



Deliverable

Development of Questionnaire with Scientific Support

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Version: 23-01-2019

This report is part of a project that has received funding by the European Union's Horizon 2020 research and innovation programme under grant agreement number 731166.



Deliverable Data		
Deliverable number	D10.1	
Dissemination level	Public	
Deliverable name	Development of Questionnaire with Scientific Support	
Work package	WP10, IPR & Data Policy Issues	
Lead WP/Deliverable beneficiary	UKRI/BGS	
Deliverable status		
Submitted (Author(s))	23/01/2019	Christopher Luton
Verified (WP leader)	23/01/2019	Christopher Luton
Approved (Coordinator)	25/01/2019	Jørgen Tulstrup



GENERAL INTRODUCTION

The overall aim of GeoERA is to integrate information and knowledge to support the sustainable use of the subsurface. It is intended that the geoscientific projects (GSPs) on subsurface water, energy and raw material resources will produce and access large amounts of geological data and information and, in support, the GeoERA Information Platform Project (GIP-P) will establish a common platform for organising, disseminating and sustaining the digital results of those projects.

Liaison between the GIP-P and the GSPs is essential to ensure the outputs for GeoERA but also so that the GIP-P can ensure GeoERA is sustainable in the long term; to get the model incorrect at an early stage could ultimately affect the long term strategy. Therefore great effort is being put into adhering to European and international standards in order for the GeoERA results to be useful to external users, thereby maximizing the overall impact of the project.

The GIP-P will support the projects by ensuring that the results are correctly organised, as well as adequately disseminated, resulting in sustainable use of outputs in the form of digital data, interpretations, reports and services, all supporting sustainable use and management of the subsurface.

EXECUTIVE REPORT SUMMARY

The overall aim of GeoERA is to integrate information and knowledge to support sustainable use of Earth's geological subsurface. Initially three groups of geoscientists involved in each of the three overall GeoERA themes intend to identify, use and produce large amounts of geological data and information which will be managed by a GeoERA Information Platform Project (GIP-P). This, in turn, will create a common platform for organising, disseminating and sustaining the digital outputs and results of those projects.

For this reason Work Package 10 and this deliverable were created to facilitate the investigation of intellectual property and data policy issues to support the release of project results of GeoERA. To assist this vision, at an early stage it was recognised that for the GIP-P to operate effectively and, more importantly, legally, two requirements would need to be adhered to: (i) information and knowledge used by the science teams and projects would need to be free and unencumbered, making future access and use through non-constrained and (ii) making geological information, results, models, etc., created or derived as a result of the projects, wherever possible free for reuse and preferably useable via Open Access. Without the protections being in place, there is a risk to outputs via legal action.

As part of this deliverable discussions were held with the scientific project groups in mid to late 2018 to outline the issues associated with restricted access and use of data, data products and software, more as an awareness-raising prompt to the scientists, to avoid them starting work on developing new products and processes without first checking on the status of the materials need to create the outputs and results. The prompting was very valuable, as it pre-warned scientists to check their sources of materials and the outcome being they would feel

GeoERA Materials* Questionnaire



more confident during the product development stage. Scientists also supplied written comments on the deliverable, which are all included.

In liaison with the science teams, the questionnaire was developed, which is attached to this deliverable D10.1. Whilst obtaining feedback, some scientists confirmed they were aware that certain datasets they intended to use in their projects were restricted as regards future use (an example was the water industry in France), meaning a future hurdle would need to be overcome if projects were going to be able to make results “openly” available. There are also very slight variations to the law across European countries (such as case law), however most have signed up to European copyright legislation (Berne Convention, the Universal Copyright Convention and TRIPS), and all use the European Court of Justice as their final arbiter.

Two issues which we covered in the questionnaire were considered important: (i) to what extent did one need to “derive” material from a dataset for it to be considered “new” and outside copyright and (ii) the use of personal data and the data protection legislation, bearing in mind the increasing burden on users of personal information since the emergence of General Data Protection Regulations. Both of these matters are left for scientific teams to contemplate with the proviso there is no absolutely definitive answer in many cases.

