURE**

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This document sets out the procedure which applies to all Air Liquide entities when a Data Subject (i.e. any individual whose personal data is processed by Air Liquide) raises a complaint in relation to a data protection and privacy matter or exercises any of his/her applicable rights under local data protection and privacy laws and regulations, and/or under the Air Liquide Group Privacy Policy.

## 1 Definition & terms

**“Claim”**: means a complaint in relation to a data protection and privacy matter (including issue and breach) under local data protection and privacy laws or in relation to Air Liquide’s Group Privacy Policy or a request concerning specific privacy rights provided for by local applicable data protection and privacy laws (right of access, rectification, erasure, restriction, portability, objection, not to be subject to decision based solely on automated processing, including profiling)

**“DPO representative”**: means a Local or Regional<sup>1</sup> Data Protection Officer or Information Protection Coordinator (as the case may be) representing the Group Data Privacy Officer in the entities of the Air Liquide Group.

## 2 General procedure for handling Claims

A Data Subject may raise a Claim by contacting preferably in writing for the quality of treatment of the Claim:

- for Air Liquide employee, the DPO representative whom contact information are available on Air Liquide Intranet ;
- for other Data Subject, via a dedicated form accessible via a link on the Air Liquide’s institutional Internet website. Through this form the individual will be able to provide information regarding her/his Claim (personal contact information, nature of his/her relation with Air Liquide, type and object of her/his Claim, the Air Liquide entity concerned by this Claim). Based on this information, the relevant DPO representative will initiate the treatment of the Claim. Data Subject should provide valid contact information to ensure the efficiency of the procedure.

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<sup>1</sup> Please note that “Regional” can be activity or hub level.

## ***2.1 Type of the Claims***

In several jurisdictions, local data protection and privacy laws provide that Data Subjects have a right to raise a Claim, i.e:

- ✓ a request regarding:
  - Access to personal data processed about them and obtain a copy of their personal data,
  - Rectification of personal data if it is found to be incomplete and/or inaccurate,
  - Erasure of personal data concerning them,
  - To obtain restriction of processing,
  - To receive the personal data concerning them, which they have provided to Air Liquide, in a structured, commonly used and machine-readable format and to transmit this personal data to another data controller without hindrance from Air Liquide to which the personal data has been provided,
  - To object to the processing of their personal data, on grounds relating to their particular situation, and to object free of charge to the processing of their personal data for direct marketing purposes, which includes profiling to the extent that it is related to such direct marketing,
  - Not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning them or similarly significantly affects them,
- ✓ a complaint regarding:
  - A suspected data breach or issue related to data protection and privacy.

## ***2.2 Who can make a Claim?***

Claims may be made by all Data Subjects including employees, customers, suppliers, vendors and contact persons of Air Liquide, provided that their personal data are processed by Air Liquide in jurisdictions where local applicable data protection and privacy laws provide for a right to raise a Claim. Claims may also be raised by authorized representatives of the Data Subject where provided and in accordance with applicable laws.

The Data Subject can only make a request in respect of personal data relating to him/her.

### ***2.3 Processing of the Claim***

Each DPO representative is responsible for reviewing, processing and responding to all Claims from Data Subjects in her/his country or region. Where appropriate, the DPO representative will be assisted in this regard by other departments which may be involved during investigation, depending on the nature of the matter.

Furthermore, any Air Liquide employee who receives any Claim from a Data Subject in relation to data protection matters must immediately forward it to the DPO representative.

Once a Claim is received, the DPO representative will do his/her best to acknowledge receipt to the Data Subject in writing within 5 business days and in any case no later than 15 business days and will open a case-file (electronic or manual) for each Claim received. The file will contain the relevant documentation, including correspondence, both internal and with the Data Subject. The DPO representative will also maintain a register of all Claims received to log information on the date of receipt of the Claim, the way they were processed and resolved.

Where appropriate and depending on the nature of the breach, subject matter of the Claim, the DPO representative may delegate the handling of the Claim to the Legal or any other relevant department within Air Liquide. In such a case, the DPO representative will act as a point of contact for the Data Subject and the Air Liquide department designated to handle the complaint and will inform the Data Subject of the outcome of his/her Claim.

A Data Subject making a Claim will need to provide sufficient information to enable the DPO representative to identify him/her.

