

Agreement under Article 26 GDPR

Agreement on the processing of personal data under joint controllership (Article 26 of the General Data Protection Regulation - GDPR)

between

AIRAdoc GmbH, Am Biopark 13, 93053 Regensburg ("AIRAdoc GmbH")

and

_____ ("Customer")

1. Controllers

1.1 This agreement governs the rights and obligations of the controllers (also referred to below as the "Parties") in the joint processing of personal data in the processing activities specified in more detail below. This agreement applies to all activities in which employees of the Parties or a processor engaged by them process personal data for the controllers.

1.2 The Parties agree that, for the processing activities described in more detail below, they jointly determine the purposes and means of processing and are therefore joint controllers for specified stages of the process.

1.3 Personal data is processed when the Customer uses the AIRAdoc software provided by AIRAdoc GmbH. The subject matter and duration of the respective processing activities are set out in Annex 1.

1.4 The Parties define, in accordance with Annex 1, the process stages in which personal data is processed under joint controllership (Article 26 GDPR). For other process stages in which the purposes and means of individual phases of data processing are not jointly determined, each Party is an independent controller within the meaning of Article 4(7) GDPR. However, this agreement covers all processing activities of AIRAdoc GmbH, as all data required for them is collected and provided by the Customer.

2. Spheres of responsibility

2.1 The Parties' responsibilities for processing personal data under joint controllership in accordance with this agreement are set out in Annex 1. The Parties jointly declare that this agreement duly reflects their respective actual roles and relationships as joint controllers in relation to data subjects.

2.2 The categories of data processed, categories of data subjects and legal bases for the processing subject to joint controllership are set out in Annex 1 to this agreement.

3. Allocation of data protection obligations

3.1 Each Party is responsible for implementing the obligations under the GDPR within its sphere of responsibility. The obligation to inform data subjects is an exception. The Customer is responsible for providing information under Articles 13 and 14 GDPR in accordance with all relevant GDPR provisions. In particular, the Customer undertakes to document that data subjects have been informed. AIRAdoc GmbH supports the Customer in drafting the information to be provided. Relevant information and communications to data subjects must be concise, transparent, intelligible and easily accessible, using clear and plain language.

3.2 Irrespective of this allocation, data subjects may exercise their rights against either Party. The Parties undertake to provide each other with all information necessary to respond to requests for access.

3.3 If a data subject contacts one Party, in particular with a request for access, rectification or erasure, that Party shall forward the request to the other Party without undue delay. The other Party shall provide the information from its sphere of responsibility needed to handle the request.

3.4 Before personal data is to be deleted, the Parties shall inform each other. The other Party may object to deletion on legitimate grounds, for example if it is subject to a statutory retention obligation.

3.5 The Parties' responsible contacts are:

Contact for AIRAdoc GmbH:

Jonathan Bollig (Data Protection Officer), Am Biopark 13, 93053 Regensburg, datenschutz@airadoc.com

3.6 The Parties shall inform each other of the name and contact details of their Data Protection Officer where the respective Party is required to appoint one.

Data Protection Officer of AIRAdoc GmbH:

Jonathan Bollig (Data Protection Officer), Am Biopark 13, 93053 Regensburg, datenschutz@airadoc.com

3.7 Any change or prolonged unavailability of the contacts or Data Protection Officer must be notified to the other Party without undue delay.

4. Principles of joint processing

4.1 Each Party shall ensure compliance with the statutory provisions, in particular the lawfulness of the data processing it carries out under joint controllership. Processing may take place only where an appropriate legal basis exists.

4.2 The Parties shall store personal data in a structured, commonly used and machine-readable format.

4.3 The Parties shall ensure that only personal data strictly necessary for the lawful conduct of the process is collected. In all other respects, the Parties shall observe the principle of data minimisation within the meaning of Article 5(1)(c) GDPR.

5. Technical and organisational measures

5.1 Within their respective spheres of responsibility, the Parties shall ensure that the technical and organisational measures required under Articles 24, 25 and 32 GDPR are implemented and observed. A description of these measures shall be provided to the other Party.

5.2 Within their respective spheres of responsibility, the Parties shall ensure that all employees involved in data processing maintain the confidentiality of the data under Articles 28(3), 29 and 32 GDPR both during their work and after their employment ends, and that they receive instruction on the data protection provisions relevant to them.

