

Annex X – JOINT CONTROLLER AGREEMENT

This joint controller agreement, including any appendices hereto, (together the "Joint Controller Agreement") is an integrated part of the Project Agreement.

All defined terms within the Project Agreement shall have the same meaning when used in this Data Processing Agreement, unless explicitly defined otherwise in this Data Processing Agreement.

This Joint Controller Agreement is between the partners defined as Joint Controller in Annex X of the Project Agreement hereinafter, jointly or individually, referred to as "Joint Controllers" or "Partners" relating to the Project.

Whereas:

- A. the Joint Controllers have entered into cooperation the subject of which is to conduct the Project;
- B. the Project requires that the Joint Controllers process personal data, whilst they jointly determine the purposes and means of processing of personal data;
- C. the processing of personal data by the Joint Controllers requires that a transparent manner of determining their respective responsibilities be established as regards their compliance with the obligations under 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 (hereinafter referred to as "[General Data Protection Regulation](https://eur-lex.europa.eu/eli/reg/2016/679/oj)" or "the GDPR"¹) and other generally applicable laws as well as relations between the Joint Controllers and the data subjects;
- D. on concluding this Joint Controller Agreement, the Partners, seek to regulate the terms of processing of personal data in such a way that they meet the provisions of the GDPR, and
- E. with regard to the data they process, the Joint Controllers act as controllers for the purposes of Article 24 et seq. of the GDPR referred to in D,

the Partners decided to enter into the following Joint Controller Agreement:

§ 1.

Definitions

For the purposes of this Agreement, the Partners agree that the following terms shall have the following meaning:

1. "**Controller/Joint Controller**" means any natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data;

¹ <https://eur-lex.europa.eu/eli/reg/2016/679/oj>

2. **“Personal Data”** means any information relating to an identified or identifiable natural person (hereinafter referred to as “data subject”);
3. **“Third Country”** means any country that is not a member of the European Union or the European Economic Area or any international organisation;
4. **“Processor”** means any natural or legal person, public authority, agency or other body which processes Personal Data on behalf of the Controller;
5. **“Data Protection Law”** means the GDPR as well as other provisions of EU Member State’s national law applicable to a relevant Partner, passed in relation to personal data protection, including in particular the provisions of the given Controller’s national law;
6. **“Processing”** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
7. **“General Data Protection Regulation”, “GDPR”** means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC; wherever this Agreement refers to specific Articles of GDPR, it shall also apply to the corresponding provisions in national legislation guaranteeing a similar level of safety;
8. **“Information System”** means a group of cooperating devices, programs, information processing procedures and program tools used for the purpose of data processing;
9. **“Joint Controller Agreement”** means this agreement on Joint Control of Personal Data;

§ 2.

Subject-matter of the Joint Controller Agreement

1. This Joint Controller Agreement regulates mutual relations between the Partners as regards the joint control of Personal Data, and in particular it determines in a transparent manner the Joint Controllers’ responsibilities for compliance with the obligations under the GDPR; it also defines the representation of the Joint Controllers in contacts with the data subjects and their relations with those data subjects.
2. For the purpose of proper implementation of this Joint Controller Agreement, the Joint Controllers shall:
 - 1) cooperate on performing the obligations of the Joint Controllers of Personal Data;
 - 2) process the Personal Data with which they have been entrusted with regard to the Cooperation pursuant to this Agreement, GDPR, Consortium Agreement and other generally applicable laws and
 - 3) refrain from any legal or factual actions which might in any way undermine the security of Personal Data or threaten the other Joint Controller with civil, administrative or criminal liability.

3. Categories of data subjects and personal data, the purposes and means of processing, including the participation of Joint Controllers in those processes, as well as the categories of recipients of the Personal Data are defined in the Project Agreement.

§ 3.

Controllers' rights and obligations

1. The Joint Controllers declare that they have the means enabling them to process and protect Personal Data they are processing, including information systems meeting the requirements of the appropriate level of security, as stipulated by the GDPR. They will each fully adhere to the applicable Data Protection Law(s) with respect to obligations and responsibilities of controllers.
2. In particular, the Joint Controllers shall:
 - 1) exercise due diligence in processing Personal Data and process Personal Data pursuant to the Agreement, the GDPR and other provisions of Data Protection Law(s), including the appropriate provisions of each Controller's national law;
 - 2) restrict access to Personal Data only to persons who need the access to Personal Data for the purposes of the Project Agreement, provide those persons with relevant authorisations, offer relevant training on personal data protection and ensure confidentiality of Personal Data processed thereby, both during and after their employment or other cooperation with a Joint Controller;
 - 3) assist the other Joint Controller, where possible, in meeting its (i) obligation to respond to requests from data subjects and (ii) obligations laid down in Articles 32 through 36 of the GDPR;
3. The Joint Controllers shall provide each other with the necessary assistance in carrying out the obligations referred to in section 2 point 5) above, in particular in the notification of a personal data breach, by:
 - 1) providing, at the request of a Controller, information concerning the processing of personal data immediately upon receipt of such request as soon as possible;
 - 2) notifying the other Joint Controllers of any breach as soon as possible but not later than 48 hours of its discovery. The notification should include all the information referred to in Article 33 (3) of the GDPR. If - and to the extent that - the information cannot be provided at the same time, they can be given successively without undue delay;
 - 3) providing to the other Joint Controllers all information necessary for the communication of a personal data breach to the data subject;
 - 4) informing the other Joint Controllers of inquiries, requests or demands from data subjects and other individuals, national or European Union public administrations, including relevant supervisory authorities and courts, as well as any controls or inspections by such authorities in connection with the joint controllership of Personal Data; information shall be provided promptly and in such a way as to enable the other Joint Controllers to comply with the obligations set out in sections 2 and 3, without undue delay but not later than 7 calendar days after receipt of an inquiry, request or demand or after the start of a control or inspection.