The DPO representative will consider and respond to a Claim from a Data Subject as follows:

- a) He or she will ask the Data Subject making a Claim to prove his/her identity, for example, by providing a copy of his/her ID or any other satisfactory document to verify the Data Subject's identity.
- b) He or she may request the Data Subject to provide any additional information as may be necessary or desirable to better define his/her Claim, or to help Air Liquide locate the relevant data or assess the validity of the Claim. The Data Subject making such Claim must provide appropriate documentation to the satisfaction of the DPO representative to substantiate the Claim.
- c) He or she will assess if the Claim falls within the scope of any exemptions provided for by the applicable data protection and privacy laws and regulations, or other applicable country laws. He or she will also assess whether the Claim is abusive based on the frequency, the number, the repetitive or systematic nature of the Claims and can decide not respond to such Claims unless required by local law. If this is the case, he or she will fully document any decision to withhold the data on the basis of an exemption provided in the applicable data protection and privacy laws, or other applicable country laws. This will form part of the case-file, as described above.
- d) He or she will where relevant contact the relevant departments and functions likely to process personal data concerning the Data Subject. Such departments and functions will co-operate with the DPO representative and supply any necessary information and data as the DPO representative deems appropriate.



- e) Once he or she is satisfied that he/she has obtained all useful and complete information, he/she will ensure that the answer to the Claim does not infringe the data privacy rights of another Data Subject.
- f) He or she will inform the Data Subject of the outcome of his/her Claim.

## ***2.4 Response time***

Data Subjects shall be provided with a response to their Claim, including through the implementation of any remedial actions, within a maximum delay of:

- One (1) month since the Claim was addressed to an Air Liquide Entity established in the European Union. That period may be extended by two further months where necessary, taking into account the complexity and number of the Claims. In such case, the DPO representative will inform the Data Subject of any such extension within one month of receipt of the Claim, together with the reasons for the delay **Or**
- Two (2) months since the Claim was addressed to an Air Liquide Entity established outside of the European Union

unless a shorter maximum period applies under applicable data protection and privacy laws.

### **3 Specific treatments in regard of the type of request, subject matter of the Claim**

#### ***3.1 Right of access***

The Data Subject has a right to request the following:

- to know whether Air Liquide processes personal data concerning him/her,
- the purposes for which such data are processed,
- the categories of data undergoing processing,
- the recipients or categories of recipients of such data,
- where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period,
- the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the Data Subject or to object to such processing,
- the right to lodge a complaint with a data protection authority,
- where the personal data are not collected from the data subject, any available information as to their source,
- a copy of the actual data processed about him/her.

Where provided by the local applicable law of the country where the Data Subject is located, if such processing of personal data may result in automated decisions, the Claim relating to the right of access may also cover the existence of automated decision-making, including profiling, and meaningful information about the logic involved in such automatic processing of data concerning the Data Subject, as well as the significance and the envisaged consequences of such processing for the Data Subject.

In addition to the general procedure, to handle specifically a Claim relating to the right of access:

- a) Where the information to be provided as a result of such Claim contains data about another Data Subject, the DPO representative will provide the requested information only if:
  - it is possible to delete or conceal the data identifying the other Data Subject, or
  - the other Data Subject has consented to such a disclosure, or
  - in cases where a consent has not been sought or has proven impossible to obtain, and where it is impracticable to delete or conceal the data identifying the other Data Subject, the DPO representative determines that under the circumstances of that particular case it is appropriate and reasonable to provide the data.

The DPO representative will fully document any considerations and decisions in this respect and include it in the case-file described in Section 2.3 above.

- b) The data to be provided to the Data Subject must be presented in an intelligible form. Any codes used must be clearly explained and the data translated in a language comprehensible to the Data Subject concerned.
- c) The requested data will be provided to the Data Subject concerned in a written form or, where agreed, the Data Subject will be given the opportunity of viewing the requested data.
- d) Where the Data Subject makes the request by electronic means, and unless otherwise requested by the Data Subject, the requested data will be provided in a commonly used electronic form.
- e) For any further copies requested by the Data Subject, the Air Liquide entity acting as data controller and concerned by this request may charge a reasonable fee based on administrative costs.

### ***3.2 Right of rectification***

The Data Subject may request that the personal data processed about him/her by Air Liquide be corrected where he/she considers such data inaccurate or incomplete.

On receipt of such a request, the DPO representative should verify that, taking into consideration the information communicated by the Data Subject concerned, the data processed are actually inaccurate or incomplete.

