**Agreement on the Transfer of Personal Data**

**of Refugees and Asylum-seekers**

(hereinafter referred to as this “Agreement”)

**between**

**The Government of *{country name}***

(hereinafter referred to as the “Government”)

**and**

**The Office of the United Nations High Commissioner for Refugees**

(hereinafter referred to as “UNHCR”)

**Preamble**

[*Reaffirming* the commitment of the Government to implement its obligations under the Convention relating to the Status of Refugees of 1951, the Protocol relating to the Status of Refugees of 1967 *{and applicable regional refugee instruments}*]; if applicable

[*Considering {the national law/decree relating to the status of refugees and asylum-seekers}*]; if applicable

*Recalling* Conclusion No. 8 (XXVIII) – 1977 on the Determination of Refugee Status of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees and Conclusion No. 91 (LII) – 2001 on the Registration of Refugees and Asylum-Seekers;

*Acknowledging* the importance of registration as a protection tool, including protection against *refoulement*, protection against forcible recruitment, protection of access to basic rights, family reunification of refugees and identification of those in need of special assistance, and as a means to enable the quantification and assessment of needs and to implement appropriate durable solutions;

*Considering* the responsibility of States to take all necessary measures to register and document refugees and asylum-seekers on their territory as quickly as possible after their arrival, bearing in mind the resources available, and where appropriate to seek the support and cooperation of UNHCR;

*Acknowledging* the importance of establishing procedures for Refugee Status Determination and the value of UNHCR’s participation in such procedures;

*Recognizing* that where UNHCR conducts registration and/or refugee status determination of refugees and asylum-seekers, the transferring of the personal data of refugees and asylum-seekers to the government of their host country needs to serve the purpose of enhancing their protection;

*Recognizing*, in this context, the right of every person under international human rights instruments such as the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights to be protected against the arbitrary or unlawful interference with his or her privacy and other fundamental principles for the protection of personal data. This includes to ensure that personal data is obtained and processed only in fair and lawful ways; that its purpose is specified, legitimate and brought to the attention of the persons concerned; that it is adequate, relevant and not excessive in relation to the purpose for which it is processed as well as accurate and, where necessary, kept up to date;

*Recognizing*, therefore, that the systematic sharing, electronically or otherwise, of personal data of refugees and asylum-seekers by UNHCR with States needs to be subject to data protection safeguards as contained in UNHCR’s Policy on the Protection of Personal Data of Persons of Concern;

*Acknowledging*, furthermore, that the transfer of personal data must not compromise UNHCR’s humanitarian and non-political character, jeopardize human rights or undermine the climate of trust and confidence which needs to exist between UNHCR and persons approaching it for protection and assistance;

[*Acknowledging {reference to applicable national privacy/data protection legislation};*] if applicable

[*Acknowledging and without prejudice to {Accord de Siège between UNHCR and the Government of the host country}*;] if applicable

The Government and UNHCR (hereinafter referred to as the “Parties”) agree as follows:

**Article 1 – Definitions**

For the purpose of this Agreement, the following definitions shall apply, unless the context otherwise requires:

1. “country” means *{country name}*.
2. “data subject” means any refugee or asylum-seeker, whose personal data is subject to processing in the context of a registration and/or refugee status determination procedure [as well as any persons to whom the personal data refers].
3. “personal data” means any data related to an individual who can be identified: (i) from that data; (ii) from that data and other information; or (iii) by means reasonably likely to be used related to that data. Without limiting the foregoing, “personal data” includes biographical data (biodata) such as name, sex, marital status, date and place of birth, country of origin, country of asylum, individual registration number, occupation, religion and ethnicity, biometric data such as a photograph, fingerprint, facial or iris image, as well as any expression of opinion about the individual, such as assessments of the status and/or specific needs.
4. “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 (whether in computerized, oral or written form), dissemination or otherwise making available, correction, or destruction; the term “processed” will have a correlative meaning.
5. “refugee status determination” means the legal and administrative procedure undertaken by States and/or UNHCR to determine whether an individual should be recognized as a refugee in accordance with national and international law.
6. “registration” means [\_\_\_\_\_\_\_\_\_\_\_].

**Article 2 – Object and purpose**

1. This Agreement regulates the transfer of personal data of refugees and asylum-seekers, generated by UNHCR through a registration and/or refugee status determination procedure, to the Government.

2. The overall purpose of the transfer of personal data pursuant to Article 3 and, if applicable, Article 4 of this Agreement, is to increase the protection of asylum-seekers and refugees in the country.

**Article 3 – Personal data to be transferred [[1]](#footnote-1)**

1. UNHCR may transfer to the Government the following personal data of each refugee and asylum-seeker registered by UNHCR and whose record status is active:

1. Name;
2. Date of arrival in the country;
3. Registration date;
4. Citizenship / Country of origin / Country of birth; [delete whichever is inapplicable]
5. Place of birth;
6. Date of birth;
7. Sex;
8. Photograph;
9. Status under UNHCR’s Mandate (“refugee”, “asylum-seeker” or “not in need of international protection as a refugee”);
10. Current address [administrative level 1 or camp level only]; delete if not appropriate

2. UNHCR will make the appropriate arrangements to ensure that all data subjects are duly informed prior to [registration and/or] refugee status determination that any of the above information will be transferred to the Government.

3. A reasonable time frame will be given within which data subjects can express their reservations (objection) to UNHCR regarding the transfer of their personal data.

**Article 4 – Requests for additional data transfer**

1. Requests by the Government for the transfer by UNHCR of the personal data beyond that provided for in Article 3 of this Agreement shall be considered by UNHCR on a case-by-case basis, taking into account UNHCR’s mandate, the rules and principles for the protection of personal data, the privileges and immunities of the United Nations, and the need to ensure the safety of UNHCR staff and other humanitarian personnel.

