

Draft agreement – data processor agreement pursuant to the Personal Data Act

NOTE: Read the guidelines at www.datatilsynet.no/databehandler

Data processor agreement

in accordance with Section 13, cf. Section 15 of the Personal Data Act and Chapter 2 of the
Personal Data Regulations

by and between

.....

controller

and

.....

processor

1. Intention of the agreement

The intention of the agreement is to regulate rights and obligations pursuant to the Act of 14 April 2000 No. 31 relating to the processing of personal data (the Personal Data Act) and the Regulations of 15 December 2000 No. 1265 (the Personal Data Regulations). The agreement shall ensure that personal information relating to the data subjects is not used unlawfully or comes into the hands of a third party.

The agreement concerns the processor's use of personal data on behalf of the controller, including collection, recording, alignment, storage and disclosure or a combination of such uses.

2. Purpose

Give an account of the purpose of the processor agreement, including:

- what personal data will be processed
- which processes are covered by the agreement
- what the framework is for the processor's handling of personal data

3. The processor's obligations

When processing personal data on behalf of the controller, the processor shall follow the routines and instructions stipulated by the controller at any given time.

The processor is obliged to give the controller access to his written technical and organizational security measures and to provide assistance so that the controller can fulfil his responsibilities pursuant to the Act and the Regulations.

Unless otherwise agreed or pursuant to statutory regulations, the controller is entitled to access all personal data being processed on behalf of the controller and the systems used for this purpose. The processor shall provide the necessary assistance for this.

The processor must observe professional secrecy in regard to the documentation and personal data to which he has access in accordance with this agreement. This provision also applies after the agreement has been discontinued.

4. Use of a subcontractor

If the processor uses a subcontractor or others not normally employed by the processor, this shall be agreed in writing with the controller prior to starting the processing of personal data.

Agreement with subcontractor

Such an agreement should be entered into as an amendment to this agreement.

Anyone who performs assignments on behalf of the processor which include further processing of the relevant personal data shall be familiar with the processor's contractual and legal obligations and fulfil the requirements thereto.

5. Security

The processor shall fulfil the requirements for security measures stipulated in the Personal

Data Act and the Personal Data Regulations, in particular Sections 13 – 15 of the Personal Data Act and Regulations thereto. The documentation shall be available upon the controller's request.

The processor shall report to the controller all discrepancies according to Section 2-6 of the Personal Data Regulations shall be implemented by the processor reporting the discrepancy to the controller. The controller is responsible for reporting the discrepancy to the Data Inspectorate.

6. Security audit

The implementation of regular security audits for systems etc. covered by this agreement shall be agreed by the controller and processor.

Audit

The audit may include a review of routines, random checks, more extensive site inspections and other suitable control measures.

7. Duration of the agreement

The agreement is valid for as long as the processor processes personal data on behalf of the controller.

or

the agreement is valid until _____

In the event of breach of this agreement or the Personal Data Act, the controller can instruct the processor to stop further handling of the information with immediate effect.

The agreement can be terminated by both parties with a mutual period of notice of _____, cf. Clause 8 of this agreement.

8. Termination

Upon termination of this agreement, the processor is obliged to return all personal data received on behalf of the controller and covered under this agreement.

Return of data

The parties can also agree that a transcript and copies of all the contents in databases and other storage media that contain personal data shall be provided. The cost of this, or if the information is to be provided in a special format, can also be included in such an agreement.

The parties shall agree that the processor shall delete or destroy in a secure and definite/irreversible manner all documents, data, diskettes, CDs, etc. that contain information covered under this agreement. This also applies to any back-up copies.

The agreement should specify in which manner deletion or destruction is to take place upon termination of the agreement.

The processor shall document in writing that deletion or destruction has taken place in accordance with the agreement within a reasonable period of time after termination of the agreement.

9. Notifications

Notifications under this agreement shall be submitted in writing to: _____

10. Choice of law and legal venue

The agreement is subject to Norwegian jurisdiction and the parties agree on XXXXXX District Court as the legal venue. This also applies after termination of the agreement.

Choice of legal venue can be agreed

This agreement has been drawn up in 2 – two copies, of which the parties retain one copy each.

Place and date

Controller

Processor

.....

(signature)

.....

(signature)