

**SUPPLEMENTARY AGREEMENT ON  
THE PROTECTION OF PERSONAL DATA**

**SUPPLEMENTARY AGREEMENT**

**CONCERNING THE PROTECTION OF PERSONAL DATA**

between

**THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES**

("UNHCR")

and

**[Contractor]**

**PREAMBLE**

**WHEREAS**, UNHCR has contracted [Contractor] (hereinafter referred to as the Contractor) to render services which incorporate processing personal data on UNHCR's behalf to provide *[insert type of services: eg Survey Data Analysis and Reporting for UNHCR Country Office]* as set out in the Service Contract Relating to *[eg Delivery of Survey Data Analysis and Reporting for UNHCR]* (hereinafter the "Main Agreement") between UNHCR and the Contractor;

**WHEREAS**, by virtue of its mandate and its Data Protection Framework including the Policy on the Protection of Personal Data of Persons of Concern to UNHCR<sup>1</sup>, UNHCR has the obligation to ensure that the privacy and Personal Data of individuals are protected in the processing of such data, whether independently or through the engagement of third parties acting on UNHCR's behalf;

**NOW, THEREFORE**, UNHCR and the Contractor (the "Parties") hereby agree as follows:

**Section 1. Certain Definitions.**

1.1. In this Supplementary Agreement, the following terms have the following meanings given to them, unless the context otherwise requires:

- (a) "Country" means [Country]

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<sup>1</sup> UN High Commissioner for Refugees (UNHCR), Policy on the Protection of Personal Data of Persons of Concern to UNHCR, May 2015, available at: <https://www.refworld.org/docid/55643c1d4.html>.

- (b) “Personal Data” means any information relating to an identified or identifiable individual (“Data Subject”) processed by the Contractor on behalf of UNHCR under this Agreement and the Main Agreement.
- (c) “Processing” means any operation, or set of operations, automated or not, which is performed on Personal Data, including but not limited to the collection, recording, organization, structuring, storage, adaption or alteration, retrieval, consultation, use, transfer, dissemination or otherwise making available, correction, restriction or destruction.
- (d) “Services” means the specific activities for which UNHCR has engaged Contractor as set out in the Main Agreement.
- (e) “Personal Data Breach” means a breach of data security leading to the accidental or unlawful destruction, loss, alteration or unauthorised disclosure of, or access to, personal data transferred, stored or otherwise processed.

1.2. Unless the context otherwise requires, capitalized terms used but not otherwise defined in this Supplementary Agreement shall have the meanings given to them in the Main Agreement.

## **Section 2. Personal Data Processing**

2.1. This Supplementary Agreement pertains to the protection of Personal Data accessed, collected or otherwise received and processed by the Contractor on UNHCR’s behalf in the course of rendering the Services.

2.2. UNHCR may share with the Contractor the following personal data elements for the specific purposes of **eg defining the enumeration area based on concentrations of refugees, contacting target respondent households, and conducting household surveys** as described under the Terms of Reference attached to the Main Agreement as Annex [X]:

- (a) [List every data element shared ex. name,
- (b) mobile telephone number]
- (c)

2.3. The Contractor may process the following personal data elements for the specific purpose of [Define specific purpose for the survey as described in ToRs:] listed under the Terms of Reference (Annex [X] to the Main Agreement):

- (a) [List every data element shared ex. name,
- (b) mobile telephone number]

[Add additional data elements with their processing purpose if required]

2.4. The Contractor shall process the Personal Data strictly for the Specific Purposes and other documented instructions of UNHCR and for no other purpose or in any other manner except with the express prior written authorization of UNHCR.

- 2.5. The Contractor shall process the Personal Data in accordance with the terms and conditions set out in this Supplementary Agreement and where the standards imposed by the data protection legislation regulating the processing of the Personal Data are higher than those prescribed in this Supplementary Agreement, then in accordance with such legislation.
- 2.6. The Contractor shall not process any Personal Data to contact, communicate or otherwise engage with the Data Subjects including transmission of any marketing or other commercial communications to the Data Subjects, except in accordance with the written authorization of UNHCR or to comply with a court order subject to its obligations under Section 4.6 below.

