

**Template for Joint Controller Agreement of
collaboration, e.g. ERA-NET Cofund Actions and
European Partnerships**

Title of Cofund Action

(Acronym)

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ERA-LEARN is a support platform for the R&I partnership community, funded as a support action (CSA) by Horizon 2020. The project is a 4,5-year initiative (2018-2022), following up on its predecessor ERA-LEARN 2020. On behalf of the European Commission, ERA-LEARN operates a unique database of partnership initiatives, their calls and funded projects and provides studies and analyses on thematic clustering, internationalization, alignment and much more. Based on a comprehensive analysis of existing and already validated procedures, ERA-LEARN facilitates the identification of tools that are suitable for a broad use (see www.era-learn.eu).

Part of this set of tools is this template for Joint Controller Agreement of joint collaborations, such as ERA-Net Cofund Actions and European Partnerships.

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Joint Controller Agreement

THIS JOINT CONTROLLER AGREEMENT is made on {date}, hereinafter referred to as the 'Effective Date'

BETWEEN:

1. xxx, established in {address}, the Coordinator of the consortium, and
2. ...
3. ...

hereinafter, jointly or individually, referred to as "Joint Controllers" or "Parties" relating to the project entitled

{Name of Programm}, in short: xxx, hereinafter referred to as 'Programme'.

Whereas:

- A. pursuant to the Consortium Agreement of 1st January 2021, (hereinafter referred to as the "Consortium Agreement") and the Grant Agreement of [date] no. ... signed between the European Commission and the [name of Programme] consortium, the Joint Controllers have entered into cooperation the subject of which is to conduct a joint call for proposals and perform additional activities within a consortium of executive agencies (hereinafter referred to as the "Cooperation");
- B. the Cooperation requires that the Joint Controllers process personal data, whilst they jointly determine the purposes and means of processing of personal data;
- C. the processing of personal data by the Joint Controllers requires that a transparent manner of determining their respective responsibilities be established as regards their compliance with the obligations under the 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 (hereinafter referred to as "[General Data Protection Regulation](#)" or "the GDPR"¹) and other generally applicable laws as well as relations between the Joint Controllers and the data subjects;
- D. on concluding this Agreement, the Parties, seek to regulate the terms of processing of personal data in such a way that they meet the provisions of the GDPR, and
- E. with regard to the data they process, the Joint Controllers act as controllers for the purposes of Article 24 et seq. of the GDPR referred to in D,

the Parties decided to enter into the following Agreement:

¹ <https://eur-lex.europa.eu/eli/reg/2016/679/oj>

§ 1.

Definitions

For the purposes of this Agreement, the Parties agree that the following terms shall have the following meaning:

1. **“Controller/Joint Controller”** means any natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data;
2. **“Personal Data”** means any information relating to an identified or identifiable natural person (hereinafter referred to as “data subject”);
3. **“Third Country”** means any country that is not a member of the European Union or the European Economic Area or any international organisation;
4. **“Processor”** means any natural or legal person, public authority, agency or other body which processes Personal Data on behalf of the Controller;
5. **“Data Protection Law”** means the GDPR as well as other provisions of EU Member State’s national law applicable to a relevant Party, passed in relation to personal data protection, including in particular the provisions of the given Controller’s national law;
6. **“Processing”** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
7. **“General Data Protection Regulation”, “GDPR”** means the 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; wherever this Agreement refers to specific Articles of GDPR, it shall also apply to the corresponding provisions in national legislation guaranteeing a similar level of safety;
8. **“Information System”** means a group of cooperating devices, programs, information processing procedures and program tools used for the purpose of data processing;
9. **“Cooperation”** means the cooperation between Controllers defined in Recital A;
10. **“Agreement”** means this Agreement on Joint Control of Personal Data;
11. **“Consortium Agreement”** means the agreement referred to in Recital A

§ 2.

Subject-matter of the agreement

1. This Agreement regulates mutual relations between the Parties as regards the joint control of Personal Data, and in particular it determines in a transparent manner the Joint Controllers’ responsibilities for compliance with the obligations under the GDPR; it also defines the

representation of the Joint Controllers in contacts with the data subjects and their relations with those data subjects.

2. For the purpose of proper implementation of this Agreement, the Joint Controllers shall:
 - 1) cooperate on performing the obligations of the Joint Controllers of Personal Data;
 - 2) process the Personal Data with which they have been entrusted with regard to the Cooperation pursuant to this Agreement, GDPR, Consortium Agreement and other generally applicable laws and
 - 3) refrain from any legal or factual actions which might in any way undermine the security of Personal Data or threaten the other Joint Controller with civil, administrative or criminal liability.
3. Categories of data subjects and personal data, the purposes and means of processing, including the participation of Joint Controllers in those processes, as well as the categories of recipients of the Personal Data shall be defined in Appendix 1 to the Agreement.