With the Deliverable D10.1 in place, it is hoped scientists on the project teams can move to the next stages of delivery for the GeoERA project.



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* Materials covers data, datasets, data products, & software. ⁴



1 DEVELOPING THE QUESTIONNAIRE

When the GeoERA projects were going through the development stages as part of the GeoERA Programme and prior to the award of funding, one of the criteria looked at was the difficulties of access and use of third party data, data products, datasets and software – what was defined as “Materials”. The geological surveys involved were very aware of some of the complexities and pitfalls of not establishing, at an early stage, the availability of “free” Materials and the constraints that could be born and amassed through not getting the processing legally accurate.

For this reason it was understood that for the EGDI (EuroGeoSurveys developed the IT platform (www.europe-geology.eu) that will be extended by the GIP-project to support the other GeoERA projects) to work correctly – both “legally and efficiently” it was essential that two requirements were met: (i) all information and knowledge – Materials – used to make the EGDI workable were free to use or licensed in such a way that made use non-constrained and (ii) geological information, results, models, etc. created or derived as a result of the geoscientific projects (GSPs) would be free for reuse and preferable useable via Open Access. It was understood that this was, and is, a common issue with Europe-wide projects leaving it important to map any constraints or “blockages” on geological Materials and results: not to do so would “...leave participants open to potential legal action and stem the open use of results”.

WP10 work in this area was centered on speaking and liaising with the science groups to let them know what was intended. This took place at a number of meetings in the Netherlands, one at which a presentation was given to each of the science groups explaining what was intended by the creation of a questionnaire and emphasising the pitfalls of not getting the “freedom to operate” green light from originators and owners of geological Materials.

Feedback from science groups was useful and it was apparent that they had experienced the difficulties involved, many admitting they had probably not followed the correct legal processing of Materials in earlier years. For some scientists it did register some of the difficulties they might encounter when they had a final products they wished to make available to external users – the possibility of a data owner being able to hold up many years of work.

One of the main ways of controlling and managing Materials is through identifying and imposing legal rights – most of which come in the form of intellectual property rights. In fact, practically every legal agreement signed between public authorities, universities, research centres, private companies, etc in Europe, will have an area covering intellectual property, which might be: copyright, patents, etc. Confidential Information may also take the form of an intellectual property right, so the list can be highly exhaustive.

Rights around Materials are also not just black and white, so fall into an area lawyers call the “grey” area, an area where there might be possibly no right or wrong answer in law, some specific areas where case law might even dictate a decision either way, but with very recent court decisions taking precedent. Even court cases can be distinguished, with decisions going either way based on factors which would appear very similar.

With the above in mind, developing a questionnaire is not easy. So we must ask the most basic questions and hope that slowly by asking more and more questions, the best possible course for a scientist to take is eased to the top. In some cases because each is different, answers need to be more indicative, than absolute.

Apart from European Regulations and decisions which must be implemented into national law in Europe, national laws are not that different across Europe when it comes to intellectual property and rights associated with Materials. In some areas such as trademarks, the law is



fairly consistent across Europe and copyright, which is one of the main legal controls over artistic and written works (the main components of Materials”, is again fairly consistent through the various international treaties and legislation that countries have sign. An example is the Berne Convention.

Licenses for using Materials are also very similar and some, such as Creative Commons, are widely used across Europe as well as globally, having been translated into many different languages with controlling interests in most countries. However licenses through which GSPs release Materials will need to match those upon which they use Materials, so no rights are lost or overridden.

So, from many years of experience handling legal issues surrounding access and use of geological data and software across Europe, as well as feedback from the various GSPs, the Questionnaire at Annexure A has, after many early drafts, now been finalised. It is now considered suitable for scientists to use as a checklist and guide. Also, as the Questionnaire has taken shape, new elements have been added which were thought relevant to the correct legal use of Materials, such as derived data concepts and the most recent issues around personal data.

