

 **Data Processor Agreement**

Pursuant to the Norwegian Personal Data Act § 13, cf. § 15 and the Norwegian Personal Data Regulations, chapter 2.

 between

 …………..…………………………. (Org.no……………..)

 Data Controller

 *<The Data Controller is the person who determines the purpose and means of the processing of personal data >.*

 and

 ……………………………………… (Org.no……………..)

 Data Processor

 ***<****The Data Processor is the person who processes personal data on behalf of the Controller. The Data Processor processes the information to the purpose and with the level of data security that is determined by the Controller.*

 *Examples of companies that function as Data Processors for HiOA: Questback, UiO (if they e.g. store research data for HiOA), UNINETT (Agresso, Public 360) and BiBSYS>.*

*Text written in italics shall be removed and replaced with relevant text*

**1. Parties to the agreement**

**1.1. The parties**

This agreement is entered into between the Data Controller:……………………………… (hereafter referred to as the Data Controller) and the
Data Processor :…………………………………..(hereafter referred to as the Data Processor).

**1.2. Contact persons**

Contact person at the Data Controller:………………………………………………..

Contact person at the Data Processor……………………………………………………....

*<Please state, the name, contact information and role>*

**2. The intention of the agreement**

The intention of this agreement is to regulate rights and obligations pursuant to the Norwegian Act of 14 April 2000 No. 31 relating to the Processing of Personal Data (The Personal Data Act) and the Norwegian Regulations of 15 December 2000 No. 1265 on the Processing of Personal Data (The Personal Data Regulations). The agreement shall ensure that personal data relating to the data subjects is not used unlawfully or comes into the hands of a third party.

The agreement regulates the Processor’s use of personal data on behalf of the Controller, including collection, recording, alignment, storage and disclosure or a combination of such uses.

This agreement includes all of the Data Processor’s products and customer relations with the Data Controller.

**3. Purpose**

The purpose of this agreement is to regulate the processing of the personal data that the Data Processor handles on behalf of the Data Controller in connection with: ………………………………..

*<Please state the reason for the processing, e.g. name of the research project or administrative system>*.

The following personal data shall be processed:

*<Must be completed and shall state what personal data is to be processed and whether the data may be directly identified or de-identified (i.e. the personal data appears to be anonymous, but it is possible to track who the data is concerned)>.*

The agreement comprises the following processes*:*

*<Must be completed and shall state the processes that are covered by this agreement (collection, storage, editing, deleting etc.) Possible connections with other data sets must be approved by the Data Controller. Exceptions are made for connections that are anonymized. If the purpose is evident from other agreements, e.g. contracts entered into between HiOA and the Data Controller/Data Processor, you may refer to these contracts when you are asked to describe the purpose for the processing of data>.*

The Data Processor can only process personal data made available by the Controller for the purpose determined by the Controller and in accordance with the conditions evident from this agreement:

*<Must be completed and shall state the purpose for the processing of the personal data >.*

It should be evident from this agreement if the Data Processor can turn over personal data to a third party/others for storage, editing or other use. Subcontractors must be stated in section 5 of this agreements.

The purpose of the processing may not be altered by any of the parties without a new agreement being signed.

**4. The parties’ area of responsibility pursuant to the Personal Data Act and Regulations**

Pursuant to the Personal Data Act, § 2 subsection 4, the Data Controller is the person responsible for the processing of data. The Controller is responsible for ensuring that requirements, including safety requirements, stipulated in the Personal Data Act and the Regulations are met. This also implies that the Controller is responsible for ensuring that the requirements are met in connection with storage and use of personal data at the Data Processor, cf. the Act § 15 and the Regulations § 2-15.

The Data Controller is, unless otherwise agreed or pursuant to statutory regulations, entitled to access to the personal data that is processed and the systems used for this purpose. The Data Processor is obliged to provide necessary assistance in connection with this.

The Data Processor is to be regarded as the Data Processor pursuant to the Personal Data Act § 2 no. 5 and may only process personal data made available by the Data Controller in accordance with this agreement, cf. the Personal Data Act § 15. A written agreement in advance with the Data Controller must be signed before the Data Processor can use the personal data in any other way than stipulated in this agreement.

The Data Processor shall make sure that personal data made available by the Data Controller is kept apart form their own personal data and other information and services, unless a written agreement states otherwise.

The Data Processor shall follow the procedures and instructions for the processing determined by the Controller at any given time.

**5. The use of subcontractors**

If one of the parties employ a third party (subcontractor) to execute a service in accordance with this agreement, the party is solely responsible for the execution in the same way as if the party had executed the service himself/herself. The Data Processor shall make sure that the subcontractors sign and oblige themselves to act in accordance with the Data Controller’s Data Processor Agreement.

