

Data Processing Agreement

This Data Processing Agreement is an Appendix to the [Deposit Agreement](#) and applies to any personal data included in the dataset that is accepted for publication.

This Data Processing Agreement applies only to Depositors representing Data Controllers who are not part of the 4TU.ResearchData Consortium.

You acknowledge that 4TU.ResearchData will act as the Data Processor in respect of any personal data forming part of the files within your dataset, whereas you, as the Depositor, will qualify as a representative of the Data Controller. You also acknowledge that you, as the Depositor, are entitled to act on behalf of your affiliated organisation, to determine the purposes and means of the processing of personal data.

1. General

- a. Terms used in this Data Processing Agreement, such as “personal data”, “controller” and “processor”, have the same meaning as in the General Data Protection Regulation (Regulation (EU) No. 2016/679).
- b. In the event of any conflict between this Data Processing Agreement and the Deposit Agreement, this Data Processing Agreement will take precedence. This means that the Deposit Agreement and any other conditions agreed may in no way prejudice the rights and obligations pursuant to this Data Processing Agreement.
- c. This Data Processing Agreement is subject to Dutch law. Disputes concerning this Data Processing Agreement will be put to the Court in The Hague, The Hague location.

2. Data processing – and general obligations

- a. All personal data will be regarded as confidential data and treated as such. 4TU.ResearchData is permitted, subject to the conditions of this Data Processing Agreement and the Deposit Agreement, to process personal data on behalf of the Depositor.
- b. Appendix A specifies the personal data processed:
 - Description of the processing
 - Purpose of the processing
 - Categories of data subjects
 - Type of personal data processed

- c. 4TU.ResearchData will refrain from using the personal data for its own purposes, for the advantage of or on behalf of third parties or for any other purposes, unless pursuant to different mandatory legal obligations to which it is subject.
- d. 4TU.ResearchData will not retain personal data made available to it in the context of the Deposit Agreement for any longer than is necessary:
 - a) for the performance of the Deposit Agreement; or
 - b) to fulfil a legal obligation to which 4TU.ResearchData is subject.
- e. The Depositor retains all intellectual and other property rights pertaining the personal data.
- f. The Depositor will ensure a legitimate basis for the processing of personal data, within the meaning of Article 6 of the GDPR.
- g. 4TU.ResearchData will keep a register of its processing.
- h. If, contrary to this Data Processing Agreement and/or the GDPR and/or other applicable legislation and regulations concerning the processing of personal data, 4TU.ResearchData determines the purpose and means of/for the processing of personal data, 4TU.ResearchData will be considered to be the Controller for this processing.

3. Confidentiality

4TU.ResearchData will only reveal personal data to staff members for whom knowledge of the personal data is strictly necessary for the performance of this Data Processing Agreement and the Deposit Agreement. 4TU.ResearchData will also guarantee that authorised staff members are bound by a duty of confidentiality and abide by the provisions of this Data Processing Agreement.

4. Security

- a. Pursuant to Articles 28 and 32 of the GDPR, 4TU.ResearchData will take appropriate technical and organisational measures to guarantee a level of security in accordance with the risk. 4TU.ResearchData will ensure that these measures take account of current technology, the cost of implementation, the nature, scope, context and purposes of processing and the risks of varying likelihood and severity for the rights and freedoms of data subject(s). Consideration will also be given to the risks that may result from the accidental or unlawful destruction, loss, alteration or unauthorised disclosure of or access to data transmitted, stored or otherwise processed.
- b. 4TU.ResearchData will record the measures in writing and will ensure that the security as referred to in this article complies with the security requirements pursuant to the GDPR. At the Depositor's request, 4TU.ResearchData will provide information regarding the security of personal data and how it is organised. Since security risks are continually changing, 4TU.ResearchData will regularly update and improve the security measures taken.

5. Sub-processor

- a. The Depositor hereby grants 4TU.ResearchData permission for the use of sub-processors. 4TU.ResearchData will inform the Depositor of intended changes during this agreement regarding the addition or replacement of sub-processors, providing the Depositor with the opportunity to object against such changes prior to the engagement of such sub-processor.
- b. In the event that 4TU.ResearchData outsources its obligations under this Data Processing Agreement, 4TU.ResearchData must enter into a sub-processing agreement that imposes the same conditions and obligations on the sub-processor as those made between the Depositor and 4TU.ResearchData in this Data Processing Agreement, and especially the obligation to provide adequate guarantees concerning the application of appropriate technical and organisational measures. If the sub-processor fails to meet its obligations, 4TU.ResearchData will be fully responsible towards the Depositor for the sub-processor's compliance with its obligations under any such sub-processing agreement.
- c. Dutch law will apply to the provisions concerning the outsourcing of this Data Processing Agreement.
- d. Upon request, the Depositor will receive an overview from 4TU.ResearchData regarding the sub-processors engaged.