An introduction to the Questionnaire has also been drafted, to hopefully guide the scientists into how to use the questionnaire. Of course the document does not preclude the necessity to seek proper legal advice where required, however if the document is used correctly, it will give users the opportunity to argue points with owners of Materials where contentious issues arise and provide a set of guidelines to steer a scientist in the right direction.

1.1 Derived Data

Because original does not mean new, a person may produce an original work which is not unique, by using existing general ideas or by developing an earlier work, so long as one uses original ideas and one’s own skills to express those ideas and does not simply copy. On the other hand, a scientist using considerable effort to create to copy another work cannot create an original work, so there can be no copyright in it. The copy must be sufficiently different from its source to make it a new work. Examples of this might be a change of a drawing, a set of figures, etc.

Two famous legal quotes in this area define a new work:

“It is necessary that the skill, labour and capital expended should be sufficient to produce some quality or character which the raw material did not possess, differentiating the product from the raw material” and

“it did not follow that which is an exact and literal reproduction in two-dimensional form of an existing two-dimensional work becomes an original work simply because the process of copying it involves the application of skill and labour...Whether it does so or not is a question of degree having regard to the quality rather than the quantity of the addition.”

So to what extent can a scientist take a dataset and create a new version (a derivative) with copyright protection? This is a question of degree and where a derivative work does qualify for copyright protection it is an entirely new work with its own author and owner. The owner of the source work will have no rights in the new one. Nevertheless, the creation of the derivative work could be an infringement in the copyright of the source work unless the use was authorised. Subsequent use of the derivative work could then also infringe the copyright. Where royalty payments might be received on use of the works, the owner of the copyright in the source work is therefore likely to be entitled to a share in the royalties from the derivative work, in proportion to what has been taken.



Within the Questionnaire (Schedule 1) advice has been given to assist scientists to determine whether they can use materials to create new materials and the extent to which they might create a new copyright, sufficiently divorced from the original to allow them free, unfettered use. However, as described above, the area of law is complicated and there may be no exact answer, but if scientists follow the guidelines they should be reasonable safe when it comes to create new works and passing them on to users.

1.2 Personal Data and GDPR

Non-permitted use of personal data is becoming more and more of a concern in Europe, and national Governments and private bodies are now having to take extra precautions to ensure that personal data is being treated in line with principles outlined in the legislation.

Most national states have a range of legislation introduced over the past 10-15 years, some introduced through a requirement of European Directives and Regulations. The most recent is the General Data Protection Regulation (EU) 2016/679 (GDPR), which is now incorporated into legislation throughout Europe.

Within this legislation: *'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person*

This definition of personal data from the GDPR mainly tells us two things. Firstly, that personal data relates to an individual. This must be a "natural person" and therefore data collected on a "legal" person such as a company or legal entity will not fall under the definition. Secondly, it tells us that this individual must be identifiable or identified, directly or indirectly by that data. The list of examples given is non-exhaustive and will include other identifiers, which fit the definition. Some identifiers will plainly fit in the definition- names and addresses would directly identify a person, while national insurance numbers and passport numbers would do so indirectly. The definition makes reference to "online identifiers" which include IP addresses and cookies.

Pseudonymisation and Anonymisation

If you collect personal data, pseudonymisation and anonymisation are two options to ensure better security for the data.

Pseudonymisation involves altering the identifiers to reduce the risks to the individuals identified by the data. This could, for example be achieved by replacing names of individuals with a unique number. This is still considered "personal data" as additional information could be used to render the individual identifiable again.

Anonymisation, if possible, offers a greater degree of security to the extent that truly anonymised data does not fall under the definition of personal data, and therefore is not subject to the GDPR requirements on personal data.

What is clear from the legislation is that penalties imposed for breaches of GDPR legislation (i.e. breach of rights relating to personal data) are getting more severe and the times scales



within which to report such breaches, much shorter. Also if scientists pass on personal data, there may be a series of breaches as a result.

Therefore the WP10 drafting team have included within the Questionnaire a section on GDPR, just to bring the matter to the attention of the GSPs. It is just another matter to be considered when developing projects.

