**DATA PROCESSING AGREEMENT – Controller to Controller**

**where either: (a) the University (data controller) and another party (a controller) transfer personal data between them on a mutual basis or (b) where another party (a controller) unilaterally transfers personal data to the University (a controller); where there is an existing agreement between the parties; enabling transfer personal data outside the European Economic Area**

**Guidance Note**

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**Please read thIS GUIDANCE note before COMPLETING THE PROCESSING DETAILS**

This is the Guidance Note for the University of Dundee’s standard contract: Data Processing Agreement - Controller to Controller.

This is the University’s style agreement for the transfer of personal data in either of the following circumstances:

1. where the University and another data controller engage in a mutual exchange of personal data, (e.g. for the provision of joint educational programmes); or
2. where another data controller provides personal data to the University on a unilateral basis.

This agreement may be used only where there is a separate agreement between the University and such third party controller.

This agreement can be used where the other party is located or will process the personal data outside the European Economic Area (EEA), on the basis of model clauses included in Schedule Part 2 of the agreement. Please note that personal data may only be transferred outside the EEA where the University has a legal basis to do so. As a data controller, the University will have an obligation to tell individuals about any data transfers outside the EEA. If data is transferred outside the EEA, this would have to be reflected in any relevant privacy policy and/or privacy notice provided to individuals. **You should enquire where the Partner will store the personal data, as transfer of personal data to a server located outside the EEA counts as a transfer of personal data outside the EEA by the University.**

**This agreement is not suitable for:**

1. **data processing arrangements where one party is acting as the data processor on behalf of the other; or**
2. **data sharing arrangements between two controllers where the University is providing personal data to another controller on a unilateral basis.**

**The University has separate styles to cover the above situations. If you are unsure of which style agreement to use, please contact Legal.**

The agreement consists of:

1. the Processing Details – *specific arrangements agreed in connection with the transfer of personal data between the parties and the parties’ obligations in connection with such personal data;*
2. the Processing Conditions - *standard*;

1. the Schedule Part 1 – *standard definitions*;
2. the Schedule Part 2 – *standard contractual clauses which may be used where personal data is transferred by the University outside the European Economic Area as part of the transfer taking place under this agreement.*

**Once you have completed the Processing Details and the relevant sections of Schedule Part 2, please send the agreement to the University’s legal team for review.** If there are additional details which have been agreed with the Partner but which cannot be inserted in the Processing Details or Schedule Part 2, please mention this to Legal.

**The Processing Conditions or the Schedule Part 1 can only be changed by Legal. Apart from completing the details in connection with Notes 25 to 36, Schedule Part 2 and its Appendices may not be changed in any other way.**

**Guidance Notes for completion of the Processing Details and (if relevant) the Standard Contractual Clauses in Schedule Part 2:**

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| **Note** | **INFORMATION REQUIRED**  |
| 1 | Insert the name and registered address of the Partner with whom the University will enter into this agreement |
| 2 | Insert the name and subject matter of the main contract to which the transfer of personal data relates, and a brief description of any services to be provided under such contract  |
| 3 | Insert the relevant date (or dates) on which the University and the Partner signed the main contract |
| 4 | Insert any additional purposes for which personal data may be transferred under the agreement If the University does not provide any data, insert “not applicable.” |
| 5 | Insert the types of personal data to be provided by the University under this agreement. If the University does not provide any data, insert “not applicable.” |
| 6 | Insert the types of special categories of personal data to be provided by the University under this agreement. (Special category data is personal data relating to race, ethnic origin, politics, religion, trade union membership, genetics, biometrics (where used for ID purposes), health, sex life and sexual orientation.)If the University does not provide any, insert “not applicable.” |
| 7 | Insert the categories of individuals (data subjects) whose personal data the University will provide to the Partner under this agreement. If the University does not provide any data, insert “not applicable.” |
| 8 | Insert the applicable legal grounds for the University to provide personal data (and special categories of data) to the Partner under this agreement. Legal grounds are subject to additional conditions. Possible legal grounds are:* individual’s consent;
* the processing is necessary for a contract the Partner has with the individual, or because the individual has asked the Partner to take specific steps before entering into a contract;
* the processing is necessary for the Partner to comply with the law;
* the processing is necessary to protect vital interests;
* the processing is necessary for the Partner to perform a task in the public interest or for its official functions; and
* processing is necessary for the purposes of the legitimate interests pursued by the Partner or by a third party. (If possible, outline what these legitimate interests are.)