§ 4.

Data subjects' rights

1. The Joint Controllers shall inform, in any way they deem appropriate, the data subjects of the essences of this Joint Controller Agreement and shall provide them the information referred to in Appendices 1 and 2 in accordance with Article 26 and Article 12 of the GDPR.
2. The information referred to in section 1 shall be primarily provided to the data subjects via the electronic proposal submission system or by the Controller who collects the personal data.
3. Data subjects may contact any of the Joint Controllers about the rights granted to them by Articles 15 - 22 of the GDPR. The contacted Controller shall identify the responsible Controller and forward the request internally to this Controller. The originally contacted Controller shall carry out all necessary communication with the data subject.
4. The responsible Controller shall be determined as follows: If the data of the data subject is part of a set of data which can be attributed to a Controller, this Controller shall be responsible. In all other cases the Controller contacted by the data subject shall be the responsible Controller.
5. The Joint Controllers undertake to comply with the data subjects' rights and shall assist one another with the execution of data subjects' requests.

§ 5.

Transfers of Personal Data to third countries

Controller and/or its Processor(s) that transfer(s) personal data in the scope of the execution of the Agreement to a Controller and/or Processor and/or other entity situated in the third country that does not present adequate safeguards under the GDPR shall ensure that such transfer is possible and that it complies with the GDPR (e.g. pursuant to Article 45 of the GDPR – on the basis of an adequacy decision Article 46.2.c) of GDPR – on the basis of standard data protection clauses adopted by the Commission in accordance with the examination procedure in Article 93.2 or pursuant to Article 49 of the GDPR. A copy of standard data protection clauses referred to in the preceding sentence shall be provided when so requested by a data subject.

§ 6.

Entrusting Processors with processing of Personal Data

1. The Controllers jointly consent to each of them entrusting Processors with processing of Personal Data subject to this Joint Controller Agreement on terms and to the degree defined by this Agreement and Article 28 of the GDPR.
2. Each Controller may entrust Processors with processing of Personal Data under this Joint Controller Agreement only for the purposes of this Joint Controller Agreement and the Project.
3. Processors can only carry out specific Personal Data processing activities on behalf of a Controller once the Controller has entered into a contract with such a Processor laying down the obligations of the latter related to Personal Data protection in a manner ensuring sufficient guarantees of technical and organisational measures for the processing to meet the requirements of the GDPR.
4. A Processor may carry out specific Personal Data processing activities on behalf of a Controller without entering into the contract referred to in section 3 as long as it is possible pursuant to

another legal instrument under EU law or national law, which binds the Processor and the Controller.

5. This Paragraph shall apply in the case of any intended modifications regarding adding processors or replacing processors with other processors.

§ 7.

Controllers' liability

The liability of the parties is governed by the legal regulations, in particular Article 82 of the GDPR with regard to the processing activities that they are in charge of as defined in regard of the Controller's role in the Collaboration and as stated in Appendix 1.

§ 8.

Collaboration of the Partners

1. The Partners shall cooperate in supervising the implementation of this Joint Controller Agreement.
2. The Partners agree that at the time of the implementation of the Joint Controller Agreement they shall cooperate closely, informing one another of any circumstances that have or may have effect on processing of Personal Data.

Each Partner designates a contact point to coordinate the collaboration of the Partners in connection with the implementation of the Joint Controller Agreement and Project, disclosing their personal data in point 1 of the Appendix 2.

3. Amendments to Appendices 1 or 2 shall not require an amendment of the Joint Controller Agreement, however all Partners shall have to be notified thereof either in writing or electronically by the Coordinator.

§ 9.

Term and termination of the Agreement

The Joint Controller Agreement will take effect as of the Effective Date.

The Joint Controller Agreement shall be concluded for the period of implementation of the Project and as long as and until, after the termination of the Project, obligations still have to be fulfilled.

§ 10.

Final provisions

1. The Partners hereby agree that the Controllers shall process Personal Data pursuant to this Joint Controller Agreement free of charge, and neither the conclusion of this Joint Controller Agreement nor the processing of data pursuant thereto shall entitle any Controller to seek, on whatever legal basis,

- a) remuneration,
- b) reimbursement of any costs or expenses incurred for the purpose of due performance of the Agreement,
- c) exemption from any obligations contracted to that end or advances on such costs or expenses,

even if at the time of entering into the Project or concluding this Agreement, despite exercising due care, the Controller was unable to foresee the circumstances justifying such rises, costs, expenses or obligations.

2. Should any provision hereof become invalid or ineffective, the Partners shall adopt all measures possible to replace it with a valid and effective provision reflecting the goal and meaning of the invalid or ineffective provision to the extent of applicable law. Should any provision hereof be or become invalid or ineffective at any time, it shall not restrict the validity or effectiveness of the remaining provisions of the Agreement.
3. In the event of any discrepancies between the provisions of the Joint Controller Agreement and the Project Agreement agreed by the Partners, the provisions of this Joint Controller Agreement shall prevail.
4. Any amendments hereto must be in writing on sanction of invalidity, subject to § 8 (4).
5. Any disputes arising under the Joint Controller Agreement shall be resolved by amicably or by a common court with jurisdiction over the registered office of the Controller sued and pursuant to the laws applicable in its country