1.3 FAIR Principles

It was agreed in the GeoERA proposal that the principles of FAIR would be included within the Questionnaire and these have been incorporated with a special section at Schedule 2 to explain the concept of FAIR. FAIR (introduced in 2016) was developed to facilitate good data stewardship and to promote open science: it now has a broad community of international stakeholders and the FAIR Data principles has been approved by the EU on the basis that good data management is rapidly becoming an essential part of modern science.

FAIR stands for 'Findable, Accessible, Interoperable, and Reusable'.

More information is available at Schedule 2 of the Questionnaire.

2 SCIENCE GROUP (GSP) FEEDBACK

The concept of the Questionnaire was first introduced to the GSPs and GIP-P at presentations during early 2018 in the Netherlands. The events were well attended and it allowed scientists and administrators across GeoERA to understand the issues and to ensure that full audits were taken of all Materials incorporated into GSPs. A lot of the discussions covered freedom of use matters and how Materials (such as datasets) could be provided as "Open". Types of licenses was also discussed, as different licences apply to different type of materials and for different uses.

Recent feedback from GSPs has really covered three areas, which have been listed as being:- (i) access and use of datasets (ii) types of legal liability which might be breached by a GSP, and (iii) concerns about personal data issues.

Access and Use of Datasets

There was much concern about the use of data and how a lot of available data was not freely open. This would impact on the intended results of GeoERA, as any dataset produced by GSPs might end up with restrictions on their use. Examples from the GSP scientists involved in water research pointed out, for example, that French water companies were notorious at only granting rights to use their datasets on the basis there was restricted access to the datasets and any results produced. Likewise it was pointed out in the United Kingdom that bodies such as the Environment Agency insisted on tight controls over use of their datasets – particularly when the information was of a sensitive nature.

Discussions in this area moved on to the rights of scientists to publish on datasets held by those scientists and that there should be consideration of embargo periods, to allow scientists to publish on their own materials without the risk of losing those rights. This moved on to proper acknowledgement and the use of DOIs – all very current concerns of scientists.



Types of legal liability

This matter was raised because GSPs that had access to early versions of the Questionnaire felt that it was really identifying “copyright” as one of the main legal issues, whereas in some countries, such as Germany trade/business secrets were just as important. It was emphasised that all legal constraints needed to be considered, but only where there might be a legal sanction imposed for a breach. So, for example, if there was a breach of a trade secret (which might not have any legal right), it is likely the breach might be related to breaching a trade agreement covering such a matter (such as a confidentiality agreement), which should be checked as part of the Questionnaire. If such a legal right was identified, this should be recorded and accepted as a possible problem.

Personal Data Issues

This was a view that personal data did not need to be covered in the Questionnaire, as all scientists had knowledge about personal data and such a check could be discarded. However it was pointed out that sometimes personal data is included in datasets that are downloaded (at least one scientist in that water area had confirmed this) and that this needed to be accounted for and a process put in place to ensure it was protected. This would mean the personal data was only held or passed on in line with the principles outlined within the GDPR.

3 CONCLUSION

The law in the area of copyright and associated rights is fairly consistent across Europe, however, as in all legal matters, there are some grey areas where use of materials in scientific research is not absolutely consistent or clear. For example in the United Kingdom there are exceptions for text and of data mining where the copying of artistic works for non-commercial research or private study is permitted, the only requirement being to acknowledge the author.

The questionnaire we have produced is really the minimum required and it will hopefully allow scientists to make some decisions, although the final decision might be they need further advice to be absolutely sure works and materials are free to use. Therefore the aim of the questionnaire is to bring out the main points to consider.

The Questionnaire does go on to look at derived data and the issue of personal data – which appears to be becoming a very important element to consider when working with datasets and materials from third parties. Later Deliverables in WP10 will look at the legal issues around Open Access more closely and how FAIR and other initiatives are changing overall policy.