§ 3.

Controllers' rights and obligations

1. The Joint Controllers declare that they have the means enabling them to process and protect Personal Data they are processing, including information systems meeting the requirements of the appropriate level of security, as stipulated by the GDPR. They will each fully adhere to the applicable Data Protection Law(s) with respect to obligations and responsibilities of controllers.
2. In particular, the Joint Controllers shall:
 - 1) exercise due diligence in processing Personal Data and process Personal Data pursuant to the Agreement, the GDPR and other provisions of Data Protection Law(s), including the appropriate provisions of each Controller's national law;
 - 2) restrict access to Personal Data only to persons who need the access to Personal Data for the purposes of the Agreement and Cooperation, provide those persons with relevant authorisations, offer relevant training on personal data protection and ensure confidentiality of Personal Data processed thereby, both during and after their employment or other cooperation with a Joint Controller;
 - 3) assist the other Joint Controller, where possible, in meeting its (i) obligation to respond to requests from data subjects and (ii) obligations laid down in Articles 32 through 36 of the GDPR;
3. The Joint Controllers shall provide each other with the necessary assistance in carrying out the obligations referred to in section 2 point 5) above, in particular in the notification of a personal data breach, by:
 - 1) providing, at the request of a Controller, information concerning the processing of personal data immediately upon receipt of such request as soon as possible;
 - 2) notifying the other Joint Controllers of any breach as soon as possible but not later than 48 hours of its discovery. The notification should include all the information referred to in Article

33 (3) of the GDPR. If - and to the extent that - the information cannot be provided at the same time, they can be given successively without undue delay;

- 3) providing to the other Joint Controllers all information necessary for the communication of a personal data breach to the data subject;
- 4) informing the other Joint Controllers of inquiries, requests or demands from data subjects and other individuals, national or European Union public administrations, including relevant supervisory authorities and courts, as well as any controls or inspections by such authorities in connection with the joint controllership of Personal Data; information shall be provided promptly and in such a way as to enable the other Joint Controllers to comply with the obligations set out in sections 2 and 3, without undue delay but not later than 7 calendar days after receipt of an inquiry, request or demand or after the start of a control or inspection.

§ 4.

Data subjects' rights

1. The Joint Controllers shall inform, in any way they deem appropriate, the data subjects of the essences of this Agreement and shall provide them the information referred to in Appendices 1 and 2 in accordance with Article 26 and Article 12 of the GDPR.
2. The information referred to in section 1 shall be primarily provided to the data subjects via the electronic proposal submission system or by the Controller who collects the personal data.
3. Data subjects may contact any of the Joint Controllers about the rights granted to them by Articles 15 - 22 of the GDPR. The contacted Controller shall identify the responsible Controller and forward the request internally to this Controller. The originally contacted Controller shall carry out all necessary communication with the data subject.
4. The responsible Controller shall be determined as follows: If the data of the data subject is part of a set of data which can be attributed to a Controller, this Controller shall be responsible. In all other cases the Controller contacted by the data subject shall be the responsible Controller.
5. The Joint Controllers undertake to comply with the data subjects' rights and shall assist one another with the execution of data subjects' requests.

§ 5.

Transfers of Personal Data to third countries

Controller and/or its Processor(s) that transfer(s) personal data in the scope of the execution of the Agreement to a Controller and/or Processor and/or other entity situated in the third country that does not present adequate safeguards under the GDPR shall ensure that such transfer is possible and that it complies with the GDPR (e.g. pursuant to Article 45 of the GDPR – on the basis of an adequacy decision Article 46.2.c) of GDPR – on the basis of standard data protection clauses adopted by the Commission in accordance with the examination procedure in Article 93.2 or pursuant to Article 49 of the GDPR. A copy of standard data protection clauses referred to in the preceding sentence shall be provided when so requested by a data subject.

§ 6.

