# Data Processing Agreement

This data processing agreement (the “Agreement”) is entered into on the last date of signature below, between:

[The processor] organisation registration number [… ], with address [… ] (“Processor”), and

Lund University, [relevant faculty/department], organisation registration number 202100-3211 (“Controller”)

hereafter referred to separately as “the Party” and together as “the Parties”.

1. Background

The Controller and the Processor have entered into a separate agreement or equivalent regarding the Processor’s provision of services to the Controller (“the Service Agreement”), which is appended to this Agreement. Regulation (EU) 2016/679 of the European Parliament and of the Council (General Data Protection Regulation), hereinafter referred to as the Regulation, states that a written processor agreement must be in place when a party is to process Personal Data on behalf of another party.

1. Definitions

The terms used in this Agreement are to be interpreted in accordance with the Regulation.

1. Processing of Personal Data

**3.1** The Processor is to process Personal Data only in accordance with the Service Agreement and its appendices.

**3.2** The Processor must comply with the Regulation and stay informed of the Regulation and associated legislation of relevance to the processing covered by the Service Agreement.

**3.3** The Processor and the person/s working for the Processor may only process Personal Data in accordance with instructions included in this Agreement or communicated by the Controller from time to time. If the Processor lacks instructions deemed necessary for providing the service requested by the Controller, the Processor must promptly inform the Controller and await the instructions deemed necessary by the Controller. The instructions received must be documented.

**3.4** The Processor may only process Personal Data using equipment and/or services physically located within the EEA, including the use of cloud services. The Processor may only move the equipment or process Personal Data with other equipment and/or services with the consent of the Controller.

1. Sub-Processors

**4.1** The Processor may engage or replace a third party or several third parties for the Processing of Personal Data in accordance with the Agreement (“Sub-Processor”) only if the following conditions are fulfilled:

* the Processor has the right to engage subcontractors in accordance with the Service Agreement,
* the Controller has approved the engagement of the specific subcontractor, and
* the Processor has entered into a written agreement with the approved Sub-Processor regarding Processing of Personal Data in which the Sub-Processor is bound by the same or materially equivalent obligations that apply to the Processor in accordance with this Agreement. At the Controller’s request, the Processor will provide the Controller with a copy of such agreement.

**4.2** The Processor must ensure that the Controller is informed about which Sub-Processors are Processing Personal Data by providing, at the Controller’s request and without delay, complete, correct and updated information on all Sub-Processors, in which the following information is specified for each Sub-Processor:

* definition of the Sub-Processor, including contact information, type of legal entity and geographic location;
* the type of service the Sub-Processor carries out;
* the attributes of the Sub-Processor,
* guarantees given so that the Regulation’s requirements will be fulfilled, and
* where geographically the Sub-Processor processes Personal Data that is covered by this Agreement.

**4.3** The Processor if fully liable to the Controller for the Sub-Processor’s Processing of Personal Data.

1. Limitations regarding the transfer of Personal Data to a Third Country or International Organisation

**5.1** The Processor is not allowed to transfer Personal Data to a Third Country or International Organisation, unless the Controller has approved such transfer in writing and the requirements for such transfer in Chapter V of the Regulation are fulfilled.

**5.2** In the case of transfer of Personal Data to a Third Country or International Organisation, the Processor must present documentation confirming that the requirements in section 5.1 are fulfilled before the start of such transfer.

1. Security measures, review and supervision

**6.1** The Processor must take appropriate technical and organisational measures to protect the processed Personal Data from unauthorised access, destruction and alteration in accordance with the requirements of the Regulation, especially with regard to the requirements of Section 32 of the Regulation. In particular, the Processor is to observe the instructions in the general advice and other regulations issued by the Swedish Authority for Privacy Protection or equivalent from another competent supervisory authority, as applicable.

**6.2** Where relevant when considering the nature, scope, context and purposes of the processing, the Processor shall carry out an assessment of the impact of the envisaged processing on the protection of Personal Data, if it is likely to result in a high risk to the rights and freedoms of natural persons. The impact assessment is to be designed in accordance with Article 35 of the Regulation.

**6.3** The Processor must consult with the competent supervisory authority if the impact assessment reveals that the processing is likely to result in a high risk for Data Subjects.

