

EUROPEAN COMPLIANCE SUITE

EU AI Act Compliance Evidence Templates

EXPLANATORY NOTICE AND TEMPLATE

**Economic operator determination — establishing whether you are manufacturer, importer, authorised representative, fulfilment service provider or distributor for each product under the revised Product Liability Directive (Directive (EU) 2024/2853)**

|                      |                                                                                                                                                                                                                                       |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Template reference   | ECS-PLD-OPERATOR                                                                                                                                                                                                                      |
| Version              | 1.0                                                                                                                                                                                                                                   |
| Edition              | July 2026                                                                                                                                                                                                                             |
| Regulation           | Directive (EU) 2024/2853 (revised Product Liability Directive), Articles 4 and 8; applies to products placed on the market from 9 December 2026                                                                                       |
| Instrument addressed | The determination of the operator’s role in the liability chain, per product                                                                                                                                                          |
| Intended user        | Any economic operator that develops, imports, represents, fulfils or distributes products — including software and AI systems — on the EU market                                                                                      |
| Position in the pack | Entry document. Complete first; the role determined drives every other document in the pack                                                                                                                                           |
| Associated templates | ECS-PLD-REGISTER — placement-date register; ECS-PLD-DEFECT — defectiveness evidence file; ECS-PLD-RETENTION — retention schedule; ECS-PLD-DISCLOSURE — Article 9 disclosure readiness; ECS-PLD-UPDATES — post-placement documentation |

*This explanatory notice and the accompanying template are published by European Compliance Suite as private compliance documentation. They are not an official document, are not approved by any authority, and do not constitute legal advice. There is no regulator and no filing under the PLD: this pack builds the evidentiary position an operator holds when a civil claim arises, and it is not a substitute for legal advice on liability. Legal review against the current national transposition of Directive (EU) 2024/2853 is required before any reliance.*

## 1. Purpose and context

- (1) The revised Product Liability Directive (Directive (EU) 2024/2853) applies to products placed on the EU market from 9 December 2026, and it changes the shape of product liability in ways that reach technology companies for the first time. Software and AI systems are now products; liability is strict, meaning no fault need be shown; and the range of parties who can be held liable extends well beyond the manufacturer to a chain of economic operators. Unlike the regulatory regimes elsewhere in this series, the PLD has no regulator, no filing and no compliance certificate. What it has is civil liability, and what determines an operator's exposure is the evidentiary position it can produce when a claim arrives. The first question in building that position is which operator, in which role, you are — and this document establishes it, per product.
- (2) Role matters because the PLD assigns liability along a hierarchical chain, and different roles carry different exposure. The manufacturer is central and primarily liable; notably, a provider of an AI system within the meaning of the AI Act is treated as a manufacturer, and anyone who puts their name or trademark on a product, or substantially modifies it, can become one. Where the manufacturer is established outside the EU, liability moves down a sequence: first the EU importer; then, if there is no importer, the authorised representative; then, if there is neither, the fulfilment service provider; and distributors and online platforms can be drawn in where no other liable EU party can be identified. An operator that has not worked out where it sits in this chain, for each product, does not know its own exposure.
- (3) The determination is per product, not per company, and that is the discipline this document imposes. The same company may be the manufacturer of one product, the importer of another, and a distributor of a third, with a different liability position for each. It may also occupy more than one role for a single product. Because liability under the PLD attaches to products and to the operators behind them, a company that treats its role as a single, company-wide fact will misjudge its exposure on the products where its role is different. This document forces the determination down to the level at which liability actually operates: the product.

### RELEVANT LEGAL TEXT

#### Article 4 — Definitions (abridged).

*“Product” means all movables, even if integrated into or interconnected with another movable or immovable, including electricity, digital manufacturing files, raw materials and software. “Manufacturer” means a person that develops, manufactures or produces a product, or that has a product designed or manufactured and markets it under its name or trademark, or that develops, manufactures or produces a product for its own use. “Fulfilment service provider” means a person that offers, in the course of commercial activity, at least two of warehousing, packaging, addressing and dispatching of a product, without having ownership of it, excluding postal, parcel-delivery and freight services.*

#### Article 8 — Liable persons (abridged, hierarchical).

*Manufacturers of a defective product are liable. Where the manufacturer is established outside the Union, the importer and the authorised representative can be held liable. Where there is no importer or authorised representative established in the Union, the fulfilment service provider can be held liable. A distributor can be held liable where it fails, on request, to identify within one month an economic operator or the person who supplied it with the product.*

#### Recital 13 — AI providers as manufacturers.

*Providers of AI systems within the meaning of Regulation (EU) 2024/1689 should be treated as manufacturers for the purposes of this Directive.*

## 2. How to use this determination

- (4) The determination is completed once per product (or per product family where the analysis is genuinely identical). For each, the operator works through the role tests and records which role or roles it

occupies, the reasoning, and the resulting position in the liability chain. The output feeds every other document in the pack: the placement-date register records the products for which the operator is liable; the defectiveness evidence file is built for the products where the operator is the manufacturer or is otherwise on the hook; the disclosure and retention documents follow the role. An operator that skips this step builds the rest of the pack without knowing which products it is building it for.

### 3. The manufacturer role — and how it is acquired

- (5) The manufacturer bears the primary liability, and the role is acquired more easily than many expect. It covers the person that develops, manufactures or produces the product — which now includes software and AI. Critically, a provider of an AI system under the AI Act is treated as a manufacturer for PLD purposes, so an organisation that considered itself merely a software company is squarely in the primary-liability role. The role is also acquired by putting one's name or trademark on a product, and by substantially modifying a product and making it available — a point that matters for anyone who rebrands, white-labels or materially alters another's product. The determination records, for each product, whether the operator is the manufacturer and how the role arises.

