**Proposed data protection clauses (co-operation) agreements**

**§ XY Data protection**

The parties to the agreement shall comply with the relevant data protection regulations in the respective valid version, in particular the data protection regulations set out in Regulation [EU] 2016/679 (General Data Protection Regulation, GDPR), as well as those set out in the German Federal Data Protection Act (BDSG) and/or respective state data protection law. The parties shall ensure that their employees, subcontractors and any other third parties involved in the implementation of the project are committed to comply with data protection requirements, in particular the principles of the General Data Protection Regulation (GDPR) relating to the processing of personal data pursuant to Article 5 of the GDPR, prior to commencement of their work, and that they are instructed in the relevant provisions. Furthermore, the parties shall ensure that their employees, subcontractors and any other third parties involved in the implementation of the project continue to maintain the confidentiality of personal data even after completion of their work.

**Option 1: Joint controllership is decided upon on conclusion of the agreement**

With regard to the personal data relating to the data subjects that is to be processed in the course of the implementation of the project, the parties have decided to jointly determine the purposes and means of processing. They will therefore act as joint controllers within the meaning of Article 26, Para. 1 of the GDPR. The respective responsibilities of the joint controllers for compliance with the obligations under the GDPR will be determined by means of an arrangement between them pursuant to Article 26, paragraphs 1 and 2 of the GDPR, attached to this agreement as Annex **[XY]**.

**Option 2: Commissioned data processing is decided upon on conclusion of the agreement**

With regard to the personal data relating to the data subjects that is to be processed in the course of the implementation of the project, [Party/the parties] **[A/A, B, C]** will [solely/jointly] act as the controller[s] pursuant to Article 4 (7) of the GDPR, and [Party/the parties] **[B/D/E]** will act as the processor[s] pursuant to Article 4 (8) of the GDPR. Commissioned data processing is stipulated in the controller-processor contract[s] attached to this agreement as Annex[es] [**XY]** pursuant to Article 28, Para. 3 of the GDPR on the basis of Commission Implementing Decision (EU) 2021/915. [In the case of joint controllership under Article 26, Para. 1 of the GDPR, the respective responsibilities of the joint controllers for compliance with the obligations under the GDPR will be determined by means of an arrangement between the parties pursuant to Article 26, paragraphs 1 and 2 of the GDPR, attached to this agreement as Annex **[XY]**.

**Option 3: Controllership relationships**

A decision regarding the controllership relationships vis-à-vis data protection still needs to be made at the time of the conclusion of the agreement. The respective processing [party/parties] that process[es] personal data will initially be the sole controller pursuant to Article 4 (7) of the GDPR.

Where one or more of these parties processes personal data as a processor pursuant to Article 4 (8) of the GDPR, a controller-processor contract pursuant to Article 28, Para. 3 of the GDPR on the basis of Commission Implementing Decision (EU) 2021/915 will be concluded with the (respective) processor[s] in addition to this agreement.

If, on the other hand, the parties to the agreement decide to jointly determine the purposes and means of processing, they will be joint controllers pursuant to Article 26, Para. 1 of the GDPR. In such cases, the respective responsibilities of the joint controllers for compliance with the obligations under the GDPR will, in addition to this agreement, be determined by means of an arrangement between them pursuant to Article 26, paragraphs 1 and 2 of the GDPR.

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