5.3 The Parties shall independently ensure that they comply with all statutory retention obligations relating to the data. They shall take appropriate data security precautions for this purpose (Article 32 et seq. GDPR). This applies in particular if the cooperation ends.

5.4 The Parties shall take all necessary technical and organisational measures to ensure that the rights of data subjects, particularly under Articles 12 to 22 GDPR, can be and are guaranteed at all times within the statutory time limits.

6. Processing by processors and further joint controllerships

6.1 When using processors within the scope of this agreement, the Parties undertake to conclude an agreement under Article 28 GDPR and provide the other contracting Party with an up-to-date list of the processors used. If a processor is used by several contracting parties simultaneously, those parties undertake to clarify, within the processing arrangement, in whose sphere of responsibility the respective processing on their behalf takes place.

6.2 The Parties shall inform each other in good time of any intended change concerning the addition or replacement of processors used as subcontractors, and shall engage only subcontractors that meet the requirements of data protection law and this agreement.

6.3 If the Parties enter into joint controllerships under Article 26 GDPR beyond this agreement for processing activities covered by it, this shall be listed in Annex 1. Data protection obligations imposed on a Party by this agreement may, under such a further joint controller agreement, also be assumed by another party to that agreement. The Parties undertake to inform the other Party to this agreement in good time of any amendment, termination or addition of such further joint controller agreements.

7. Reporting and notification obligations

7.1 Within their respective spheres of responsibility, the Parties are subject to the reporting and notification obligations under Articles 33 and 34 GDPR towards the supervisory authority and persons affected by a personal data breach. The Parties mutually undertake, also in the interests of the other contracting Parties, to comply with the obligations under Articles 33 and 34 GDPR without undue delay.

7.2 The Parties shall inform each other without undue delay of notifications of personal data breaches to the supervisory authority under Article 33 GDPR and shall provide each other without undue delay with the information necessary to make the notification.

7.3 Where communication to a data subject affected by a personal data breach is required under Article 34 GDPR, the Parties shall inform and support each other and, where appropriate, issue the communication jointly.

8. Documentation

Each Party shall retain documentation within the meaning of Article 5(2) GDPR demonstrating proper data processing beyond the end of the agreement, in accordance with its statutory rights and obligations.

9. Records of processing activities

The Parties shall include the processing activities in their records under Article 30(1) GDPR, including, in particular, a note on whether those activities are carried out under joint or sole controllership.

10. Disclosure to data subjects

The Customer undertakes to make the essence of the joint controller agreement available to data subjects in accordance with Article 26(2), second sentence, GDPR. Annex 2 forms the basis for this.

11. Data protection impact assessment

If a data protection impact assessment is required under Article 35 GDPR, the Parties shall support each other.

12. Compensation

12.1 Without prejudice to the provisions of this agreement, the Parties shall be jointly liable to data subjects, in accordance with Article 82(4) GDPR, for damage caused by processing that does not comply with the GDPR.

12.2 As between the Parties, and without prejudice to the provisions of this agreement, the Parties shall be liable only for damage arising within their respective process stages.

12.3 If a Party faces a claim for compensation under Article 82 GDPR, the Parties undertake to support each other in defending the claim to the extent of their capabilities.

13. Final provisions

13.1 The Parties shall inform each other fully and without undue delay if, when reviewing processing activities, they identify errors or irregularities relating to data protection provisions.

13.2 The Parties shall inform each other without undue delay if a data protection supervisory authority contacts them regarding processing covered by this agreement.

13.3 No ancillary agreements have been made. Amendments or additions must be in text form to be legally effective and must expressly state that they are amendments or additions to this agreement. This also applies to any waiver of the text form requirement.

13.4 If any provision of this agreement is invalid, this shall not affect the validity of its remaining provisions. This also applies if the agreement contains a gap. The Parties shall replace the invalid provision or gap with an appropriate provision that comes closest to what they would have intended had they considered the matter.

Annex 1

The data subjects in the processing activities described below are the customer of AIRAdoc GmbH ("Doctor") and the Doctor's patients ("Patients").

1. Recording, entry and modification of data

Nature of processing: Collection, recording, alteration.

Purpose: Use of AIRAdoc in accordance with the service description.

Legal basis: For Patients: consent (Article 6(1)(a) and Article 9(2)(a)). For Doctors: consent and performance of contractual obligations (Article 6(1)(a) and (b)).

Data categories: Patients' health data, social data and personal master data; Doctors' user and usage data; and conversation data of Patients and Doctors.

Responsible controller: Customer of AIRAdoc GmbH.

Duration: 90 days after the data is first collected, or until manual deletion by the customer of AIRAdoc GmbH.

2. Processing of data in accordance with AIRAdoc's service description

Nature of processing: Organisation, structuring, storage, retrieval, consultation, alteration, use and erasure.

Purpose: Use of AIRAdoc in accordance with the service description.

Legal basis: For Patients: consent (Article 6(1)(a) and Article 9(2)(a)). For Doctors: consent and performance of contractual obligations (Article 6(1)(a) and (b)).

Data categories: Patients' health data, social data and personal master data; Doctors' user and usage data; and conversation data of Patients and Doctors.

Responsible controller: AIRAdoc GmbH.

Duration: 90 days after the data is first collected, or until manual deletion by the customer of AIRAdoc GmbH.

3. Certification and quality management

Nature of processing: Organisation, structuring, storage and erasure.

Purpose: Security and legal compliance of AIRAdoc.

Legal basis: Consent (Article 6(1)(a) and Article 9(2)(a)) for Patients and consent (Article 6(1)(a)) for Doctors.

Data categories: Patients' health data, social data and personal master data; Doctors' user and usage data; and conversation data of Patients and Doctors.

Responsible controller: AIRAdoc GmbH.

Duration: Statutory retention period required for certification and the quality management system (QMS).

Annex 2

Who processes my data?

When AIRAdoc is used, AIRAdoc GmbH and your treating practice or doctor work together in certain areas. Both parties jointly determine how your data is processed for the use of AIRAdoc.

The joint controllers are:

AIRAdoc GmbH, Am Biopark 13, 93053 Regensburg

Your practice or treating doctor

Who can I contact with questions about data protection?

You can contact AIRAdoc or your practice or treating doctor. You may address your enquiry to either party.

Data Protection Officer of AIRAdoc GmbH:

Jonathan Bollig, Am Biopark 13, 93053 Regensburg, datenschutz@airadoc.com

Data protection contact at your practice or doctor's office:

Why is my data processed?

AIRAdoc supports medical practices in creating and editing medical documentation. For this purpose, data may be entered, stored, organised, modified, retrieved and deleted.

The processing may include, in particular, the following data:

- Health data and other information about your treatment;
- Social data and personal master data;
- Conversation content and audio recordings;
- Data required to use the software.

Your health data is processed only where an appropriate legal basis exists. In particular, processing is based on your consent to the processing of your health data. Contractual obligations and consent may also play a role in the use of AIRAdoc by medical staff.

What are the responsibilities of AIRAdoc and my practice?

Your practice or treating doctor collects data, enters it into AIRAdoc and can modify or delete it.

AIRAdoc provides the software and processes the data so that the agreed functions can be used. This includes, for example, storing, organising, retrieving and editing the information entered.

Certain data may also be processed for certification and quality management purposes to ensure security, legal compliance and the continued development of product quality. Anonymised, aggregated or pseudonymised data should be used wherever possible.

How long is my data stored?

As a general rule, data is deleted no later than 90 days after it is first collected. Your practice or treating doctor can also delete data manually at an earlier stage.

Longer statutory retention periods may apply to certain data required as statutory or regulatory evidence for certification and quality management.

Are other service providers used?

AIRAdoc uses specialised service providers for individual tasks. These may include, for example, providers of hosting, transcription or content processing using AI systems.

An up-to-date overview of these service providers and the respective processing activities is available on the AIRAdoc website. Your practice or treating doctor will also provide you with the information required for their processing activities.

What rights do I have?

You may request information about the processing of your personal data at any time. You may also request rectification, erasure or restriction of the processing of your data, provided the statutory requirements are met.

You may object to processing if the statutory requirements are met. Where processing is based on your consent, you may withdraw that consent at any time with effect for the future. This does not affect the lawfulness of processing carried out before withdrawal.

You may exercise your data protection rights against AIRAdoc or your practice or treating doctor. The party you contact will coordinate with the other party where necessary.

If you believe that your data is not being processed lawfully, you may also lodge a complaint with a data protection supervisory authority.

Where can I obtain further information?

Further information is available from AIRAdoc, your practice or treating doctor, and in the current privacy notice and overview of the service providers used.