Appendix A

Introduction

This questionnaire has been designed as an aid to support enquiries as regards freedom to use third party data, data products, and software (“Materials”)*. Note in some countries trade and business secrets are an important consideration, however I believe what we are talking about here is legal constraints on use – so if the trade secret has no legal protection it should be free to use.

The Questionnaire does not provide an absolute or definitive answer, but guides you as to some of the questions felt relevant when accessing and using materials that originate from third parties. It is suggested you use one form for each dataset to avoid confusion.

The format of the questions allows for a tested process probably best described by answering four questions:

- Are the Materials free from any intellectual property considerations? (copyright, etc)
- Are there any terms and conditions attached or associated with use of the Materials?
- To what extent can the Materials be used without breaching legal rights?
- If I develop a new product or process, under what type of licence can I release it?
Can it be an “Open” product/process?

The second area you will need to think about (Schedule 1) is whether whatever you develop or create is sufficiently derived or different to the Materials that you have been using. If it is, you might create a completely derived product or process that is sufficiently separated or different to the original to be considered legally original in its own right. However the test for this is not easy to determine and sometimes even when you have been merely guided by the original, it is still considered original and in the ownership of the originator.

It is intended that when scientists are carrying out project work within GeoERA they consider the principles of FAIR – which is now recognised by the EU as an efficient method of data management/stewardship, allowing for enhanced knowledge discovery and innovation. More details are at Schedule 2.

The last consideration is that of personal data. Since the introduction of the General Data Protection Regulation (EU) 2016/679 (GDPR), and probably in earlier national legislation, there is a lot more concern in Europe over the controlling, processing, etc. of personal data. So when accessing or using Materials special consideration need to be given to the presence of or inclusion of personal data. When it is present it needs to be carefully managed and processed according to law. More guidance is provided at Schedule 3.

GeoERA Materials* Questionnaire

WP10

	Question	Comment	Answer
1	Have you identified materials not owned by your organisation that you wish to use in connection with your work? (Note: if the materials are from your own organisation you may also need permission).	<p>Third party information and data from non-Government Sector Organisations (GSOs) that is intended to be used for GeoERA projects should be identified.</p> <p>GSOs may have restrictions on the use of their own data and information (e.g. only after publication has taken place, embargo periods, etc.). Such limitations need to be added (as at point 9 below)</p>	(this response can be a “yes” or “no” or might result in a list of materials).
2	What do the materials comprise?	A short description is required. Please use an additional page if further explanation is required	
3	Where are the materials available from and how did you find them – known repository, Government link, university, open website?	Were possible please provide a reference number and identify any DOI or acknowledgement required	
3	From the location of the materials, was there any mention of who owned the materials?	We probably mean here the copyright ownership – however some companies/organisations licence in materials so they don't actually own them. Bear in mind that if you have obtained materials from an organisation that has itself licensed them in from elsewhere, it may be that the owner of the materials, rather than the organisation you have obtained them from, will need to be consulted.	

* Materials covers data, datasets, data products, & software.

GeoERA Materials* Questionnaire

5	What is your intended use of the materials and will the finished product/dataset include a substantial part of the materials? Could the materials be reverse engineered from your product?	Copyright law allows one to derive materials as long as you don't copy a substantial part of the original. If the source materials are not visible in what you create and if you cannot reverse engineer from what you have created to the original material, this is termed <i>non-copy derived</i> material. Further information regarding <i>copy derived</i> and <i>non-copy derived</i> is contained at Schedule 1.	
6	Do you intend to modify the format of the materials in any way?	I.e. are you planning to convert the materials to a different delivery format; and/or are you converting from a digital to a 'flat' format (or vice versa)	
7	Do you see a need to share the materials, or anything that you derive from the materials, with anyone else in connection with this project?		
8	Do you see any future commercial applications for what you have derived from the materials?		
9	Were the materials accompanied in any way with terms and conditions concerning use or are they freely available (without any cost) to everybody using FAIR Principles (Schedule 2) both during and post the GeoERA project?	This could take many forms: Creative Commons licences, Open Access, conditions concerning commercial and non-commercial use, free use but improvements made open, etc.	