Possible legal grounds in respect of special categories of data are:* individual’s explicit consent;
* processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the Partner or the individual in the field of employment and social security and social protection law;
* processing is necessary to protect vital interests where the individual is physically or legally incapable of giving consent;
* processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body;
* processing relates to personal data which are manifestly made public by the individual;
* processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;
* processing is necessary for reasons of substantial public interest, on the basis law;
* processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of law or pursuant to contract with a health professional;
* processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of law; and
* processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with safeguard required by GDPR and based on law.

If you are unsure of which ground applies, please contact Legal. If the University does not provide any data, insert “not applicable.” |
| 9 | Insert the legal grounds on which the Partner may process personal data provided by the University. Possible legal grounds are outlined at Note 8. If you are unsure of which ground applies, please contact Legal. If the University does not provide any data, insert “not applicable.” |
| 10 | Insert the legal grounds on which the Partner may process any special categories of personal data provided by the University. Possible legal grounds are outlined at Note 8. If you are unsure of which ground applies, please contact Legal. If the University does not provide any data, insert “not applicable.” |
| 11 | Insert the types of personal data to be provided by the Partner to the University under this agreement.  |
| 12 | Insert the types of special categories of personal data to be provided by the Partner to the University under this agreement. Note 6 provides examples of special categories of personal data. |
| 13 | Insert the categories of individuals (data subjects) whose personal data the Partner will provide to the University under this agreement.  |
| 14 | Insert the applicable legal grounds for the Partner to provide personal data (and special categories of data) to the University under this agreement. Possible legal grounds are outlined at Note 8. If you are unsure of which ground applies, please contact Legal. |
| 15 | Insert the legal grounds on which the University may process personal data provided by the Partner. Possible legal grounds are outlined at Note 8. If you are unsure of which ground applies, please contact Legal.  |
| 16 | Insert the legal grounds on which the University may process any special categories of personal data provided by the Partner. Possible legal grounds are outlined at Note 8. If you are unsure of which ground applies, please contact Legal. |
| 17 | Insert the details of any access and processing restrictions the recipient of personal data has to comply with in connection with the personal data provided to it |
| 18 | Insert details of any security requirements agreed with the Partner in connection with the personal data provided under this agreement (e.g. specific access restrictions, requirements relating to security of data transfer, ISO27001 or Cyber Essentials certification, encryption, security in connection with access to premises where data is stored.) |
| 19 | Indicate how regularly the parties will review this agreement |
| 20 | Indicate the number of months from commencement after which the parties will first review the agreement |
| 21 | Insert the details of a University contact who will receive notices from the Partner under this agreement |
| 22 | Insert the details of an alternative University contact who will also receive notices from the Partner under this agreement |
| 23 | Insert the details of a contact for the Partner who will receive notices from the University under this agreement |
| 24 | Insert the full name of the Partner. This should be the same as for 1 above. |
| **Schedule Part 2 – Standard Contractual Clauses (only to be completed where the University will transfer personal data outside the EEA as part of this agreement)** |
| 25 | Insert the name, address and country of establishment of the company processing personal data outside the EEA (the data importer). The data importer is the Partner.  |
| 26 | Insert either option i, ii or iii, as chosen by the data importer. This selection is to be initialled below. |
| 27 | Agreement to be signed and dated by University and the data importer |
| 28 | Insert the categories of persons whose personal data may be transferred outside the EEA by the University (e.g. students, University staff) |
| 29 | Insert the purposes for which the University transfers personal data outside the EEA |
| 30 | Insert the categories of personal data to be transferred outside the EEA (e.g. education and training details, student record, names, addresses, financial details) |
| 31 | Insert the names or types of recipients to whom the data importer may disclose or transfer the personal data provided by the University |
| 32 | Insert the types of special categories of data to be transferred outside the EEA by the University (special category data is personal data relating to race, ethnic origin, politics, religion, trade union membership, genetics, biometrics (where used for ID purposes), health, sex life and sexual orientation.) |
| 33 | Insert the University’s data protection registration information, if applicable  |
| 34 | Insert any other additional terms governing the processing of personal data by the data importer outside the EEA |
| 35 | Insert the contact details for the data importer |
| 36 | Insert contact details for the University |