### 4. The downstream roles — importer, representative, fulfilment, distributor

- (6) Where the manufacturer is outside the EU, the PLD ensures a claimant can always find a liable EU party by moving down the chain. The importer — the party that places a third-country product on the EU market — is next and carries substantial exposure. The authorised representative, where the manufacturer has appointed one, is a potentially liable party (a point that intersects with the AI Act authorised-representative role and warrants care). The fulfilment service provider — defined specifically as an operator offering at least two of warehousing, packaging, addressing and dispatching without owning the product, excluding pure delivery services — is liable where there is no EU importer or representative. And distributors can be drawn in where they fail, within one month of a request, to identify a liable operator up the chain. The determination records where in this sequence the operator sits for each product.

### 5. Multiple roles and joint liability

- (7) An operator can occupy more than one role, and more than one operator can be liable for the same damage — in which case liability is joint and several, with rights of contribution between them under national law. The determination records where the operator holds multiple roles for a product and where it shares the field with others, because both affect the practical exposure and the evidence the operator will want to hold. An operator that is jointly liable but holds no evidence of its own position is the one that pays and then struggles to recover.

### 6. Review

- (8) The determination is revisited when the operator's role in relation to a product changes — it starts importing what it once only distributed, rebrands a product, substantially modifies one, or appoints or becomes an authorised representative — when a new product is placed on the market, and when national transposition clarifies a definition. Because role drives everything else in the pack, a change of role is a trigger to revisit the whole position for that product.

## Annex

### Economic operator determination — per-product worksheet

|                              |                                                                                                                 |
|------------------------------|-----------------------------------------------------------------------------------------------------------------|
| <b>Determination version</b> | <i>Version identifier, with references to earlier versions where applicable.</i>                                |
| <b>Date</b>                  | <i>DD.MM.YYYY</i>                                                                                               |
| <b>Completed by</b>          | <i>Name, function and role.</i>                                                                                 |
| <b>Operator</b>              | <i>Legal name and place of establishment (EU or third country).</i>                                             |
| <b>Law verified on</b>       | <i>Date the position was checked against the applicable national transposition of Directive (EU) 2024/2853.</i> |

## 1. Product index

One row per product or genuinely-identical product family. Determine the role for each.

| Product | Software / AI? | Manufacturer in EU? | Our role(s) |
|---------|----------------|---------------------|-------------|
|         |                |                     |             |
|         |                |                     |             |
|         |                |                     |             |
|         |                |                     |             |
|         |                |                     |             |

## 2. Role determination (per product)

Reproduce per product. Work down the chain.

| Role test                                                                        | Applies? | Basis |
|----------------------------------------------------------------------------------|----------|-------|
| Manufacturer — develops/produces the product (incl. software/AI)                 |          |       |
| Manufacturer — AI system provider (treated as manufacturer)                      |          |       |
| Manufacturer — name/trademark on the product                                     |          |       |
| Manufacturer — substantial modification then made available                      |          |       |
| Importer — places a third-country product on the EU market                       |          |       |
| Authorised representative of a non-EU manufacturer                               |          |       |
| Fulfilment service provider (≥2 of warehousing/packaging/addressing/dispatching) |          |       |
| Distributor                                                                      |          |       |

### 3. Position in the liability chain

|                                   |                                                                                                                       |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>Primary or downstream?</b>     | <i>Whether the operator is the primarily-liable manufacturer or a downstream operator, and where in the sequence.</i> |
| <b>Manufacturer establishment</b> | <i>Whether the manufacturer is established in the EU — which determines whether the downstream chain engages.</i>     |
| <b>Multiple roles</b>             | <i>Any product for which the operator holds more than one role.</i>                                                   |
| <b>Joint liability</b>            | <i>Any product for which other operators are also liable, and the contribution position.</i>                          |

### 4. Consequences and documents

|                                   |                                                                                                                    |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------|
| <b>Products we are liable for</b> | <i>The products for which the operator carries PLD exposure. Feed to ECS-PLD-REGISTER.</i>                         |
| <b>Defectiveness file needed?</b> | <i>Products for which a defectiveness evidence file is warranted. Reference ECS-PLD-DEFECT.</i>                    |
| <b>Disclosure exposure</b>        | <i>Products for which the operator holds evidence a court could order disclosed. Reference ECS-PLD-DISCLOSURE.</i> |

### 5. Review

|                        |                                                                                                       |
|------------------------|-------------------------------------------------------------------------------------------------------|
| <b>Review triggers</b> | <i>Change of role, new product, rebrand, substantial modification, national transposition detail.</i> |
| <b>Next review</b>     | <i>DD.MM.YYYY</i>                                                                                     |

### 6. Version history and declaration

| Version | Date | Nature of change or review | Approved by |
|---------|------|----------------------------|-------------|
|         |      |                            |             |
|         |      |                            |             |
|         |      |                            |             |

#### Declaration

This determination is made in good faith and, to the knowledge of the signatory, is accurate and complete as at the date of signature.

|                 |  |
|-----------------|--|
| <b>Name</b>     |  |
| <b>Function</b> |  |
| <b>Date</b>     |  |

|                  |  |
|------------------|--|
| <b>Signature</b> |  |
|------------------|--|