If the verification process shows that the data are actually inaccurate or incomplete, the DPO representative will instruct the relevant department or function to correct or complete the data. If the verification process shows the data in question to be accurate, the DPO representative shall make a note of the findings and communicate this to the Data Subject.

When the information has been rectified, the department or function will send a copy of the rectified data to the DPO representative who, in turn, will forward this to the Data Subject concerned to confirm that his/her request has been considered, and where appropriate, processed.

Where it is determined that incorrect and/or incomplete information was communicated to other Air Liquide and/or third party entities, the DPO representative will instruct the relevant department or function to communicate the rectified data to those entities for rectification, unless such operation is impracticable or involves a disproportionate effort.

### ***3.3 Right to erasure***

The Data Subject may request that the personal data processed about him/her by Air Liquide be erased where one of the following grounds applies:

- a) the personal data is no longer necessary in relation to the purposes for which it was collected or otherwise processed;
- b) the Data Subject withdraws his/her consent to the processing of his/her personal data and there is no other legal ground for the processing;
- c) the Data Subject objects to the processing of his/her personal data where the processing is based either on a public interest ground or on the legitimate interests of Air Liquide and there are no overriding legitimate grounds for the processing;
- d) the Data Subject objects to the processing of his/her personal data where they are processed for direct marketing purposes, which includes profiling to the extent that it is related to such direct marketing;
- e) the personal data have been unlawfully processed;
- f) the personal data have to be erased for compliance with a legal obligation in the legislation of a country to which Air Liquide is subject; or
- g) the personal data have been collected regarding children in the context of information society services.

By way of exception, the Data Subject may not obtain the erasure of his/her personal data where the processing of his/her personal data is necessary:

- a) for exercising the right of freedom of expression and information;
- b) for compliance with a legal obligation which requires processing by Union or Member State law to which Air Liquide is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in Air Liquide;
- c) for reasons of public interest in the area of public health;
- d) for archiving purposes in the public interest, scientific or historical research purpose in so far as the right of erasure is likely to render impossible or seriously impair the achievement of the objectives of that processing; or
- e) for the establishment, exercise or defence of legal claims.

In these cases, Air Liquide is not obliged to erase the personal data relating to the Data Subject.

On receipt of a request for erasure, the DPO representative should verify that, taking into consideration the information communicated by the Data Subject concerned, one of the above-mentioned grounds applies.

If the verification process shows that one of the above-mentioned grounds applies, the DPO representative will instruct the relevant department or function to erase the data. If the verification process shows that none of the above-mentioned grounds applies or that Air Liquide has a legitimate reason not to erase the data (i.e. one of the five above-mentioned exceptions applies), the DPO representative will make a note of the findings and communicate this to the Data Subject.

When the information has been erased, the department or function will notify the DPO representative who, in turn, will confirm to the Data Subject concerned that his/her request has been considered and that the data has been erased.

Where it is determined that the Data Subject's personal data was communicated to other Air Liquide and/or third party entities, the DPO representative will instruct the relevant department or function to inform those entities that the Data Subject has requested the erasure of that data, unless such operation is impracticable or involves a disproportionate effort.

### ***3.4 Right to restriction of processing***

The Data Subject may request from Air Liquide to obtain the restriction of the processing of his/her personal data where one of the following conditions applies:

- a) the Data Subject contests the accuracy of the personal data for a period. The restriction of the processing will enable Air Liquide to verify the accuracy of the personal data;
- b) the processing is unlawful and the Data Subject opposes the erasure of the personal data and requests the restriction of its use instead;
- c) Air Liquide no longer needs the personal data for the purposes of the processing, but such personal data are required by the Data Subject for the establishment, exercise or defence of legal claims; or
- d) the Data Subject has objected to processing on grounds relating to his/her particular situation pending the verification whether the legitimate grounds of Air Liquide override those of the Data Subject.

On receipt of such a request, the DPO representative should verify that, taking into consideration the information communicated by the Data Subject concerned, one of the above-mentioned conditions applies.

If the verification process shows that one of the above-mentioned conditions applies, the DPO representative will instruct the relevant department or function to restrict the processing of the personal data. If the verification process shows that none of the above-mentioned conditions applies, the DPO representative will make a note of the findings and communicate this to the Data Subject.