* Materials covers data, datasets, data products, & software.

GeoERA Materials* Questionnaire

		If terms and conditions apply please provide links or describe these in detail for all restricted Materials.	
10	Are you sure that these terms and conditions of use cover all of your proposed usage of the materials (i.e. questions 5-8 above)?	If you are not sure, or if you are sure that some (or all) of your proposed usage of the materials is outside of what is permitted under the terms of use you have seen, you need to contact the owner of the materials to get full permission. You also need to check not only that you have permission, but whether or not the owner of the materials may have a claim of IPR ownership over anything you derive from their materials (this is more likely if you are producing <i>copy derived</i> materials – see Schedule 1). This may have implications for whatever you have derived: i.e. could the owner request a royalty/revenue share in relation to any commercial use that you maybe intending to make?	
11	Processing personal data/information. Does any of the materials you wish to use contain “Personal Data”? Examples might be where personal names have been left in the digital content. Please see Schedule 2 that covers the obligations that might be on you to ensure this matter is clearly accounted for and that where you pass on personal data instructions are given as to what and cannot be processed by the user.	Obligations on you will relate to whether you are “controlling” or “processing” personal data.	

* Materials covers data, datasets, data products, & software.



GeoERA Materials* Questionnaire

12	When passing on data that holds Personal information you will need to consider further you and your users' position. Are you passing on personal data?	If you transfer or pass on the personal data, you may have a requirement to ensure that anyone you pass the personal data to also complies with the Data Protection Laws/Regulations. See Schedule 3.	
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* Materials covers data, datasets, data products, & software.



Schedule 1

Non-copy derived means that the derived data set does not include a copy of the whole or any substantial part of the original information (as defined by Copyright legislation and case law) and the derived data set cannot be reverse engineered to create a copy of the original information, or any substantial part of it.

Copy derived means that the derived data set includes a copy of the whole or any substantial part of the original information or that the derived data set can be reverse engineered to create a copy of the original information or any substantial part of it.

If an external body owns the copyright in the materials/information and you are engaged in copying that information, you are *prima facie* breaching copyright. However as a general rule what the law states is that:-

- Firstly, there must be sufficient objective similarity between the infringing work and the copyright work, or a substantial part thereof, for the former to be properly described, not necessarily as identical with, but as a reproduction or adaptation of the latter; and
- Secondly, the copyright work must be the source from which the infringing work is derived.

So, a key consideration is substantiality/quality. Not every act of copying is infringement: one must have copied the whole work or a substantial part of it. When we think about a "substantial part" we need to think of quality and not just quantity, as a single figure or image if sufficiently important (whatever its size) as a part of the copyright work could be considered substantive!



Schedule 2

FAIR Data: Background and Rationale

Good data stewardship is the key to knowledge discovery and innovation. To generate value for a research community beyond the initial researchers, funding agencies are increasingly setting requirements for proper data stewardship of research data. Beyond proper collection, annotation, and archival, data stewardship includes the 'long-term care' of research data, with the goal that they can be found and re-used in downstream studies and research. To facilitate good data stewardship, a broad community of international stakeholders have developed the FAIR Data principles, which have been embraced by both the [European Commission](#) and the [G20](#). The first formal [publication of the FAIR Principles](#) further describes the rationale behind them.

FAIR Data

The paper '[The FAIR Guiding Principles for scientific data management and stewardship](#)' was written in 2016 and is the first formal publication of the FAIR principles. In short, the FAIR Data Principles propose that all scholarly output should be:

- **Findable:** easy to identify and find for both humans and computers, with metadata that facilitate searching for specific datasets,
- **Accessible:** stored for long term so that they can easily be accessed and/or downloaded with well-defined access conditions, whether at the level of metadata, or at the level of the actual data,
- **Interoperable:** ready to be combined with other datasets by humans or computers, without ambiguities in the meanings of terms and values,
- **Reusable:** ready to be used for future research and to be further processed using computational methods. This requires adequate information about how the data were obtained and processed (provenance) and an appropriate license

Please consult '[The FAIR Data principles explained](#)' for a more detailed description.

Of interest note there is no "O" for "Open" in FAIR. Proponents of FAIR data often also stress that data should be as open as possible, access only being restricted where necessary.

Further details are at:-

<https://www.go-fair.org/fair-principles/>



Schedule 3

As background, Data Protection Laws means the General Data Protection Regulation (EU) 2016/679 (GDPR) and any other law applicable to Europe relating to the protection of personal data and the privacy of individuals, including where applicable guidance and codes of practice issued by any European Authority.

Understanding whether you are processing personal data is critical to understanding whether the law applies to your activities. "*Personal Data*" means personal data as defined in the legislation, which is information that relates to a *living* identified or identifiable individual. What identifies an individual could be as simple as a name or a number or could include other identifiers such as an IP address or a cookie identifier, or other factors.

If it is possible to identify an individual directly from the information you are processing, then that information may be *personal data*. If you cannot directly identify an individual from that information, then you need to consider whether the individual is still identifiable. You should take into account the information you are processing together with all the means reasonably likely to be used by either you or any other person to identify that individual.

Even if an individual is identified or identifiable, directly or indirectly, from the data you are processing, it is **not** personal data unless it 'relates to' the individual.

When considering whether information 'relates to' an individual, you need to take into account a range of factors, including the content of the information, the purpose or purposes for which you are processing it and the likely impact or effect of that processing on the individual. It is possible that the same information is personal data for one controller's purposes but is not personal data for the purposes of another controller.

Information which has had identifiers removed or replaced in order to pseudonymise the data is still personal data for the purposes of the law (GDPR).

Information which is truly anonymous is not covered by the law (GDPR). If information that seems to relate to a particular individual is inaccurate (i.e. it is factually incorrect or is about a different individual), the information is still personal data, as it relates to that individual.

For the purposes of this Questionnaire, "**controller**", "**data subject**" and "**personal data**" have the meanings given under the Regulation; "**processing**" has the meaning given under the Regulation (and "**process**", "**processed**" and "**processes**" shall be construed accordingly); and "**Regulation**" means the General Data Protection Regulation (EU) 2016/679, as defined as part of the Data Protection Laws.

To the extent that you provide another ("user") with *personal data* in connection with the performance of any agreement or arrangement with the user, the user must agree that, unless the parties specifically agree otherwise, each (you and the user) shall be independent controllers of the *personal data* in their own right. The user must agree they shall comply with all applicable data protection and privacy laws in relation to the *personal data*, including the Regulation. If required, you may wish to ensure a potential user provides details of any *personal data* it intends to process in accordance with the questions below:-



PROCESSING OF PERSONAL DATA

This series of instructions for your user sets out the scope, nature and purpose of the processing of Personal Data by the user on your behalf and constitutes your written instructions.

1. THE SCOPE, NATURE AND PURPOSE OF PROCESSING

1.1 User may process Personal Data in order to provide a service to its users.

2. THE DURATION OF PROCESSING

2.1 User may process Personal Data as permitted by you for a duration (to be determined).

3. THE TYPES OF PERSONAL DATA

3.1 User may process Personal Data of the following types:

- (a) [personal details]
- (b) [financial details]
- (c) [employment and education details]
- (d) [goods or services provided]

3.2 User may not process sensitive Personal Data of the following types:

- (a) [physical or mental health details]
- (b) [racial or ethnic origin]
- (c) [religious or philosophical beliefs]
- (d) [trade union membership]
- (e) [political opinions]
- (f) [genetic data]
- (g) [biometric data]
- (h) [sex life and sexual orientation]

4. THE CATEGORIES OF DATA SUBJECT

4.1 User may process Personal Data relating your

- (a) [employees]
- (b) customers and clients]
- (c) [suppliers and service providers]
- (d) [advisors, consultants and other professional experts]
- (e) [complainants and enquirers].