Template for a

**Joint Data Responsibility Arrangement**

Between

**Data controller 1**

[Name]

CVR [CVR number]

[Address]

[Zip code and city]

[Country]

and

**Data controller 2**

[Name]

CVR [CVR number]

[Address]

[Zip code and city]

[Country]

[Month] [Year]

# **Shared data responsibility**

## This arrangement sets out the division of responsibilities between Data controller 1 and Data controller 2 in relation to:

## [Describe the processing activity for which the parties are joint Data controllers].

## According to Article 26 of the General Data Protection Regulation, joint Data controllership exists when two or more Data controllers jointly determine the purposes and means of the processing.

## In the case of joint Data controllership, the joint Data controllers shall determine in a transparent manner their respective responsibilities for compliance with the obligations under the General Data protection Regulation, in particular to exercise the data subject's rights and their respective obligations to provide the information referred to in Articles 13 and 14, by means of an arrangement between them, unless and to the extent that the respective responsibilities of the Data controllers are laid down in Union or Member States' national law to which the Data controllers are subject.

## The arrangement shall, in accordance with Article 26(2) of the General Data Protection Regulation, duly reflect the respective roles of the joint Data controllers and their relationship with the data subjects. The main content of the arrangement must also be made available to data subjects.

## However, regardless of the terms of the arrangement, the data subject may exercise their rights under the General Data Protection Regulation with regard to and against the individual Data controller.

## Similarly, the "internal" division of responsibilities in the joint Data controller arrangement does not prevent the supervisory authority from exercising its powers in relation to both Data controller 1 and Data controller 2.

## There is an arrangement between Data controller 1 and Data controller 2 that there is joint data controller in the context of [specify processing activity]. In assessing this, account has been taken, inter alia, of:

## [Describe what has been decisive for the assessment].

## This arrangement is designed to enable Data controller 1 and Data controller 2 to comply with the joint liability requirements of Article 26 of the Data Protection Regulation. The arrangement sets out the respective responsibilities of Data controller 1 and Data controller 2 to comply with the obligations of the General Data protection Regulation, in particular to exercise the data subject's rights and the obligation to provide the information referred to in Articles 13 and 14.

# **Overall allocation of responsibilities**

## [Describe the overall responsibilities of Data controller 1].

## [Describe the overall responsibilities of Data controller 2].

# **Principles and treatment eligibility**

## [Describe who is responsible for ensuring that there is a valid processing basis and for being able to demonstrate this, e.g. to the supervisory authority].

## Data controller 1 and Data controller 2 are both responsible for complying with the Principles for the Processing of Personal Data to the extent that the rules apply to the Data controller's responsibilities under this arrangement.

# **Rights of data subjects**

## [Data controller 1/Data controller 2/Both Parties] shall be responsible for safeguarding the rights of data subjects by complying with the following rules of the General Data Protection Regulation:

* the obligation to provide information when collecting personal data from the data subject,
* the obligation to provide further information if personal data have not been collected from the data subject,
* the data subject's right of access,
* the right of rectification,
* right to erasure (right to be forgotten),
* the right to restriction of processing,
* the obligation to provide information in relation to the rectification or erasure of personal data or the restriction of processing,
* the right to data portability (except for public authorities); and
* the right to object to processing.

## [Describe in more detail, if any, the regulation of the responsibilities of the parties in relation to the respect of the rights of data subjects - in particular if responsibilities are divided between the parties].

## If Data controller 1 receives a request or an enquiry from a data subject concerning the matters covered by the responsibilities of Data controller 2 as set out above, it shall be transmitted to Data controller 2 for reply as soon as possible.

## If Data controller 2 receives a request or an enquiry from a data subject concerning the matters covered by the responsibilities of Data controller 1 as set out above, it shall be transmitted to Data controller 1 for reply as soon as possible.

## Both Parties shall be responsible for assisting each other to the extent appropriate and necessary for both Parties to comply with their obligations to data subjects.

## [Describe in more detail, if any, the regulation of the parties' responsibilities to assist each other, e.g. when this may be appropriate].

# **Security of processing and evidence of compliance with the GDPR**

## [Data controller 1/Data controller 2/Both Parties] will be responsible to implement appropriate technical and organisational measures to ensure and demonstrate that the processing is in compliance with the General Data Protection Regulation; taking into account the nature, scope, context and purposes of the processing involved, as well as the risks of varying degrees of likelihood and severity for the rights and freedoms of natural persons. The measures shall be reviewed and updated as necessary (Article 24 of the Data Protection Regulation). This may involve, for example, [Data controller 1/Data controller 2/Both parties] establishing procedures for dealing with security breaches, access requests or compliance with the obligation to provide information.

## The [Data controller 1/Data controller 2/Both Parties'] measures shall include, where proportionate to the processing activities, the implementation of appropriate data protection policies.

## The [Data controller 1/Data controller 2/Both Parties] shall be responsible for compliance with the data protection by design and data protection by default rule of Article 25 of the General Data Protection Regulation.

## [Data controller 1/Data controller 2/Both Parties] is responsible for complying with the requirement of Article 32 of the General Data Protection Regulation on security of processing. This implies that [Data controller 1/Data controller 2/Both Parties], taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing operation concerned, as well as the risks of varying probability and severity to the rights and freedoms of natural persons, implement appropriate technical and organisational measures to ensure an appropriate level of security appropriate to those risks.

## [Data controller 1/Data Controller 2/Both parties] shall carry out and evident a risk assessment form and then implement measures to mitigate the identified risks.