### **Section 3. Modalities of Data Sharing**

- 3.1. The sharing of Personal Data between UNHCR and Contractor will be carried out by the following methods:
  - (a) Encrypted e-mails;
  - (b) Secure File Sharing;
  - (c) Access to a UNHCR-owned database. UNHCR remains responsible for user access management as well as for user training and support.
  - (d) Other: [please specify]

### **Section 4. Contractor's Obligations**

- 4.1. Confidentiality. In accordance with Article 13 of UNHCR General Conditions of Contract for the Provision of Services (Annex A to the Main Agreement), the Contractor shall regard Personal Data as confidential data and not disclose such data without the prior written authorization of UNHCR to any person other than to its employees, agents or subcontractors to whom disclosure is necessary for the performance of the Services, except (subject to Section 4.6 above) as may be required by any law or regulation affecting the Contractor.
- 4.2. Security of Personal Data. The Contractor shall implement appropriate technical and organisational measures to safeguard the Personal Data from unauthorised or unlawful processing or accidental loss, destruction or damage in compliance with best industry standards, having regard to the state of technological development and the cost of implementing any measures, such measures shall ensure a level of security appropriate to the harm that might result from unauthorised or unlawful processing or accidental loss, destruction or damage and to the nature of the Personal Data to be protected. Without limiting the foregoing, the Contractor shall:
  - (a) implement technical and organisational measures to procure the confidentiality, privacy, integrity, availability, accuracy and security of the Personal Data including to ensure that any disclosure to an employee, agent or subcontractor is subject to a binding legal obligation to comply with the obligations of the Contractor under this Supplementary Agreement including compliance with relevant technical and organisational measures for the confidentiality, privacy, integrity, availability, accuracy and security of the Personal Data. For the avoidance of doubt, any agreement, contract or other arrangement with an employee, agent or subcontractor shall not relieve the Contractor of its obligation to comply fully with this Supplementary Agreement, and the Contractor shall remain fully responsible and liable for ensuring full compliance with this Supplementary Agreement;

- (b) ensure that the Personal Data are stored in a secure (encrypted) digital and physical environment;
- (c) ensure that all data sharing is executed by secure (end-to-end encrypted) means;
- (d) implement technical measures including (i) restricting access to data to authorized personnel and devices only, (ii) the use of multi-factor authentication where possible, and passwords to prevent unauthorized access to data and (iii) backing-up data in case of loss or damage;
- (e) implement organizational measures including (i) securing premises where hard-copy files or computers are stored, (ii) safely disposing of any obsolete hard copy files and (iii) ensuring that portable devices are kept in a secure location at all times when not in use.
- (f) implement backup processes as agreed between UNHCR and the Contractor to procure the availability of the Personal Data at all times and ensure that UNHCR will have access to such backup of the Personal Data as is reasonably required by UNHCR;
- (g) comply with any request from UNHCR to amend, transfer or delete Personal Data; provide a copy of all or specified Personal Data held by it in a format and on a media reasonably specified by UNHCR within reasonable timeframes as agreed between the Parties;
- (h) inform UNHCR of the location of its processing the Personal Data and immediately notify UNHCR of any changes. The Contractor shall process the Personal Data only within member State(s) that have recognized the privileges and immunities of the United Nations pursuant to the General Convention or any other relevant international or national legal instrument. Under no circumstance shall any Personal Data of refugees or asylum seekers be transferred to their country of origin.

4.3. Audit. The Contractor shall permit and procure that its data processing facilities, procedures and documentation be submitted for scrutiny by UNHCR or its authorised representatives, on request, in order to audit or otherwise ascertain compliance with the terms of this Agreement. Following any actual or reasonably suspected unauthorized disclosure of Personal Data shared by UNHCR with the Contractor, in accordance with Article 23 (Audits and Investigations) of UNHCR General Conditions of Contract for the Provision of Services (Annex A to the Main Agreement), UNHCR shall have the right to conduct, pursuant to appropriate confidentiality and technical restrictions, an on-site audit of the Contractor's or its affiliates' systems, policies, and procedures relevant to the security and integrity of UNHCR Data.

