**Template for data processor agreements**

**The text of the agreement must be customised for each service/project and service provider**

Pursuant to the applicable Norwegian personal data legislation and regulation (EU) 2016/679 of 27th April 2016 (GDPR), Articles 28 and 29, cf. Article 32-36, the following agreement is

entered into

between

Name of institution

.……………………….

(data controller)

and

Name of service provider

………………………….

(data processor)

|  |  |  |
| --- | --- | --- |
| **Changed:** | **Changed by:** | **Date:** |
|  |  |  |
|  |  |  |

## 1. Purpose of the agreement

The purpose of the agreement is to regulate the rights and obligations under the applicable Norwegian personal data legislation, and regulation (EU) 2016/679 of 27th April 2016 in respect of the protection of physical persons in connection with the processing of personal data and the free exchange of such data, as well as the repeal of Directive 95/46/EC.

The agreement is intended to ensure that personal data is not processed illegally, unlawfully, or processed in a manner resulting in unauthorised access, alteration, erasure, damage, loss, or unavailability.

The agreement governs the data processor’s processing of personal data on behalf of the data controller, including collection, registration, compilation, storage, disclosure or combinations of these, in connection with the use of/processing in (name of service/project).

In the event of conflict, the terms of this Agreement will take precedence over the data processor’s privacy policy, or terms of any other agreement entered between the data processor and the data controller in connection with the use of/processing in (name of service/project).

**2. Purpose limitation**

The purpose of the data processor’s processing of personal data on behalf of the data controller is to deliver and administer/other type of processing (name of service/project).

Personal data that the data processor processes on behalf of the data controller may not be used for any other purpose than delivery and administration of/other type of processing (name of service/project) without the prior approval of the data controller.

## The data processor may not transfer personal data covered by this agreement to partners or other third parties without the prior approval of the data controller, cf. Section 9 of this agreement.

## 3. Instructions

The data processor shall follow the written and documented instructions for the processing of personal data in (name of service/project) which the data controller has determined will apply.

(Name of institution) is obliged to comply with all obligations under the applicable Norwegian personal data legislation governing the use of (name of service/project) for the processing of personal data.

The data processor is obliged to notify the data controller in case it receives instructions from the data controller in conflict with the provisions of the applicable Norwegian personal data legislation.

* Comment: Detailed instructions to the data processor may be attached as an appendix to the data processor agreement.

**4. Types of personal data and data subjects**

The data processor processes the following personal data on behalf of the data controller in connection with delivery and administration of (name of service/project):

* Comment: Provide a brief summary (preferably in bullet points) of the main categories of personal data the service provider (data processor) processes on behalf of the institution/business (data controller).
* Comment: Provide a brief summary of the information the data processor registers and stores in connection with the use of the service, e.g., when using cookies.

The personal data applies to the following data subjects:

* Comment: Provide a brief summary of whom the information pertains to, for example, students and staff at the institution.

## 5. The rights of the data subjects

The data processor is obliged to assist the data controller in safeguarding the rights of the data subjects in accordance with applicable Norwegian personal data legislation.

The rights of the data subject include the right to information on how his or her personal data is being processed, the right to request access to personal data, the right to request rectification or erasure of personal data and the right to request restriction of processing of their personal data.

The data processor is liable towards the data subjects if errors or omissions caused by the data processor inflict financial or non-financial loss on the data subjects as a result of infringement of their rights or privacy.

**6. Appropriate data security and documentation**

The data processor shall implement appropriate technical, physical, and organisational safety measures to safeguard the personal data covered by this agreement from unauthorised or unlawful access, alteration, erasure, damage, loss, or unavailability.

The data processor is obliged, at the request of the data controller, to provide access to documentation, including any security documentation, necessary for the data controller to be able to fulfil its obligations under the GDPR.

The data processor is obliged, at the request of the data controller, to provide access to any other information which is necessary to demonstrate that the obligations stipulated in this agreement have been fulfilled.

* Comment: There may be a need to specify the most important safeguards that the data processor has implemented, possibly referring to documents or publications that explain how the data processor works with data security, and what safeguards are established for the service in question. These may be incorporated into the agreement, or as an appendix to the agreement.

**7. Confidentiality**

The data processor has a duty of confidentiality in respect of documentation and personal data to which it gains access to in accordance with this agreement. This provision also applies after termination of the agreement. The duty of confidentiality includes employees of third parties who process the personal data.

**8. Security Breach Notification**

The data processor shall notify the controller without undue delay, if personal data processed on behalf of the controller is exposed to a security breach which entails a risk of violations of the data subjects’ data privacy.

The data processor’s notification should, at minimum, include information that describes the security breach, which data subjects are affected by the breach, what personal data is affected by the breach, what immediate measures are implemented to manage the breach and any measures established to avoid similar incidents in the future.

The data controller is responsible for forwarding security breach notifications received from the data processor to the Norwegian Data Protection Authority.

## 9. Sub-processors

The data processor is obliged to enter into separate agreements with sub-processors of (name of service/project) which govern the sub-processors’ processing of personal data in connection with delivery and administration of/other type of processing (name of service/project).

In agreements between the data processor and sub-processors, the sub-processors shall be obliged to comply with all obligations to which the data processor is subject to under this agreement. The data processor is obliged to submit the agreements to the data controller upon request.

The data processor shall verify that sub-processors of (name of service/project) complies with their contractual obligations, in particular that the data security is appropriate and that employees of the sub-processors are familiar with their obligations and complies with these.

The data controller approves that the data processor involves the following sub-processors in connection with delivery and administration of/other type of processing (name of service/project):

…………………………………………………………………………………………………... (names of sub-processors).

The data processor may not involve any sub-processors other than those listed above without the prior approval of the data controller.

The data processor is liable towards the data controller for any financial loss inflicted on the data controller due to illegal or unlawful processing of personal data or inadequate data security on the part of sub-processors to (name of service/project).

**10. Transfer to countries outside the EU/EEA**

* Comment: Personal data that the data processor is processing on behalf of the data controller may be transferred to countries outside the EU/EEA (third countries). Such transfer may only take place on certain conditions, and the rules for transfer to third countries are found in Articles 45-47 and 49 of the GDPR. These rules imply, among other things, that the transfer will be lawful if it takes place to EU-approved third countries or on the basis of the EU Commission's standard contractual clauses for transfer of personal data to data processors in third countries. Please note that an assessment must be made of the third country's level of data protection and, if necessary, further measures must be implemented in order to legally transfer personal data on the basis of the EU’s standard contractual clauses. The rules apply to, among other things, the storing of personal data in third countries and access to personal data from third countries, for example using support services.

Personal data that the data processor processes under this agreement will be transferred to the following recipient countries outside the EU/EEA: …………………………………………………………………………………………………... (name of recipient country).

The legal basis for transferring personal data to the abovementioned recipient countries outside the EU/EEA is:

…………………………………………………………………………………………………... (brief explanation of the legal basis for transfer).

## 11. Security audits and impact assessments

The data processor shall regularly implement security audits of its own work on safeguarding personal data against unauthorised or unlawful access, alteration, erasure, damage, loss, or unavailability.

The data controller shall be granted access to audit reports on request.

* Comment: The parties may agree that the data controller itself performs security audits at the data processor, and also how any costs incurred in connection with such an audit should be allocated.

At the request of the data controller, the data processor is obliged to assist the data controller if the use of/processing in (name of service/project) entails that the data controller is obliged to carry out an assessment of the impact of the envisaged processing before using/implementing (name of service/project), cf. GDPR Article 35 and 36.

## 12. Return and erasure

Upon termination of this agreement, the data processor is obliged to return and erase any personal data processed on behalf of the data controller in connection with delivery and administration of/processing in (name of service/project). The data processor determines how the return of the personal data will take place, including the format to be used.

The data processor shall erase personal data from all storage media that contain the personal data which the data processor processes on behalf of the data controller. Erasure shall be carried out by the data processor within (fill in number) days after the termination of the agreement. This also applies to any backup-copies of the personal data.

The data processor will document that the erasure of personal data has been carried out in accordance with this agreement. The documentation shall be made available to the data controller.

The data processor covers all costs associated with the return and erasure of the personal data covered by this agreement.

* Comment: The parties may, if necessary, agree in a more detailed manner on how costs incurred in connection with erasure or return of personal data are to be allocated.

**13. Breach of contract**

In case of breach of the terms of this agreement caused by errors or omissions on the part of the data processor, the data controller may terminate the agreement with immediate effect. The data processor is still obliged to return and erase personal data processed on behalf of the data controller pursuant to the provisions of Section 12 above.

The data controller is entitled to claim compensation for financial loss suffered by the data controller as a consequence of errors or omissions on the part of the data processor, including breach of the terms of this agreement, cf. also Section 5 and 9 above.

## 14. Duration of the agreement

This agreement applies as long as the data processor processes personal data on behalf of the data controller

or

the agreement applies until \_\_\_\_\_\_\_\_\_\_.

The agreement may be terminated by both parties with a mutual deadline period of \_\_\_\_.

## 15. Contacts

The contact person at the data processor for any questions related to this agreement is: \_\_\_\_.

The contact person at the data controller for any questions related to this agreement is: \_\_\_\_.

**16. Choice of Law and Legal Venue**

Any disputes arising out of this agreement shall first sought to be solved through negotiations.

The agreement is governed by Norwegian law and the parties accept Oslo tingrett as the legal venue. This also applies after the termination of the agreement.

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This agreement exists in 2 – two copies, one to each of the parties.

Place and date:

….……………………….. ….…………………………..

(data controller) (data processor)