## [Describe in more detail, if any, the regulation of the responsibilities of the parties in the context of compliance with Articles 24, 25 and 32 of the Data Protection Regulation - in particular if responsibilities are shared between the parties].

## [Describe in more detail, if any, the regulation of the responsibilities of the parties to document compliance with the requirements of Articles 24, 25 or 32 of the GDPR].

# **Use of data processors and sub-processors**

## [Data controller 1/Data controller 2/Both Parties] are [entitled/not entitled] to use processors and/or any sub-processors in connection with the joint processing operation.

## In the event of the use of processors and/or sub-processors, [Data controller 1/Data controller 2/Both Parties] shall be responsible for complying with the requirements of Article 28 of the General Data Protection Regulation. Accordingly, [Data controller 1/Data controller 2/Both Parties] shall, inter alia:

* use only processors that can provide the necessary guarantees that they implement appropriate technical and organizational measures in such a way as to ensure that processing complies with the requirements of this Regulation and safeguards the rights of the data subject,
* ensure that a valid data processing arrangement is in place between [Data controller 1/Data controller 2/Party] and the processor; and
* ensure that there is a valid sub-processor arrangement between the processor and any sub-processor.

## [Data controller 1/Data controller 2/Both Parties] shall be informed, upon request, whether the data is processed by processors and, where applicable, sub-processors of [Data controller 1/Data controller 2/Other Party].

## If processors process the data and, where applicable, sub-processors, [Data controller 1/Data controller 2/ Parties] shall be informed, upon request, of the content of the arrangements between [Data controller 1/Data controller 2/Parties] and the processor/sub-processor.

# **Records of processing activities**

## [Data controller 1/Data controller 2/Both Parties] shall be responsible for complying with the requirement of Article 30 of the General Data Protection Regulation on records of processing activities. This implies that [Data controller 1/Data controller 2/Both Parties] shall establish a record of the processing activities for which the Parties are joint controllers.

## [Data controller 1/Data controller 2/Both Parties] shall inform [Data controller 1/Data controller 2/Other] of the content of the above record.

## [Data controller 1/Data Controller 2/Both Parties] shall establish - based on the contents of the [Data controller 1/Data Controller 2/Other] record - their own record of the processing activities covered by the arrangement.

# **Notification of personal data breaches to the supervisory authority**

## [Data controller 1/Data controller 2/Both Parties] shall be responsible for compliance with Article 33 of the General Data Protection Regulation on the notification of personal data breaches to the supervisory authority.

## [Describe in more detail, if any, the regulation of the parties' responsibility to notify personal data breaches to the supervisory authority].

# **Communication of personal data breaches to the data subject**

## [Data controller 1/Data controller 2/Both parties] shall be responsible for compliance with Article 34 of the General Data Protection Regulation regarding the communication of personal data breaches to the data subject.

## [Describe in more detail, if any, the regulation of the parties' responsibility to notify personal data breaches to data subjects].

# **Data protection impact assessment and prior consultation**

## [Data controller 1/Data controller 2/Both Parties] shall be responsible for compliance with the requirement of Article 35 of the General Data Protection Regulation on data protection impact assessments. This implies that, where a type of processing, in particular using new technologies and by virtue of its nature, scope, interrelation and purposes, is likely to result in a high risk to the rights and freedoms of natural persons, [Data controller 1/Data controller 2/Both Parties] shall, prior to the processing, carry out an analysis of the implications of the envisaged processing activities for the protection of personal data.

## [Data controller 1/Data controller 2/Both parties] shall also comply with the requirement of Article 36 of the General Data Protection Regulation to consult the supervisory authority in advance, where appropriate.

## [Describe in more detail, if any, the regulation of the parties' responsibility to prepare an impact assessment or to demonstrate that there is no need to do so].

# **Transfer of personal data to third countries or international organizations**

## [Data controller 1/Data controller 2/Both Parties/Parties jointly] may decide that personal data may be transferred to third countries or international organizations.

## [Data controller 1/Data controller 2/Both Parties] shall be responsible for compliance with the requirements of Chapter V of the General Data Protection Regulation in the event of transfers of personal data to third countries or international organizations.

## [Describe in more detail, if any, the regulation of the parties' responsibilities in relation to transfers of personal data to third countries or international organizations].

# **Complaints**

## The Parties shall each be responsible for handling any complaints from data subjects, if the complaints relate to a breach of the provisions of the General Data Protection Regulation, for which the Party is responsible under this arrangement.

## If one of the Parties receives a complaint, which should rightly be dealt with by the other Party, the complaint shall be forwarded to that controller as soon as possible.

## If one of the Parties receives a complaint, part of which should rightly be dealt with by the other Party, that part shall be forwarded to the Party for reply as soon as possible.

## The data subject shall be informed of the essential content of this arrangement when one Party forwards a complaint or part thereof to the other Party.

# **Informing the other party**

## The Parties shall inform and liaise with each other of any material facts affecting the joint processing operation and this arrangement.

# **Regulation of other matters**

## [Describe any regulation of other matters].

## [Describe any regulation of other matters].

# **Entry into force and termination**

## This arrangement shall enter into force upon signature by both Parties hereto.

## The arrangement shall remain in force for as long as the data concerned are processed or until it is replaced by a new arrangement laying down the division of responsibilities in relation to the processing.

## Signature

On behalf of [Data controller 1] On behalf of [Data controller 2]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Position:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_