When the processing of the personal data has been restricted, the department or function will notify the DPO representative who, in turn, will confirm to the Data Subject concerned that his/her request has been considered and that the processing has been restricted. Before the restriction of processing is lifted, the DPO representative will inform the Data Subject.

Where it is determined that the Data Subject's personal data was communicated to third party entities, the DPO representative will instruct the relevant department or function to inform these third party entities that the processing of that data has been restricted, unless such operation is impracticable or involves a disproportionate effort.

### ***3.5 Right to object***

#### ***3.5.1 Right to object to direct marketing, including profiling to the extent that it is related to such direct marketing***

The Data Subject has the right to object to receiving any promotional and marketing materials by post, telephone, email or any other form of communication provided by Air Liquide. The Data Subject also has a right to object to Air Liquide processing of his/her data for any direct marketing purposes, which includes profiling to the extent that it is related to such direct marketing.

Upon receipt of an objection to direct marketing purposes, the DPO representative will ask the departments or functions concerned to cease processing the Data Subject's data for direct marketing purposes.

Upon receipt of an objection to profiling to the extent that it is related to such direct marketing, the DPO representative will ask the departments or functions concerned to cease profiling the Data Subject.

When the profiling of the Data Subject has ceased, the department or function will notify the DPO representative who, in turn, will confirm to the Data Subject concerned that his/her Claim relating to the right to object to direct marketing including profiling, has been considered and that the profiling has been ceased.

Upon receipt of an objection to profiling which is not related to direct marketing, the DPO representative will make a note of the findings and communicate this to the Data Subject.

#### ***3.5.2 Right to object on grounds relating to his/her particular situation***

Air Liquide will abide by any request from a Data Subject to stop the processing of his/her data, including profiling, on grounds relating to the Data Subject's particular situation.

The Data Subject can object to the processing of his/her personal data which is based either on the necessity to perform a task carried out in the public interest or on the legitimate interests pursued by Air Liquide and where Air Liquide has no compelling legitimate grounds for the processing which override the interests, rights and freedoms of the Data Subject and finds the request to be legitimate and appropriate.

On receipt of such a request, the DPO representative should verify that, taking into consideration the information communicated by the Data Subject concerned concerning his/her particular situation and Air Liquide's compelling legitimate grounds for the processing, this right applies. If the verification process shows that this right applies, the DPO representative will instruct the relevant department or function to cease the processing of the Data Subject's data concerned by the request. If the verification process shows that this right does not apply, the DPO representative will make a note of the findings and communicate this to the Data Subject.

When the processing of the personal data has ceased, the department or function will notify the DPO representative who, in turn, will confirm to the Data Subject concerned that his/her request has been considered and that the processing has ceased.

### ***3.6 Right to portability***

Air Liquide will abide by any request from a Data Subject to exercise his/her right to portability. The right of portability is composed of:

- a right for the Data subject to receive from Air Liquide his/her personal data which he/she has provided to Air Liquide and which Air Liquide must provide in a structured, commonly used and machine-readable format;
- a right for the Data Subject to transmit the data to another controller.

The right to portability applies when the following conditions are met:

- a) the processing is based on consent or on the performance of a contract or pre-contractual measures, and
- b) the processing is carried out by automated means.

If the verification process shows that the above-mentioned conditions apply, the DPO representative will instruct the relevant department or function to gather, in a structured, commonly used and machine-readable format:

- i. data actively and knowingly provided by the Data Subject (for example, mailing, address, age, etc.),
- ii. observed data provided by the Data Subject by virtue of the use of a service or a device restrict the processing of the data.

In contrast, inferred data and derived data which is created by Air Liquide on the basis of the data provided by the Data Subject is not within the scope of the right to data portability. The DPO representative will then, at the choice of the Data Subject provide the requested data to the Data Subject or transmit such data to another controller.

If the verification process shows that the above-mentioned conditions do not apply or the request of the Data Subject does not concern the data provided by the Data Subject or observed data, the DPO representative will make a note of the findings and communicate this to the Data Subject.

### ***3.7 Right not to be subject to decision based solely on automated processing, including profiling***

The Data Subject has the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him/her or similarly significantly affects him/her.

This right does not apply if the decision:

- a) is necessary for entering into, or performance of, a contract between Air Liquide and the Data Subject;
- b) is authorised by Union or Member State law to which Air Liquide is subject and which also lays down suitable measures to safeguard the Data Subject's rights and freedoms and legitimate interests; or
- c) is based on the Data Subject's explicit consent.