6. Requests from data subjects, government and supervisory authorities

- a. Requests from data subjects;
4TU.ResearchData will cooperate fully in enabling the Depositor to comply with its statutory obligations in the event that a data subject exercises his or her rights pursuant to the GDPR. When a data subject submits a request to 4TU.ResearchData, 4TU.ResearchData will refer the data subject to the Depositor and will not engage in any discussion of the contents of the request.
- b. Requests from government and supervisory authorities;
At no charge and in close consultation with the Depositor, 4TU.ResearchData will cooperate fully in any investigations conducted or requests made by government and supervisory authorities concerning the Depositor and will provide all information of relevance to this. If 4TU.ResearchData receives a request of this kind addressed to it, it will immediately notify the Depositor and the Parties will consult on the steps to be taken, unless that is prohibited in view of the nature of the request. In the latter case, 4TU.ResearchData will represent the reasonable interests of the Depositor.
- c. In order to safeguard the protection of personal data, 4TU.ResearchData will in that case ensure that it does not provide the government or supervisory authority with more personal data than is strictly necessary in order to meet the public body's request. If it is possible to take action in law against a request to provide personal data or a prohibition on informing third parties exists, 4TU.ResearchData will take full advantage of this.

7. Audit

- a. With the exception of low-risk processing, 4TU.ResearchData is obliged to have an independent external expert conduct an audit at least once every two years on its organisation in order to demonstrate that 4TU.ResearchData is compliant with the Deposit Agreement, the Data Processing Agreement, the GDPR and other applicable legislation and regulations concerning the processing of personal data.
- b. The Depositor is entitled to have an audit of 4TU.ResearchData's organisation conducted by an independent external expert in order to demonstrate that 4TU.ResearchData is compliant with the Data Processing Agreement, the GDPR and other applicable legislation and regulations concerning the processing of personal data.

The Depositor can make use of its right to have an audit of 4TU.ResearchData conducted at its request once every three years.

 - a. The audit may not cause unreasonable disruption to 4TU.ResearchData's normal business activities.
 - b. The cost of the audit conducted at the request of the Depositor shall be paid by the Depositor unless the audit findings reveal that 4TU.ResearchData has not complied with the Data Processing Agreement, and/or the GDPR and/or other applicable legislation and regulations concerning the processing of personal data.

If it is determined during an audit that 4TU.ResearchData is not complying with the Data Processing Agreement, and/or the GDPR and/or other applicable legislation and regulations concerning the processing of personal data, 4TU.ResearchData will take all reasonably necessary measures to ensure that it does henceforth comply. The associated costs shall be paid by 4TU.ResearchData.

8. Obligation to report data breaches

- a. 4TU.ResearchData notifies the Depositor of any breach of security without unreasonable delay. Reports must, in any event, include:
 - i. the nature of the breach and, where possible, the categories of data subjects and personal data records concerned and the approximate number of data subjects and personal data records concerned;
 - ii. the name and contact details of the Processor's data protection officer or another point of contact where further information can be obtained concerning the breach;
 - iii. the likely consequences of the personal data breach;
 - iv. the measures for addressing the personal data breach, including, where appropriate, the measures to mitigate its possible adverse effects.
- b. At the request of the Depositor, 4TU.ResearchData will, in so far as possible, assist in informing the competent authorities and data subjects.
- c. 4TU.ResearchData documents any personal data breaches, including the facts concerning the personal data breach, the consequences of it and any remedial measures taken.

4TU.ResearchData provides this documentation to the Depositor as soon as it is requested.
- d. The reporting of data breaches to the Data Protection Authority and (possibly) data subjects will be the responsibility of the Depositor.

9. Duration and termination

- a. The duration of the Data Processing Agreement is identical to that of the Deposit Agreement. The Data Processing Agreement cannot be terminated prematurely or separately from the Deposit Agreement.
- b. Upon termination, for whatever reason, of the Deposit Agreement, 4TU.ResearchData is required to cooperate with requests of the Depositor to a) provide it with copies of the personal data, or b) delete all or part of the personal data. In the latter event, 4TU.ResearchData guarantees that it will observe confidentiality with regard to the personal data processed and will no longer actively process the personal data.
- c. 4TU.ResearchData bears the costs of destruction, return and/or transfer of the personal data. The Depositor is at liberty to set more detailed requirements concerning the manner of destruction, return and/or transfer of the personal data, including with regard to the file format.

Agreed and signed in duplicate,

[Controller], represented by [Depositor]

Name:

Date:

Signature:

4TU.ResearchData, represented by

Name:

Date:

Signature:

Appendix A: Specification of personal data

4TU.ResearchData will process the following categories of personal data.

Processing	Purposes	Categories	Personal data
<i>Description of the subject and duration of the processing</i>	<i>Description of the nature and objective of the processing</i>	<i>Description of the categories of data subjects</i>	<i>Description of the type of personal data being processed</i>
Account management	To give access to depositors and allow them to make use of the provided services.	Registered users of 4TU.ResearchData.	Name, Surname, Initials, affiliation (university), e-mail address.
Research data	To allow access to the datasets deposited as well as to support their long-term preservation.	Persons referred to in the dataset, including human subjects, interviewees, researchers.	Datasets contain pseudonymised personal data of which the key will not be uploaded to the repository. These datasets are available under restricted access.