2. Any request under this Article must be made in writing and must clearly state the reasons why disclosure is necessary and the purpose for which the personal data is requested. Consent for disclosure shall be requested as necessary from the data subject with respect to whom the request relates.

 **Article 5 – Means by which personal data are transferred**

1. The Parties shall agree by exchange of letters the standard means to be used for the transfer of personal data under Article 3 of this Agreement. The personal data may be transferred in hardcopy and/or electronic format. The electronic format may be a database application, Extensible Markup Language (XML), Portable Document Format (PDF), a spreadsheet, a word-processing document, or any other mutually convenient format agreed by the Parties.

2. The means of transferring additional personal data under Article 4 of this Agreement shall be determined by the Party from whom the data is requested.

**Article 6 – Specific purposes of data transfer**

1. The Government may use the personal data transferred in accordance with Article 3 of this Agreement only insofar as is necessary to achieve the following purposes:

1. Identifying persons who are in need of protection as refugees, as well as persons who are not in need, or no longer in need, of international protection;
2. Carrying out national immigration formalities, with due regard to the protection needs of the persons concerned;
3. To ensure respect of the principle of *non-refoulement* and the general treatment of refugees and asylum-seekers in accordance with national and international legal obligations;
4. Issuing personal documents, such as documents necessary to prove identity and refugee status, to obtain access to assistance and services, and/or to exercise basic rights; travel documents; and certification of birth, marriage, divorce and/or death;
5. Facilitating family reunification;
6. Implementing appropriate durable solutions (voluntary repatriation, local integration or resettlement to a third country);
7. Compiling statistical data.

2. The Government shall take all organizational and technical measures to ensure that the personal data is only processed by authorized personnel and institutions, whose use and access is warranted by the pursuance of above-mentioned purposes.

3. Any personal data transferred in accordance with Article 4 of this Agreement may only be used for the purpose specified at the time of the request or for any of the purposes specified in paragraph 1 of this Article.

4. Personal data transferred under this Agreement may not be used by the Government for any purpose other than that specified in paragraphs 1 to 3 of this Article except with the prior written authorization of UNHCR or, as appropriate, the prior written authorization of the data subject.

**Article 7 – Transferring data to third parties**

1. Under no circumstances shall personal data transferred under this Agreement be disclosed to the country of origin of the data subjects. The only exception to this concerns data processed in the context of a tri-partite agreement for voluntary repatriation under the auspices of UNHCR.

2. Personal data transferred under this Agreement may not be disclosed to a third party except for the purposes specified in this Article, and then only insofar as is necessary to achieve said purposes. The third party shall provide appropriate written undertakings in advance that the personal data will not be used or further disclosed for any purpose incompatible with the aims and objectives for which it was disclosed.

**Article 8 – Interested person access**

1. Every data subject who offers proof of identity shall have the right to know whether his or her personal data has been transferred under Article 3 of this Agreement, and to obtain this data in intelligible form, without undue delay and free of charge. Appropriate rectifications or erasures shall be made in the case of unlawful, unnecessary or inaccurate entries.

2. The same right shall also apply with respect to personal data transferred under Article 4 of this Agreement, subject to exceptions necessary to protect the privileges and immunities of the United Nations or UNHCR’s legitimate interests.

**Article 9 – Security of personal data**

The Government shall take organizational and technical measures to protect the personal data transferred under this Agreement against accidental or unauthorized destruction, accidental loss, unauthorized access, use, alteration or dissemination, and against all other unauthorized forms of processing.

**Article 10 – Notification of personal data breach**

1. The Government shall notify to UNHCR as soon as possible upon becoming aware of a personal data breach (as defined below), in particular if the personal data breach is likely to result in personal injury or harm to a data subject, and use, if appropriate jointly with UNHCR, its best efforts to take mitigating measures.

2. “Personal data breach” means a breach of data security leading to the accidental or unlawful/illegitimate destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transferred, stored or otherwise processed.

**Article 11 – Settlement of disputes**

Any dispute between UNHCR and the Government arising out of or relating to this Agreement shall be settled amicably by negotiation or other agreed non-judicial mode of settlement (including arbitration).

**Article 12 – General provisions**

1. This Agreement shall enter into force on the date of its signature by both Parties and shall continue in force until terminated under paragraph 3 of this Article.

2. This Agreement may be modified at any time by mutual written consent.

3. This Agreement shall cease to be in force 30 days after either of the Parties gives notice in writing to the other Party of its decision to terminate the Agreement, except as regards the normal cessation of the activities of UNHCR in the country. The obligations under Articles 6, 7, and 8 of this Agreement shall not cease with the termination of this Agreement.

4. Nothing in or relating to this Agreement is to be deemed a waiver, express or implied, of any privileges or immunities of the United Nations.

**IN WITNESS WHEREOF**, the undersigned, being duly appointed representatives of UNHCR and the Government, respectively, have on behalf of the Parties signed this Agreement, in the English and *{country name}* language(s). For purposes of interpretation and in case of conflict, the English text shall prevail.

Done at {location} this {xx} day of {month} {year}

For the Government of For the Office of the United Nations

{country name} High Commissioner for Refugees

{name of Government representative} {name of UNHCR representative}

{title of Government representative} {title of UNHCR representative}

1. When concluding this Agreement, issues of who manages the registration database, who has authority to rectify or erase data, and who has access to the data are crucial. If needed, please seek advice from the DIP Data Protection Officer on the details of these arrangements. [↑](#footnote-ref-1)