*<Please state the subcontractors here (if applicable)>*:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**6. Requirements for data security**

The Data Processor shall fulfil the requirements for safety measures stipulated in the Personal Data Act and the Personal Data Regulations, in particular §§ 13 – 15 of the Personal Data Act including the regulations. The Data processor system- and operating documentation shall be available to the Data Controller upon request.

*<Is it necessary to enter special Requirements for data processing specify here>*:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The Processor shall report all discrepancies pursuant to the Personal Data Regulations § 2-6 to the Controller. The Controller is responsible for reporting discrepancies to the Norwegian Data Protection Authority.

7. **Security audit**

The Controller and the Data Processor shall agree on the implementation of regular security audits for systems etc. covered by this agreement.

The audit can include a review of procedures, random checks, more comprehensive site inspections and other suitable control measures.

**8. Duty of secrecy**

The parties shall keep the duty of secrecy relating to all confidential information, someone’s personal relations, safety and business relations, information that may harm one of the parties or information that may be exploited by a third party.

The duty of secrecy applies to the parties’ employees and others who act on behalf of the parties in connection with the implementation of the contract. All employees shall sign a declaration of confidentiality.

The parties are obliged to make the necessary precautions to secure that the materials or information are not made available to others in breach of this section. Employees and others who resign their position at one of the Data Processors shall be instructed to duty of secrecy relating to the information stated above also after they have resigned.

This condition also applies after the termination of the agreement.

**9. Breach of contract**

Breach of contract exists if one of the parties does not fulfil his/her duties in accordance with this agreement and this is not due to circumstances that the other party is responsible for or is to take the risk for. If one of the parties wants to invoke a breach of contract, the other party shall be notified in writing with undue delay.

In case of breach of contract, the violated party may retain his/her mutual consideration, but not evidently more than what seems to be required to resolve the consequences of the breach, and only until the condition is considered to be in accordance with this agreement again.

In case of a significant breach of contract, the other party can – after he/she has given a written warning and a reasonable deadline to resolve the matter – dismiss the whole or parts of the agreement with immediate effect and demand compensation for possible losses the breach has caused.

**10. Duration of the agreement**

This agreement applies as long as the Data Processor processes personal data on behalf of the Controller *or* the agreement applies until \_\_\_\_\_\_\_\_\_\_\_\_\_\_

In the event of breach of this agreement or the Personal Data Act, the Controller can instruct the Processor to stop further processing of the information with immediate effect.

The agreement can be terminated by both parties with a mutual period of notice of \_\_\_\_\_\_, cf. section 11 of this agreement.

**11. Termination**

Upon termination of this agreement, the Data Processor is obliged to return all personal data that has value to the Records in accordance with the Norwegian Archives Act or data specified by the Data Controller, and covered by this agreement.

After the data has been returned to the Data Controller(or after approved return to a security deposit or after a decision has been made relating to storage or discarding) the Data Processor shall delete and/or destroy its copy of the personal data in a secure manner. Personal data with no value to the Records and that is not specified by the Data Controller shall be deleted and/or destructed. This also applies to safety copies, if applicable.

*<Please specify what data is to be returned and in what manner copies and/or data with no value to the Records should be deleted and/or destructed once the agreement is terminated>. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

The Data Processor shall document in writing that the deletion and/or destruction of copies and/or personal data that has no value to the Records has taken place in accordance with the agreement and within a reasonable period of time after the termination of the agreement. Documentation of deletion/destruction shall be sent to the Data Controller.

**12. Notifications**

Notifications under this agreement shall be submitted in writing to:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**13. Choice of law and legal venue**

The rights and obligation of the parties to this agreement are subject to Norwegian jurisdiction.Any disputes relating to this agreement shall be processed by an ordinary court of law. The parties agree that Oslo District Court shall be the legal venue. This also applies after termination of this agreement.

**14. Signatures**

This agreement is signed in 2- two- copies, of which each party to this agreement is to retain 1 –one- copy.

|  |  |
| --- | --- |
| Place, date: .................…………………………. | Place, date:..............…………………………. |
| Data Controller (signature)……………………………………………… | Data Processor (signature)………………………………………………. |
| Name in capital letters: ……………………………………….Position:……………………………… |  Name in capital letters……………………………………….Position:……………………………………… |

 *<Data Controller: The role of the Data Controller is often delegated to the head of the relevant area/field. The person with the day-to day processing responsibility shall attend to the processing responsibility pursuant to the Personal Data Act within his/her area/field and must have the authority to make decisions. Rector of University Collage functions as Data Controller on behalf of Oslo and Akershus University College of Applied Sciences and will sign the agreement if the responsibility is not delegated to another person.*

*A Data Processor Agreement is usually entered into by a person with the day-to-day processing responsibility. Examples of persons with the day-to-day processing responsibility are: Dean/Director at the faculty/centre or the person who has been delegated this authority by Dean/Director (in research project) and Head of Sections >.*