4.4. Requests or complaints concerning compliance with law. Should the Contractor receive any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data or to either Party's compliance with applicable law, immediately notify UNHCR and provide UNHCR with full co-operation and assistance in relation to any complaints, relating notices or communications.

4.5. Notification of Personal Data Breach. The Contractor shall,

- (a) promptly and without undue delay inform UNHCR upon becoming aware of any actual or potential Personal Data Breach and shall use its best efforts to follow UNHCR's instructions to take mitigating measures.
- (b) advise UNHCR of any significant change in the risk of unauthorised or unlawful processing or Personal Data Breach.

4.6. Responsibilities relating to Data Subjects. The Contractor shall observe the following responsibilities relating to Data Subjects:

- (a) In the event of a request by a Data Subject to exercise their rights to information, access, correction, deletion and objection in relation to their Personal Data, the Contractor shall inform UNHCR as soon as possible and follow UNHCR's reasonable instructions;
- (b) The Contractor shall assist UNHCR with all data subject requests or complaints which may be received from a Data Subject in relation to their Personal Data.

4.7. Non-disclosure to Governmental bodies. The Contractor recognizes that any data and information, including without limitation Personal Data, to be processed by the Contractor pursuant to this Supplementary Agreement is part of UNHCR assets and is subject to the privileges and immunities accorded to the United Nations, including UNHCR, and as such (i) shall be deemed part of UNHCR's archives which are inviolable wherever located and by whomever held and may be disclosed, (ii) shall be immune from search, requisition, confiscation, and any form of interference by any party, whether by executive, administrative, judicial or legislative action, unless such immunity is expressly waived in writing by UNHCR. If pursuant to any law or regulation affecting the Contractor, Personal Data is sought by any governmental body, the Contractor shall:

- (a) promptly notify UNHCR of this fact and consult with UNHCR regarding the Contractor's response to the demand or request by such governmental body;
- (b) inform such governmental body that such Personal Data is privileged due to the status of UNHCR as a subsidiary organ of the United Nations, as a result of which it enjoys certain privileges and immunities as set forth in the Convention on the Privileges and Immunities of the United Nations (the "General Convention");
- (c) request such governmental body either to redirect the relevant request for disclosure directly to UNHCR or to grant UNHCR the opportunity to present its position regarding the privileged status of such Personal Data;
- (d) cooperate with UNHCR's reasonable requests in connection with efforts by UNHCR to ensure that its privileges and immunities are upheld and, to the extent permissible by law, seek to contest or challenge the demand or request based on, inter alia, UNHCR's status, including its privileges and immunities;
- (e) where the Contractor is prohibited by applicable law or the governmental body from notifying UNHCR of a governmental body's request for such Personal Data, notify UNHCR promptly upon the lapse, termination, removal or modification of such prohibition;
- (f) provide UNHCR with true, correct and complete copies of the governmental body's demands and requests, the Contractor's responses thereto, and keep UNHCR informed of all developments and communications with the governmental body.

4.8. Subcontractors and Agents. The Contractor may authorise a third-party subcontractor or agent to process the Personal Data, so long as such authorisation does not otherwise violate the Contractor's obligations under this Supplementary Agreement and subject to the following conditions:

