EuroHPC PERSONAL Data PROCESSING AGREEMENt FOR USER CONTENT 2021-06-16

This is a data protection agreement between (1) you, as a user or user organisation of the EuroHPC supercomputers and as the legally responsible data controller for your user data, and (2) EuroHPC JU and IZUM providing data processing services in respect of your user data (see enclosed terms).

Please carefully fill in the below information and review the enclosed data protection terms. They, together with the other materials mentioned in the data processing terms, constitute a legally binding *data processing agreement* for the purposes of the EU General Data Protection Regulation (2016/679, the “**GDPR**”). When filling in this form, please also refer to the footnotes with clarifying examples. For the complete definitions, please refer to the text of the GDPR itself (available at data.europa.eu/eli/reg/2016/679).

**Background**

Please fill in your name and contact details. Please also fill in your HPC Vega user account name(s) if you already have them available. **If you are acting on behalf of an organisation (who is the legally responsible data controller), please include its details.**

Please fill in the name of your project, the purposes for which you will need to process data, and the duration of the project.

**Data to be stored and processed in the EuroHPC environment**

What user data will you upload to and/or process in the HPC Vega environment?

Will there be any personal data[[1]](#footnote-2) in your user data? If so, what?

Will there be any special categories[[2]](#footnote-3) of personal data included? If so, what?

What people or categories of people does the above data concern (or relate to)?

I confirm that the above information is true, correct and complete, and that I have read the enclosed data processing terms. If I am confirming this on behalf of an organisation, I confirm I have the authority to do so.

EUROHPC PERSONAL Data processing terms FOR USER CONTENT

Definitions and interpretation

EuroHPC Joint Undertaking and IZUM (the “data processor”, but see below for details) and the user or user organisation identified above (the “user” or the “data controller”) have entered into an agreement (the “user agreement”) whereby the user may upload and process user content (“user content”) in, to or from the EuroHPC computing environment (the “EuroHPC environment”). To the extent the user content includes personal data within the meaning of the EU General Data Protection Regulation (2016/679, the “GDPR”), EuroHPC is in this context to be considered a data processor acting on behalf of the user, who is the data controller. These terms do not govern collection and use or personal data in other contexts.

This data processing agreement, together with the overall user agreement, is intended to constitute a contract governing the data processing relationship as required by Article 28 of the GDPR and should be construed as such. Unless the context requires otherwise, any terms used herein have the same meaning as under the GDPR.

Nothing in the user agreement or elsewhere shall be construed as creating any obligation for either party that would be contrary to data protection or any other applicable laws or this data processing agreement.

General obligations of the data controller

The data controller is generally responsible for ensuring compliance with the GDPR. The data controller is, e.g., responsible for lawfully planning and executing the processing, informing any relevant data subjects of the processing activities, obtaining appropriate consents (where necessary), and for documenting this.

If requested, the data controller must provide the data processor a copy of this documentation for the data processor to verify that there is no conflict with the instructions it has received or its actual processing activities.

The data controller will have sole responsibility for the legality, reliability, integrity, accuracy and quality of user content transferred for processing.

**Processing of personal data**

The purpose of the processing of personal data is to provide EuroHPC supercomputing services to the user.

The data processor will perform the processing activities entrusted to it hereunder in compliance with all applicable requirements under the GDPR, with all due professional skill and care, and as instructed by the user in the user agreement, this data processing agreement and as otherwise agreed in writing. The user may not unilaterally give instructions that would extend the data processor’s obligations beyond what has been agreed. The data processor shall notify the data controller if it receives instructions it believes to be contrary to applicable data protection rules.

**Processor personnel**

The data processor will ensure that all people acting for it and who deal with non-public user data either are under a legal non-disclosure obligation or give a non-disclosure undertaking.

**Information security**

The data processor will also ensure that appropriate technical and organisational security measures are adopted in respect of the EuroHPC environment and the data processing contemplated herein, as required by the GDPR. Further details on the currently used security measures are available in the service descriptions. Given the evolving nature of threats and appropriate security measures, the user recognises that he data processor may need to make changes to security procedures during processing relationship. The data processor will keep the relevant documentation up to date and appropriately notify the user of any material changes to it.

**Identity of processor(s), use of sub-processors**

The EuroHPC environment is operated by IZUM as Hosting Entity.

The participation of the Hosting Entity is integral to providing appropriate services.

IZUM may also use sub-processors for specific tasks. Where this is relevant, the user will be informed separately and allowed to comment to the extent legally required. The user will also be notified of relevant changes to the processing and sub-processing arrangements to the extent legally required. Sub-processors may only be used to the extent the GDPR permits.

The data controller gives IZUM and EuroHPC Joint Undertaking a prior authorisation to engage sub-processors insofar as it is necessary for the performance of the processing.

IZUM and EuroHPC Joint Undertaking consortium, as the data processor, shall inform the data controller of any intended changes concerning the addition or replacement of other processors/sub-processors, thereby giving the data controller the opportunity to object to such changes. If the data controller does not accept the used or intended sub-processors it may terminate the Service Agreement. The same data protection obligations as set out in this Data Processing Agreement between the data controller and IZUM and EuroHPC Joint Undertaking shall be imposed on the sub-processors.

**Data subject rights**

The data processor will reasonably assist the data controller in complying with data subject rights under the GDPR (such as providing information that is reasonably required to respond to a data subject request under the GDPR) and other data protection requirements. Should the data processor come under a legal obligation to disclose personal data to any third party, or otherwise process personal data in a manner that would be contrary to what has been agreed, the data processor will notify the data controller of this without undue delay (provided the law permits such notification).

**Personal data breach**

Should there be a personal data breach, the data processor will notify the controller without undue delay. The data processor shall in such situations provide the data controller with the requested information and assistance that the data controller may reasonably require in order to inform data protection authorities and/or affected data subjects of the breach as required by law.

**Assisting the data controller**

The data processor will, within reasonable time of being asked to do so, provide the data controller such information that is reasonably and objectively required in order to ensure that the data processor is acting in compliance with applicable data protection requirements.

**Audit rights**

The data processor will allow the data controller, by a trusted and well known third-party auditor mandated by the data controller (at the data controller’s expense) to perform such audits and inspections that are reasonably necessary to ascertain the aforesaid, to the extent required and permitted by law. Nothing herein shall be construed as requiring any access or information that would endanger the security or confidentiality of the EuroHPC environment or any other data therein. The data processor may require that any inspecting data controller or third-party auditor sign a separate non-disclosure and security agreement before any inspection or audit of otherwise confidential information or facilities.

**Data transfer**

The data processor will not transfer the user content outside the European Union or European Economic Area.

If the user makes data available to parties outside European Union or European Economic Area, the user is solely responsible for all relevant additional obligations this may trigger.

**Term and termination**

The data processing agreement shall be effective from its approval and for as long as IZUM and EuroHPC Joint Undertaking process personal data on controller's behalf (generally for the duration of the project). Should any party terminate the data processing agreement for whatever reason, each party may also terminate the user agreement, and vice versa.

**Deletion or return of personal data**

Upon the termination or expiry of the data processing agreement, the data processor shall be required to return or destroy the relevant user data as provided for in the user agreement.

**Governing law and dispute resolution**

The data processing agreement and the processing activities contemplated herein shall be governed by the GDPR and Slovenian law (except for any rule thereof that would lead to another country’s laws applying). Any dispute arising in connection to the data processing agreement or relationship shall be settled in the District Court of Maribor, except where otherwise has been agreed.

1. “Personal data” is any data that directly identifies a natural person or that indirectly (by means of, e.g., a second source of data) may be connected to a natural person. Personal data therefore includes names, contact details, telephone numbers, IP addresses and similar data. [↑](#footnote-ref-2)
2. “Special categories” of data means data that includes or reveals a person’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership as well as genetic data, biometric data, data concerning health or data concerning a person's sex life or sexual orientation. [↑](#footnote-ref-3)