# **JCST Data Sharing & Processing Agreement**

### *(Return signed with the completed data request form)*

Party A (The Controller): Joint Committee on Surgical Training

Party B (The Processor):………………………………………………………………………………….

The parties,

Joint Committee on Surgical Training (JCST) and all associated subsets of JCST, referred to as ‘the Controller’ as defined under EU GDPR Article 4 (7);

***[INSERT APPLICANT’s NAME],*** referred to as ‘the Processor’ as defined under EU GDPR Article 4 (8);

hereinafter collectively referred to as ‘Parties’ and individually ‘Party’,

**having regard to the fact that,**

* the Controller has access to the personal data of various data subjects;
* the Controller permits the Processor to execute certain types of processing in accordance with the data request form submitted by the applicant to the Controller and agreed by the Data Analysis, Audit, and Research Group on behalf of the Controller. The Processor will determine the purpose of the data **processing** and agrees to limit their processing to the purpose stated in the Data Request Form (Q1 & Q6). Mentioned form will form part of this agreement;
* the Processor has undertaken to comply with this data processing agreement (hereinafter: ‘the Data Sharing & Processing Agreement’) and to abide by the security obligations and all other aspects of the Data Protection Act 2018 and EU General Data Protection Regulations (hereinafter: ‘GDPR’);
* the Controller is hereby deemed to be the responsible party within the meaning of Data Protection Act 2018 Part 2 Chapter 2 Point 6.
* the Processor is hereby deemed to be the processor within the meaning of article 4 (8) of the GDPR;
* the Parties agree that data will be shared and processed for the benefit of public interest. This processing is permitted by GDPR Article 6 1(e);

have agreed as follows:

**PROCESSING OBJECTIVES**

The Processor undertakes to process personal data on behalf of the Controller in accordance with the conditions laid down in this Data Sharing and Processing Agreement and the Data Request Form. The Data Request Form will form part of this Data Sharing and Processing Agreement and will be legally binding to the same extent as this agreement. The processing will be executed exclusively within the framework of the Agreement. Processing objectives are as follows:

* Data Analysis or Research as specified in the above Data Request Form and agreed by the JCST/ISCP Data Analysis, Audit, and Research Group and/or the ISCP Surgical Director and JCST Data Manager and in instances where personally identifiable information is shared also the RCSEng Data Protection Officer.
* Provide regular[[1]](#footnote-1) updates on progress of the project study, to the Data Analysis, Audit and Research Group (DAARG) and/or to the ISCP Surgical Director and JCST Data Manager. These reports should be made to the group that approved the request, via the JCST Data Manager.
* Provide a formal report of findings to the DAARG on completion.
* The Processor is responsible for prevention of function creep.
* Provide copies of Publications, Presentations or other output produced utilising the released data to the DAARG prior to publication and/or circulation.
* Notify the JCST Data Manager when the data utilised for the agreed purpose is no longer required and confirm its deletion[[2]](#footnote-2). Continued holding of data past agreed timeframes might result in legal actions taken against the Data Processor. Data Processor also agrees to delete information provided on demand during the agreed project duration if a legitimate reason occurs.

The Processor shall refrain from making use of the personal data for any purpose other than as specified in the approved Data Request Form.

All personal data processed on behalf of the Controller shall remain the property of the Controller and/or the relevant Data subjects.

The Processor shall take no unilateral decisions regarding the processing of the personal data for other purposes, including decisions regarding the provision thereof to third parties and the storage duration of the data.

**PROCESSOR’S OBLIGATIONS**

The Processor shall warrant compliance with the applicable laws and regulations, including laws and regulations governing the protection of personal data, such as the Data Protection Act 2018 and General Data Protection Regulation (GDPR).

The Processor shall furnish the Controller promptly on request with details regarding the measures it has adopted to comply with its obligations under this Data Sharing and Processing Agreement and the GDPR.

*In addition, when processing Personally Identifiable Information (PII), the Processor agrees to complete a Data Protection Impact Assessment (DPIA) prior to processing of any personal data as provided to the Processor by the Controller. This DPIA will form part of this Data Sharing and Processing Agreement and any answers provided will be binding as per this agreement.*

**TRANSMISSION OF PERSONAL DATA**

The Processor will not process the personal data in any countries outside the European Union.

In the event that a need or purpose for processing data outside the European Union arises, the Processor shall notify the Controller in writing as to which country or countries the personal data will be processed in, and await explicit written permission to do so.

**ALLOCATION OF RESPONSIBILITY**

The Processor shall only be responsible for processing the personal data under this Data Processing Agreement, in accordance with the Controller’s instructions. The Processor is explicitly not responsible for other processing of personal data, including but not limited to processing for purposes that are not reported by the Controller to the Processor, and processing by third parties and / or for other purposes.

Controller represents and warrants that it has consent and/or a legal basis to process the relevant personal data. Furthermore, the Controller represents and warrants that the contents are not unlawful and do not infringe any rights of a third party. In this context, the Controller indemnifies the Processor of all claims and actions of third parties related to the processing of personal data without express consent and/or legal basis under this Data Processing Agreement.

**ENGAGING OF THIRD PARTIES OR SUBCONTRACTORS**

The Processor is not authorised within the framework of this Agreement to engage with third parties, without the prior written approval of the Controller. The Processor shall inform the Controller about the third party/parties that it wishes to engage.

The Processor shall in any event ensure that such third parties will be obliged to agree in writing to the same duties that are agreed between the Controller and the Processor.

**DUTY TO REPORT**

In the event of a data breach of any scale the Processor shall, to the best of its ability, notify the Controller thereof without undue delay, after which the Controller shall determine whether or not to inform the Data subjects and/or the relevant regulatory authority (ICO). This duty to report applies irrespective of the impact of the leak. The Processor will endeavour that the furnished information is complete, correct and accurate.

If required by law and/or regulation, the Processor shall cooperate in notifying the relevant authorities and/or Data subjects.

The duty to report includes in any event the duty to report the fact that a leak has occurred, including details regarding:

* the (suspected) cause of the leak;
* the (currently known and/or anticipated) consequences thereof;
* the (proposed) solution;
* the measures that have already been taken.

The Processor with be solely responsible for any fines ICO will impose on the Processor with regards to the shared data.

**SECURITY**

The Processor will take adequate technical and organisational measures against loss or any form of unlawful processing (such as unauthorised disclosure, deterioration or alteration of personal data) in connection with the performance of processing personal data under this Data Sharing and Processing Agreement.

The Processor will ensure that the security measures are of a level reasonable and adequate to the type of the information, having regard to the state of the art, the sensitivity of the personal data and the costs related to the security measures.

The Controller will only make the personal data available to the Processor if it is assured that the necessary security measures have been taken. Both the Controller and the Processor are responsible for ensuring compliance with the measures agreed by and between the Parties.

**NON DISCLOSURE AND CONFIDENTIALITY**

All personal data received by the Processor from the Controller and/or compiled by the Processor within the framework of this Data Sharing and Processing Agreement is subject to a duty of confidentiality.

The Processor will take all reasonable steps to prevent disclosure of such Confidential Information it receives from the Controller, to any third parties except as expressly agreed in writing by the Controller.

The processor must not attempt to identify individuals using these data or by triangulation with other data sets or by passing this information to third parties that allows others to identify the data subjects.

This duty of confidentiality will not apply in the event that the Controller has expressly authorised the furnishing of such information to third parties, where the furnishing of the information to third parties is reasonably necessary in view of the nature of the instructions and the implementation of this Data Sharing and Processing Agreement, or if there is a legal obligation to make the information available to a third party.

**AUDIT**

In order to confirm compliance with this Data Sharing and Processing Agreement, the Controller may conduct an audit by assigning an independent third party who shall be obliged to observe confidentiality in this regard. Any such audit will follow the Processor’s reasonable security requirements, and will not interfere unreasonably with the Processor’s business activities.

The audit may only be undertaken when there are specific grounds for suspecting the misuse of personal data, and no earlier than 5 working days after the Controller has provided written notice to the Processor.

The findings in respect of the performed audit will be discussed and evaluated by the Parties and, where applicable, implemented accordingly as the case may be by one of the Parties or jointly by both Parties.

The costs of the audit by the aforementioned independent third party will be borne by the Controller.

**DURATION AND TERMINATION**

This Data Sharing and Processing Agreement is entered into for the duration of the cooperation between the Parties.

The Data Sharing and Processing Agreement may be terminated in the interim, and approval of the data request may be withdrawn by the Controller in case of non-compliance with the agreement and/or data protection regulations or there are reservations regarding data handling and security.

This Data Sharing and Processing Agreement may only be amended by the Parties subject to mutual written consent.

The Processor shall provide its full cooperation in amending and adjusting this Data Sharing and Processing Agreement in the event of new privacy legislation.

**JURISDICTION, SUPERVISORY AUTHORITIES AND GOVERNING LAW**

This agreement, and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this agreement or its formation (including any non-contractual disputes or claims), shall be governed by and construed in accordance with the English law.

The Data Supervisory Authority of the United Kingdom will be accepted as the sole Supervisory Authority.

The courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

I, ***[INSERT APPLICANT’s NAME]***, have read and this Data Sharing and Processing Agreement and understand my responsibilities.

Print Name:…………………………….

Signed……………. Date:

1. As agreed in DSPA Schedule of Commitments [↑](#footnote-ref-1)
2. As agreed in DSPA Schedule of Commitments and approved by the Data Manager [↑](#footnote-ref-2)