Entrusting Processors with processing of Personal Data

1. The Controllers jointly consent to each of them entrusting Processors with processing of Personal Data subject to this Agreement on terms and to the degree defined by this Agreement and Article 28 of the GDPR.
2. Each Controller may entrust Processors with processing of Personal Data under this Agreement only for the purposes of this Agreement, Consortium Agreement and the Cooperation.
3. Processors can only carry out specific Personal Data processing activities on behalf of a Controller once the Controller has entered into a contract with such a Processor laying down the obligations of the latter related to Personal Data protection in a manner ensuring sufficient guarantees of technical and organisational measures for the processing to meet the requirements of the GDPR.
4. A Processor may carry out specific Personal Data processing activities on behalf of a Controller without entering into the contract referred to in section 3 as long as it is possible pursuant to another legal instrument under EU law or national law, which binds the Processor and the Controller.
5. This Paragraph shall apply in the case of any intended modifications regarding adding processors or replacing processors with other processors.
6. Categories of processors are listed in Appendix 1. The Joint Controller shall provide detailed information on its Processors on request to the data subject

§ 7.

Controllers' liability

The liability of the parties is governed by the legal regulations, in particular Article 82 of the GDPR with regard to the processing activities that they are in charge of as defined in regard of the Controller's role in the Collaboration and as stated in Appendix 1.

§ 8.

Collaboration of the Parties

1. The Parties shall cooperate in supervising the implementation of this Agreement.
2. The Parties agree that at the time of the implementation of the Agreement they shall cooperate closely, informing one another of any circumstances that have or may have effect on processing of Personal Data.

Each Party designates a contact point to coordinate the collaboration of the Parties in connection with the implementation of the Agreement, disclosing their personal data in point 1 of the Appendix 2.

3. Amendments to Appendices 1 or 2 shall not require an amendment of the Agreement, however all Parties shall have to be notified thereof either in writing or electronically by the Coordinator.

§ 9.

Term and termination of the Agreement

The Agreement will take effect as of the Effective Date.

The Agreement shall be concluded for the period of implementation of the Cooperation and as long as and until, after the termination of the Cooperation, obligations still have to be fulfilled.

§ 10.

Final provisions

1. The Parties hereby agree that the Controllers shall process Personal Data pursuant to this Agreement free of charge, and neither the conclusion of this Agreement nor the processing of data pursuant thereto shall entitle any Controller to seek, on whatever legal basis,
 - a) remuneration,
 - b) reimbursement of any costs or expenses incurred for the purpose of due performance of the Agreement,
 - c) exemption from any obligations contracted to that end or advances on such costs or expenses,even if at the time of entering into Cooperation or concluding this Agreement, despite exercising due care, the Controller was unable to foresee the circumstances justifying such rises, costs, expenses or obligations.
2. Should any provision hereof become invalid or ineffective, the Parties shall adopt all measures possible to replace it with a valid and effective provision reflecting the goal and meaning of the invalid or ineffective provision to the extent of applicable law. Should any provision hereof be or become invalid or ineffective at any time, it shall not restrict the validity or effectiveness of the remaining provisions of the Agreement.
3. In the event of any discrepancies between the provisions of the Agreement and the terms of Cooperation agreed by the Parties, the provisions of this Agreement shall prevail.
4. Any amendments hereto must be in writing on sanction of invalidity, subject to § 8 (4).
5. Any disputes arising under the Agreement shall be resolved by amicably or by a common court with jurisdiction over the registered office of the Controller sued and pursuant to the laws applicable in its country.

This Agreement has been drawn up in ... counterparts, one counterpart for each Party.

Signatures of the Parties (in the case of a multilateral agreement, each Controller on a separate page):

Appendix 1: Essential elements of the means

Categories of data subjects	Categories of personal data	Purpose of processing	Means of processing	Who is responsible for data collection and processing?	Recipients/Categories of recipients	Categories of processors
Coordinators and team members in submitted proposals						
Coordinators and team members in financed projects						
Reviewers of proposals (panel members)						
External experts evaluating proposals						
Experts evaluating reports						
Independent Observer						

Members of advisory bodies in the programmes						
Candidates for members of advisory bodies						
Employees of the agencies pursuing the programme						
Guests/speakers at events						
Event participants						
Persons registering for the event or placing cooperation offers in the Partner Search Tool on the web site						
Project Community Stakeholders						

Appendix 2: Information to be provided to data subjects

INFORMATION

about processing of personal data within the framework of the ERA-NET/Cooperation

Pursuant to Article 13 (and/or) 14 of 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) (OJ. L 2016, No. 119, p. 1), we would like to inform you about the principles of processing of the personal data provided by you (information obligation):

- 1) The Joint Controllers of the Personal Data are as follows:

[name, address, e-mail, contact to DPO, web site address]

- 2) Data subjects may contact the Data Protection Officers designated by the Joint Controllers in the following matters: personal data processing, exercise of rights related to personal data processing, by sending e-mail messages to the e-mail addresses or addresses of the Joint Data Controllers specified in item 1. The Data Protection Officers are also obliged to provide information on arrangements with the Joint Controllers.
- 3) The Joint Controllers as basic research funding organisations cooperate within multilateral networks/programmes, implemented in formulas cofunded by the European Union (e.g. ERA-NET Cofund) and within specific initiatives of partner agencies (without EU subsidies). The core objective of multilateral initiatives is to organise calls for international research projects. The Joint Controllers process personal data to carry out public interest tasks or as an exercise of public authority entrusted to the controller and to comply with the legal duties applicable to each Joint Controller and resulting from the applicable domestic laws, in particular in compliance with Article 6.1.b), Article 6.1.c) and Article 6.1.e) of GDPR. Detailed information on the legal basis of processing by each Joint Controller is provided on the web site of each Joint Controller as specified in item 1.
- 4) The scope and type of data processing, the objectives and methods of processing, including the involvement of the Joint Controllers in those processings as well as the categories of data recipients are provided in Appendix No. 1.
- 5) The Joint Controllers may process the collected personal data for periods required to perform Cooperation and obligations set forth in the consortium agreement concluded between the Joint Controllers and/or the grant agreement concluded between the Joint Controllers and the European Commission (hereinafter the Grant Agreement).
- 6) Data subjects – depending on the legal basis for processing – shall be entitled to the rights available to them pursuant to applicable laws, including as follows:
 - a) to access to their personal data – which means that right to obtain from a Data Joint Controller a confirmation if their personal data are processed. If their data are processed, such data subjects are entitled to get access to their data and to obtain the following information: the purposes of the processing; the categories of personal data concerned; the recipients or categories of recipient to whom the personal data have been or will be disclosed, the envisaged period for which the personal data will be stored or the criteria used to determine that period; the existence of the right to have the personal data corrected, erased or to restrict the processing of personal data and the right to object to the processing of the personal data (Article 15 of GDPR);

- b) to obtain a copy of the personal data being processed – the first copy is free of charge and for any further copies requested by the data subject, the controller may charge a reasonable fee based on administrative costs (Article 15.3 of GDPR);
 - c) to have incomplete personal data corrected, including by means of providing a supplementary statement (Article 16 of GDPR);
 - d) to have their data deleted if a Data Joint Controller no longer has a legal basis to process the data or the data are no longer required to comply with the objectives of processing (Article 17 of GDPR);
 - e) to have the processing restricted when: a data subject questions the accuracy of the personal data – for a period allowing the inspector to verify the accuracy of the data; the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead; the Joint Controller no longer needs the personal data but they are required by the data subject for determining, pursuing and defending against any claims; the data subject has objected to processing pending verification as to whether the legitimate grounds of the Joint Controller override those of the data subject;
 - f) to data portability – that is the data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a Joint Controller, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller if the processing is based on consent of the data subject or on a contract concluded with the data subject and when the processing is carried out by automated means (Article 20 of GDPR);
 - g) the right to object to processing of their personal data for legitimate objectives of the Controller on grounds relating to their particular situation, including profiling. Then the Joint Controller will have to demonstrate compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims. If, following such review, the interests of the data subject override the interests of the Controller, the Controller shall be obliged to discontinue the processing of the data in connection with objectives (Article 21 of GDPR);
 - h) the right to lodge a complaint with a supervisory authority if they consider that the processing of their personal data does not comply with of GDPR (Article 77 of GDPR).
- 7) The sharing of personal data during the Cooperation is required for the Joint Controllers to perform their duties.
- 8) The scope of data requested in forms and documents shall be restricted to the required minimum which is as a rule set forth in the legal acts in force in the country of each Joint Controller. The collected data will not be used for any other purposes than those specified in Appendix No. 1², as resulting from the Consortium Agreement concluded between the Joint Controllers or from the Grant Agreement. The Joint Controllers may process the data for other legitimate purposes subject to the consent of the data subjects.
- 9) The personal data processed for the purposes specified herein may be transferred to the following third countries:
- a) ... - pursuant to Article 45 of GDPR – on the basis of an adequacy decision of the Commission;
 - b) ... - pursuant to Article 46.2.c) of GDPR – on the basis of standard data protection clauses adopted by the Commission in accordance with the examination procedure in Article 93.2 or pursuant to Article 49 of GDPR. A copy of standard data protection clauses referred to in the preceding sentence shall be provided when so requested by a data subject.
- 10) The personal data will not be processed in an automatic way (including in the form of profiling).

² Appendix No. 1 is equivalent to Appendix No. 1 to the joint control agreement.