

Annex: Application of EU Regulation 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and the free movement of such data.

1. Preliminary provisions

The Jules Bordet Institute, the contracting authority, acting in its own name and on its own behalf, hereinafter the **Data Controller**, possesses personal data certain aspects of the processing of which it would like to entrust to the contractor (hereinafter, **the Sub-Contractor**).

This annex governs:

- the implementation and organization of this processing by the Sub-Contractor, in the sense of Regulation EU 2016/679 of the 27 April 2016 on the protection of natural persons with regard to the processing of personal data and the free movement of such data (GDPR, hereinafter the "*Regulation*");
- the processing carried out by the Sub-Contractor on behalf of the Data Controller;
- the rights and obligations of the Data Controller and the Sub-Contractor and is a part of the contractual obligations.

2. Subject of the processing

The subject of the processing is all personal data that are a part of the intended purchase. Personal data is any information relating to a person when this person is identified or identifiable. This covers firstly information that makes it possible to identify quite directly the person concerned: name, photo, biometric data, genetic data, etc. It also includes information that refers indirectly to a person's identity: registration number, address, email, telephone number, IP address, wages, etc. The criterion that makes it possible to determine whether or not a piece of information is personal data consists of the possibility for identification on completion of a set of operations that can be considered as being able to be reasonably effected.

3. Purpose of the processing

The processing of personal data is done in connection with the purchase or public contract referred to in the specifications for the benefit of the Data Controller.

4. Duration of the processing

This annex remains valid for as long as the Sub-Contractor processes the personal data on behalf of the Processing Controller.

5. Applicable legislation

The Sub-Contractor undertakes to respect the regulations in force that apply to the processing of personal data.

The GDPR entered into force on 25 May 2018. The references to the law of 8 December 1992 on the protection of private life in regard to the processing of personal data contained in the Contract or annexes to the Contract cease to be applicable from this moment.

6. Instructions of the Data Controller

The Sub-Contractor:

- acts solely on the basis of the documented instructions of the Data Controller, as set out in the specifications and in this annex. He will not process personal data in a way that is incompatible with these provisions. Any natural person having access to personal data, or who processes them, under the authority of the Sub-Contractor, will act in accordance with these instructions;
- processes personal data solely on the basis of the documented instructions of the Data Controller, including in regard to the transfer of personal data to a third country or international organization, unless a statutory provision of the Union or of the Member States applicable to the Sub-Contractor obliges the Sub-Contractor to effect the processing; in this case, the Sub-Contractor shall inform the Data Controller of this legal requirement, prior to the processing, unless this legislation prohibits such a communication for important reasons of public interest;
- immediately informs the Data Controller if, in his opinion, an instruction constitutes a violation of this Regulation or other provisions of Union law or the law of the Member States concerning data protection;
- communicates without delay the details of his data protection representative or, failing this, the contact person for information security.

If the Sub-Contractor is not able to follow the Data Controller's instructions the latter shall be informed immediately.

The Data Controller can unilaterally make limited changes to the instructions. In the case of major changes, the Sub-Contractor shall be consulted in advance. Changes that affect the essence of this annex must be the subject of an agreement between the parties.

7. Sub-Contracting

The Sub-Contractor may not entrust all or part of the mission described in this contract to another sub-contractor without the previous agreement in writing of the Data Controller.

In all cases, the Sub-Contractor remains solely responsible for the commitments entered into by him in the framework of the mission described in the contract.

8. Confidentiality

The Sub-Contractor:

- undertakes to manage personal data and to process them with the utmost confidentiality;
- will ensure that persons charged with processing these personal data undertake to respect the confidentiality or are bound by an appropriate legal obligation to confidentiality;
- undertakes not to divulge directly or indirectly to third parties, whether as advertising or in any other way, that he is performing this contract for the Contracting Authority without having obtained the latter's previous agreement in writing. He can, on the other hand, use it as a reference for another contract.

9. Security measures

The Sub-Contractor takes all appropriate technical and organisational measures:

- to implement the principles of data protection in an effective manner and to include the necessary guarantees in the processing, in such a way as to conform to the provisions of the Regulation and to protect the rights of the persons concerned;
- to guarantee a level of security adapted to the processing regarding the rights and freedoms of persons, in accordance with article 32 of the Regulation.

When evaluating the appropriate level of security, particular account is taken of the risks the processing presents, as may result above all from the destruction, loss, distortion or unauthorised divulging of personal data transmitted, conserved or processed in another way, or from unauthorised access to such data, whether accidentally or illicitly.

When the Sub-Contractor makes changes to the applicable security measures he must immediately inform the Data Controller.

The Data Controller reserves the right to cancel the contract unilaterally and with immediate effect when the technical and organisational measures are no longer appropriate to the processing risk. He effects this cancellation by respecting the measures set out in the specifications.

10. Assistance to Data Controller

Given the nature of the processing, the Sub-Contractor assists the data controller insofar as possible:

- in fulfilling his obligation to respect the rights of the persons concerned, as laid down in chapter III of the Regulation, by taking the appropriate technical and organisational measures;
- in fulfilling the obligations incumbent upon him by virtue of the Regulation;
- in the framework of analysing the direct impact on the data protection, in accordance with article 35 of the Regulation.

In particular, the Sub-Contractor shall inform the Data Controller immediately, and at the latest 24 hours after having been informed, of any violation concerning the personal data, of any infraction relating to the personal data, as set out in art. 4, 12) of the Regulation.

In this case, The Sub-Contractor provides the Data Controller with the following information:

- nature of the violation;
- categories of personal data;
- categories of persons concerned;
- approximate number of files concerned;
- likely consequences of the violation;
- measures taken or proposed to limit the consequences of the violation.

12. Transfer to third parties

The communication of personal data to third parties, in whatsoever way (through transmission, distribution, publication or in any other way) is forbidden, unless imposed by law or if the Data Controller

gives his explicit permission in this respect. Any legal obligation to communicate personal data to third parties that is the subject of this annex must be communicated by the Sub-Contractor to the Data Controller, if possible in advance.

13. Check by the Data Controller

The Data Controller is entitled, at any time, to check compliance with this annex. To this end he has the right to visit the premises or the sites where the Sub-Contractor processes the data.

Following a simple request from the Data Controller the Sub-Contractor is bound to communicate to the Data Controller all important documents and information for implementation of this annex.

The Sub-Contractor makes available to the Data Controller all the information available that is necessary to demonstrate compliance with the obligations set out in article 29 of the Regulation. He permits audits, including inspections, by the Data Controller or by a controller charged with them by the Data Controller and cooperates with them.

14. Responsibility

The Sub-Contractor is responsible for any damage caused by the processing when the Regulation obligations pertaining specifically to the sub-contractors are not respected in the framework of the processing, or in the event of acting beyond the legitimate instructions of the Data Controller or contrary to them.

The Sub-Contractor is responsible for the payment of fines resulting from the violation of the Regulation's provisions.

The Sub-Contractor can only be released from these responsibilities by proving that no fault can be imputed to him in violating the provisions of the Regulation.

15. Intellectual property

All intellectual property rights relating to the data and data bases in which these data are found belong to the Data Controller, failing contractual agreement to the contrary between the Parties.

16. Priority

In the event of a contradiction between the provisions of the offer and the provisions of this annex, this annex shall take precedence regarding the provisions that are included in it

17. End of the contract

In case of violation of this annex or of the Regulation, the Data Controller can instruct the Sub-Contractor to no longer process the personal data, with immediate effect

The Sub-Contractor shall not retain the data any longer than is strictly necessary to carry out the service for which the data have been made available. The Sub-Contractor undertakes to destroy permanently and completely the data as soon as the Data Controller so requests as well as when the Contract ends.