**6.4** When a Personal Data Breach is discovered, the Processor must inform the Controller without delay.

**6.5** Upon termination of this Agreement, the Processor must erase the Personal Data in a way that makes it impossible to recreate and ensure that no Personal Data is held by the Processor.

**6.6** The Processor must take measures to ensure that any natural or juridical person Processing data under the Processor’s supervision will only process data as instructed by the Controller and will ensure appropriate authorisation control.

**6.7** The Controller has the right, at their own expense, to evaluate, either themselves or through a third party, whether the Processor complies with the present Agreement. In the context of such evaluation, the Processor must provide the Controller with the assistance required.

**6.8** The Processor must assist the Controller in making available information requested by the competent supervisory authority or a Data Subject, or in other ways facilitate for the Controller to ensure the rights of a Data Subject in accordance with the Regulation.

**6.9** If the competent supervisory authority or another public authority initiates a review of the Controller’s Processing of Personal Data or if a Data Subject or a third party institutes proceedings against the Controller due to such Processing and the matter concerns Processing that can be considered to have been carried out by the Processor, the Processor is, to a reasonably required extent and with compensation for actual, documented costs, to assist the Controller with documentation and other information regarding the Processing with the aim to make it possible for the Controller to comply with the public authority’s review and to enable the Controller to meet any requirements set.

1. Disclosure of information

**7.1** If the Data Subject, the competent supervisory authority or another third party requests information from the Processor concerning the Processing of Personal Data (including the right to information and a copy of the data being processed, rectification, erasure etc.), the Processor must refer this request to the Controller. The Processor may not disclose Personal Data or other information regarding the Processing of Personal Data without express instruction to do so from the Controller.

**7.2** The Processor must inform the Controller without delay of any contact from the competent supervisory authority that concerns or can be of significance for the Processing of Personal Data. The Processor may not represent the Controller or act on the Controller’s behalf towards the supervisory authority or another third party.

1. Confidentiality

**8.1** The Processor undertakes not to disclose or in any other way make available to a third party Personal Data or information about the processing of Personal Data under this Agreement or other information received by the Processor as a result of this Agreement or other information received by the Processor in their role as Processor hereunder. This obligation does not apply to information that the Processor is instructed to disclose to a public authority. In such case, the Processor must inform the Controller immediately in writing and request that the Personal Data concerned is covered by confidentiality obligations when disclosed. The obligation to uphold confidentiality will continue to apply after the expiration of this Agreement.

**8.2** The Processor ensures that persons authorised to process Personal Data on its behalf will apply the same level of confidentiality required of the Processor pursuant to this Agreement or applicable legislation.

1. Compensation

Unless expressly stated in the Service Agreement, the Processor has no right to compensation from the Controller for the Processing of Personal Data.

1. Liability

**10.1** The Processor will indemnify the Controller in case the Controller is liable to pay damages to a Data Subject or another third party if the Processing of Personal Data concerned has been carried out by the Processor in breach of this Agreement or the Controller’s instructions.

**10.2** A Party is not liable under this Agreement for indirect or consequential damages or loss, such as loss of profit. For the avoidance of doubt, such damage as is stated in section 10.1 is considered to constitute direct damages for the Controller.

1. Amendments

In order to be valid, amendments of this Agreement are to be made in writing and signed by authorised representatives of both Parties. This section 11 does not prevent the Controller from amending or issuing further instructions in accordance with what is stated in this Agreement.

1. Term

**12.1** This Agreement will enter into force from the date of the last signature hereto and for as long as the Processor processes Personal Data on behalf of the Controller, or until either Party terminates the Agreement. There is to be a mutual notice period of 90 days.

**12.2** Upon expiration of the Agreement and Service Agreement, the Processor is to ensure that all Personal Data is returned to the Controller in the format defined by the Controller, or alternatively is irrevocably destroyed. The Processor further ensures that no Personal Data remains held by the Processor in accordance with section 6 here above, unless required for compliance with mandatory law.

**12.3** If the Service Agreement expires and a new such agreement is entered into without a new processor agreement being entered into, this Agreement will apply also to such new service agreement.

1. Governing law and dispute resolution

This Agreement is governed by Swedish law, without reference to its conflict-of-laws rules. Regarding any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, the Parties submit to the exclusive jurisdiction of the Swedish courts.

This Agreement has been drawn up in two (2) originals, each Party receiving one duly signed copy hereof.

Lund University [Processor]

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Name: Name: