

Template – agreement for data management

Avtaleteksten må tilpasses hver enkelt tjeneste/prosjekt og tjenesteleverandør

**In accordance with applicable Norwegian personal data legislation and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, Articles 28 and 29, cf. Articles 32–36, the following agreement has been entered into**

between

.....

(the data controller)

and

.....

(the data processor)

## 1. Intention of the agreement

The intention of the agreement is to regulate rights and obligations in accordance with current Norwegian personal data legislation and 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)).

The agreement shall ensure that personal data is not used illegally or unlawfully, and that the processing of personal data does not lead to unauthorised access, alteration, deletion, damage, loss or inaccessibility.

The agreement regulates the data processor's management of personal data on behalf of the data controller, including collection, registration, compilation, storage, disclosure or combinations thereof, in connection with the use of/processing in (navn på tjeneste/prosjekt).

In the event of conflicting provisions, the terms of this agreement shall take precedence over the data processor's privacy statement and terms in other agreements entered into between the data controller and the data processor in connection with the use of/processing in (navn på tjeneste/prosjekt).

## 2. Scope of purpose

The purpose of the data processor's management of personal data on behalf of the data controller is (fyll inn formålet).

Personal data that the data processor manages on behalf of the data controller cannot be used for other purposes unless this is approved in advance by the data controller.

The data processor is not permitted to transfer personal data covered by this agreement to associates or other third parties unless this is approved in advance by the data controller, cf. section 10 of this agreement.

## 3. Instructions

The data processor must follow the written and documented instructions for managing personal data in (navnet på tjeneste/prosjekt) that the data controller has decided to apply.

(Navn på institusjon/virksomhet) undertakes to comply with all obligations in accordance with current Norwegian personal data legislation that apply when using (navn på tjeneste/prosjekt) to process personal data.

The data processor undertakes to notify the data controller if the data processor receives instructions from the data controller that are contrary to the provisions of current Norwegian personal data legislation.

- Kommentar: Detaljerte instruksjoner til databehandler kan legges ved som bilag til databehandleravtalen.

## 4. Data types and subjects

The data processor manages the following personal data on behalf of the data controller:

- Kommentar: Gi en kort ( gjerne punktvis) oversikt over hvilke hovedtyper personopplysninger som tjenesteleverandøren (databehandleren) forvalter på vegne av institusjonen/virksomheten (behandlingsansvarlig).

- Kommentar: Gi en kort oversikt over hvilke opplysninger som databehandler registrerer og lagrer i forbindelse med bruk av tjenesten, for eksempel ved bruk av informasjonskapsler, logger og sikkerhetskopier.

The personal data applies to the following data subjects:

- Kommentar: Gi en kort oversikt over hvem opplysningene gjelder, for eksempel studenter og ansatte ved institusjonen.

## 5. Rights of data subjects

The data processor undertakes to assist the data controller by safeguarding the data subject's rights in accordance with current Norwegian personal data legislation.

The data subject's rights include the right to information about how his or her personal data is processed, the right to request access to, rectification of or erasure of such data, and the right to request that the processing of such data is restricted.

To the extent relevant, the data processor shall assist the data processor in safeguarding the data subjects' right to data portability and the right to object to decisions based on automated processing, including profiling.

The data processor is liable for damages to the data subject if errors or omissions on the part of the data processor lead to the data subject incurring financial or non-financial loss as a result of his or her rights or privacy being compromised.

## 6. Satisfactory data security

The data processor shall take adequate technical, physical and organisational safeguards to protect personal data covered by this agreement from unauthorised or unlawful access, alteration, deletion, damage, loss or inaccessibility.

The data processor must document their own security organisation, guidelines and routines for security work, risk assessments and established technical, physical or organisational safeguards. The documentation must be made available to the data controller upon request.

The data processor shall establish continuity and emergency preparedness plans for the effective management of serious security incidents. The documentation must be made available to the data controller upon request.

The data processor shall provide their own employees with sufficient information and training in data security to protect the security of personal data that is processed on behalf of the data controller.

- Kommentar: Her kan det være behov for å konkretisere de viktigste sikringstiltakene som databehandleren har iverksatt, eventuelt at det henvises til dokumenter eller publikasjoner som forklarer hvordan databehandleren jobber med informasjonssikkerhet og hvilke sikringstiltak som er etablert for den aktuelle tjenesten. Konkretiseringene kan tas inn i selve avtaleteksten eller i billag til avtalen.

## 7. Confidentiality

Only data processor employees whose work necessitates access to personal data managed on behalf of the data controller can be granted such access. The data processor undertakes to document guidelines and

procedures for access management. The documentation must be made available to the data controller upon request.

Data processor employees are subject to a duty of confidentiality in relation to documentation and personal data that they have access to pursuant to this agreement. This provision also applies after expiry of the agreement. The duty of confidentiality also applies to employees of third parties who perform maintenance work (or similar tasks) on systems, equipment, networks or buildings used by the data processor to deliver the service.

Norwegian law may limit the scope of the duty of confidentiality for employees of data processors and third parties.

## **8. Access to security documentation**

Upon request, the data processor undertakes to give the data controller access to all security documentation that is necessary for the data controller to be able to meet their obligations in accordance with current Norwegian personal data legislation.

Upon request, the data processor undertakes to give the data controller access to other relevant documentation that enables the data controller to assess whether the data processor is in compliance with the terms of this agreement.

The data controller is subject to a duty of confidentiality in relation to confidential security documentation that the data processor makes available to the data controller.

## **9. Duty to report security breaches**

In the event that personal data that is managed on behalf of the data controller is subject to a breach of security, the data processor must, without undue delay, notify the data controller.

The notification to the data controller shall contain, as a minimum, information describing the security breach, which data subjects it affects, what personal data are affected, what immediate measures have been implemented to address the security breach and whether any preventive measures have been established to avoid similar incidents in the future.

The data controller is responsible for ensuring that the Norwegian Data Protection Authority is notified when this is required.

## **10. Subcontractors**

The data processor undertakes to enter into separate agreements with subcontractors in order to regulate the subcontractors' management of personal data in connection with this agreement.

In agreements between the data processor and subcontractors, a provision shall be imposed on the subcontractors to undertake all the duties that are incumbent on the data processor pursuant to this agreement and legislation. The data processor undertakes to present the agreements to the data controller upon request.

The data processor must check that subcontractors are in compliance with their contractual obligations, in particular that data security is satisfactory and that subcontractors' employees understand and meet their obligations.

The data controller authorises the data processor to hire the following subcontractors to fulfil this agreement:

..... (navn på underleverandører)

The data processor is not permitted to hire subcontractors beyond those listed above without the prior written approval of the data controller.

The data processor is liable for financial losses incurred by the data controller that arise as a result of subcontractors' illegal or unlawful processing of personal data or inadequate data security.

## 11. Transfers to countries outside the EU/EEA

- Kommentar: Personopplysninger som databehandler forvalter på vegne av behandlingsansvarlig kan bli overført til land utenfor EU/EØS (tredjestater). Slik overføring kan skje på visse vilkår og reglene om overføring til tredjestater finnes i Artikkel 45-47 og 49 i EUs personvernforordning. Disse reglene innebærer blant annet at overføringen vil være lovlig dersom den skjer til EU-godkjente tredjestater, til bedrifter som har sluttet seg til Privacy Shield-ordningen eller på grunnlag av EUs standardkontrakter for overføring av personopplysninger til databehandlere i tredjestater. Reglene gjelder også for sikkerhetskopiering og annen overføring av personopplysninger som skjer i forbindelse med administrasjon av den aktuelle tjenesten, for eksempel support.

Personal data managed by the data processor in accordance with this agreement will be transferred to the following recipient country/countries outside the EU/EEA:

..... (navn på mottakerland)

The legal basis for the transfer of personal data to the aforementioned recipient country/countries outside the EU/EEA is:

..... (kort redegjørelse for overføringsgrunlaget)

## 12. Security audit and impact assessment

The data processor must carry out regular security audits of their own work to protect personal data from unauthorised or illegal access, alteration, deletion, damage, loss or inaccessibility.

Security audits shall encompass the data processor's security objectives and security strategy, security organisation, guidelines and procedures for security work, established technical, physical and organisational safeguards, and subcontractors' data security work. The audits shall also cover the procedures for notifying the data controller of breaches of security and routines for testing emergency preparedness and continuity plans.

The data processor must document the security audits. The data controller must be given access to the audit reports upon request.

If an independent third party carries out security audits for the data processor, the data controller must be given the auditor's name as well as access to summaries of the audit reports upon request.

Evt. tillegg: Partene kan avtale at behandlingsansvarlig selv, eller en uavhengig tredjepart som behandlingsansvarlig selv velger, utfører sikkerhetsrevisjoner hos databehandleren, eventuelt også hvordan kostnader som påløper i forbindelse med slike revisjoner skal fordeles.

### 13. Return and deletion

Upon expiry of this agreement, the data processor undertakes to return and delete all personal data managed on behalf of the data controller under this agreement. The data controller determines how the data will be returned, including which format should be used.

Deletion shall take the form of the data processor deleting personal data within (fyll inn antall) days of expiry of the agreement. This also applies to any backups of personal data.

The data processor must document that the personal data has been deleted in accordance with this agreement. The documentation must be made available to the data controller upon request.

The data processor is liable for all costs associated with the return and deletion of the personal data under this agreement.

### 14. Breach of agreement

In the event that the terms of this agreement are breached due to errors or omissions on the part of the data processor, the data controller may terminate the agreement with immediate effect. The requirement to return and delete personal data managed on behalf of the data controller in accordance with the provisions of section 13 above will remain in force.

The data controller may seek compensation for financial loss that it has incurred due to errors or omissions on the part of the data processor, including any breach of the terms of this agreement, cf. also sections 5 and 10 above.

### 15. Validity of agreement

This agreement shall remain in force for the period that the data processor manages personal data on behalf of the data controller

or

the agreement is valid until \_\_\_\_\_.

Either party may terminate the agreement with a notice period of \_\_\_\_\_.

### 16. Contact persons

The data processor's contact person for questions concerning this agreement is: \_\_\_\_\_.

The data controller's contact person for questions concerning this agreement is: \_\_\_\_\_.

[Stryk det alternativet nedenfor – 17a eller 17b – som ikke passer]

## 17a. Lovvalg og verneting

The agreement is subject to Norwegian law, and the parties agree that (fill in the name of the district court) is the legal venue. This also applies after expiry of the agreement.

- Kommentar: Dette punktet gjelder når databehandler er en privat aktør.

## 17b. Lovvalg og tvisteløsning

The parties' rights and obligations under this agreement are governed in their entirety by Norwegian law. Any disputes arising out of this agreement must be attempted to be resolved through negotiation.

If negotiation does not lead to agreement, the dispute shall be resolved with binding effect by the Ministry of Education and Research. Either party may request the forwarding of the dispute to the Ministry.

- Kommentar: Dette punktet gjelder når databehandler er et annet statlig universitet eller høyskole.

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Two (2) original copies of this agreement have been produced; one for each party.

Place and date

On behalf of the data controller

On behalf of the data processor

.....

(Signature)

.....

(Signature)