- (a) UNHCR's prior expressed written authorization, the validity of such authorization being conditioned on the Contractor supplying UNHCR with full and accurate details of such third party subcontractor or agent at least 30 days in advance; and
- (b) the execution by such third party contractor or agent of a written agreement with the Contractor under which (i) such third party contractor or agent is bound to the same obligations of the Contractor hereunder, (ii) UNHCR is expressly identified in such agreement as third-party beneficiary and such agreement provides that the obligations of such third party contractor or agent are made for the benefit of and are enforceable by UNHCR in a binding arbitration procedure as described in the Main Agreement and without waiver, express or implied, any of the privileges and immunities of the United Nations, including its subsidiary organs, or of UNHCR (as a subsidiary organ of the United Nations) and (iii) the agreement terminates automatically on the expiry or termination, for any reason, of this Supplementary Agreement.
- (c) UNHCR is provided an original counterpart of the agreement referred to in Section 4.8(b), signed by all parties thereto;
- (d) The Contractor shall promptly notify UNHCR of any breach of a third-party's obligations under an agreement referred to in Section 4.8 (b) and shall use reasonable efforts to enforce the obligations of the third party thereunder. The Contractor shall provide reasonable assistance to UNHCR to support enforcement by UNHCR, as third party beneficiary, of the obligations of the third party under such agreement.

#### **Section 5. Data Protection Impact Assessment**

- 5.1. Upon UNHCR's request, the Contractor shall provide UNHCR with reasonable cooperation and assistance needed to carry out a data protection impact assessment related to UNHCR's use of the services.
- 5.2. The Contractor shall implement at any time, any recommendation, arising out of UNHCR's data protection impact assessments.

#### **Section 6. Termination.**

- 6.1. This Supplementary Agreement shall terminate automatically upon termination or expiration of the Main Agreement.
- 6.2. The obligations and restrictions in Section 4 of this Supplementary Agreement shall be effective during the term of this Supplementary Agreement, including any extension thereof, and shall remain effective following any termination of this Supplementary Agreement, unless otherwise agreed between the Parties in writing.

#### **Section 7. Return and Deletion of Personal Data.**

- 7.1. After expiration or termination of this Supplementary Agreement, the Contractor shall notify UNHCR in writing, and unless instructed by UNHCR within [# days] to return Personal Data, the Contractor shall delete Personal Data.
- 7.2. Such deletion shall be effected promptly and shall be evidenced by a written attestation issued to UNHCR and signed by two authorized representatives of the Contractor.

7.3. The Contractor shall give written notice to UNHCR of any Personal Data it is legally obliged to retain under applicable law or as per internal auditing requirements for a certain time period following the expiration of this Agreement, the Partner shall notify UNHCR of this in writing, shall no longer actively process the data for any other purpose, and shall destroy the data immediately after this time period has expired. The Contractor shall promptly destroy such retained Personal Data as soon as permitted under applicable law, and its obligations under this Supplementary Agreement shall survive until such retained Personal Data is destroyed in accordance with this Section 8.

7.4. Notwithstanding the deletion of the Personal Data, the Contractor shall continue to be bound by the confidentiality obligations under the Main Agreement.

#### **Section 8. Dispute Resolution.**

Any dispute, controversy or claim between the parties arising out of this Supplementary Agreement shall be governed by the relevant provisions of the Main Agreement governing the settlement of disputes.

#### **Section 9. Privileges and Immunities.**

Nothing in or relating to this Supplementary Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs, or of UNHCR (as a subsidiary organ of the United Nations).

#### **Section 10. Miscellaneous Provisions.**

10.1. Headings and titles used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement for any purpose whatsoever.

10.2. Unless the context otherwise clearly requires, (a) all references to the singular shall include the plural and vice versa and references to any gender shall include every gender; and (b) any words following the word "include," "includes," "including," "in particular" or any similar words or expressions shall be construed without limitation and accordingly shall not limit the meaning of the words preceding them or immediately following them.

10.3. This Agreement and everything herein contained shall inure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns.

**IN WITNESS WHEREOF**, the Parties have caused their duly authorized representatives to append their signatures below as of the date first stated above.

For and on behalf of:  
**THE OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR REFUGEES**

For and on behalf of:  
**[Contractor]**

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Signature

Name:

Title: Representative

Date:

Place:

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Signature

Name: xxxx

Title: xxxx

Date:

Place: