



DATA PROCESSING FRAMEWORK AGREEMENT ACTED France

Date: [JJ/MM/AAAA]

Contract N°: C/[Project Code]/[Donor Code]/[Budget Line]/[Emitting office]/[tender opening date DD-MM-YYYY]

This Data Processing Agreement (« **Agreement** ») entered into between:
[INSERT FULL LEGAL NAME OF THE SUPPLIER] (“**Supplier**”) acting on its own behalf and as agent for each Supplier Affiliate (as defined below); and
ACTED, a non-profit association (“**ACTED**”) acting on its own behalf and as agent for each ACTED Affiliate (as defined below).

1. GENERAL CONDITIONS

Under the Service(s) Agreement(s) (as defined below) concluded by and between the Parties on the date set forth above, the Supplier has agreed to provide ACTED with Services (as defined below) including some Processing of Personal Data (as defined below). Supplier was provided with an audit grid to assess its compliance regarding Data Protection Laws.

For the purposes of providing the Services to ACTED, Supplier may have access to, used, be provided with or process ACTED Personal Data that is subject to Data Protection Laws in relation to which ACTED and Supplier are subject to certain obligations. This Agreement’s purpose is to govern the Parties’ obligations in complying with Data Protection Laws when providing, collecting, processing using or allowing access to ACTED Personal Data to Supplier.

In consideration of the mutual obligation set out herein, the Parties hereby agree that the terms and conditions set out below shall be added as an addendum to the Service(s) Agreement(s) already entered into between the Parties and amend them accordingly. The Parties also agree that this Agreement will be part of all the future Services Agreements that the Parties may conclude.

The terms used in this Agreement shall have the meanings set forth in this Agreement. Except as modified below, the terms of the Services Agreements shall remain in full force and effect.

In consideration of the mutual promises set out in this Agreement, ACTED and Supplier agree as follows:

1.1. DEFINITIONS

In this Agreement, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

- “**ACTED Affiliate**” means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with ACTED, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise;
- “**ACTED Personal Data**” means any Personal Data Processed by the Supplier of Sub-processor on behalf of ACTED or ACTED Affiliate pursuant to or in connection with a Service Agreement;
- “**Data protection Laws**” means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country, including any e-privacy or direct marketing regulations;
- “**EEA**” means the European Economic Area;
- “**C-to-P Transfer Clauses**” means the Standard Contractual Clauses for the transfer of Personal Data from the EEA to third countries approved by EC Commission Decision of 5 February 2010;
- “**GDPR**” means the EU General Data Protection Regulation 2016/679 of the European Parliament and of the council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;
- “**Personal Data Breach**” means any: (i) breach of security, confidentiality or integrity leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data transmitted, stored or otherwise Processed; (ii) unauthorized intrusion into, control of, access to, modification of or use of any System that is used by the Supplier to secure, defend, protect or process Personal Data; and (iii) event which led the Supplier to



suspect or would lead a reasonable person exercising a reasonable level of diligence and investigation to suspect that either (i) or (ii) has occurred;

- **“Services”** means all services and other activities provided to ACTED by including processing, using, collecting or sharing Personal Data and whose terms are laid down in Services Agreements;
- **“Services Agreements”** means all the agreements, contract, order form, purchased order, in effect and to come, entered into between ACTED of ACTED Affiliate and the Supplier or the Supplier Affiliate for Services;
- **“Sub-processor”** means any person appointed by or on behalf of the Supplier to Process Personal Data in connection with Services Agreements;
- **“Supplier Affiliate”** means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with the Supplier, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

The terms, **“Controller”**, **“Data Subject”**, **“Member State”**, **“Personal Data”**, **“Processing”**, **“Processor”**, and **“Supervisory Authority”** shall have the same meaning as in the GDPR, and their cognate term shall be construed accordingly.

References to the singular include the plural and vice versa.

Any words following the words “include”, “includes”, “including”, “in particular” or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them.

1.2. SCOPE AND PURPOSE OF THE AGREEMENT

The Agreement sets out the respective roles and responsibilities of ACTED and the Supplier applicable to all Processing of Personal Data by the Supplier, whether such Processing is covered by Services Agreements already in force and/or to be concluded in the future between them.

This Agreement is intended to replace any provision in the Services Agreements which relates to the protection of Personal Data or the privacy of individuals, is added to and amend any priori Services Agreement. The Parties agree that this Agreement is part of any existing Services Agreement and that any future Services Agreement will include the present Agreement.

In addition to any other obligations the Supplier may have pursuant to the Services Agreements, the Supplier shall comply with the terms of this Agreement in connection with all Services. In the event of inconsistencies between the provisions of this Agreement and other agreements between the Parties, the provisions of this Agreement shall prevail with regard to the Parties' data protection obligations relating to Personal Data. In cases of doubt, this Agreement shall prevail, in particular, where it cannot be clearly established whether a clause relates to a Party's data protection obligation.

1.3. DURATION

The Agreement is in force as long as the Parties are still engaged in any contractual relationship under any Services Agreements. The relevant provisions of this Agreement will survive as long as any Personal Data collected, processed, used or shared according to a Services Agreement is processed, hosted or detained by one of the Party.

The Agreement shall take effect retroactively at the effective date of the first Services Agreement as soon as the Agreement is signed by both Parties.

Any amendment to the Agreement shall be evidenced in writing and endorsed hereon.

1.4. ACTED OBLIGATIONS

ACTED will comply with the Data Protection Laws in the collection and Processing of Personal Data it collects itself or receive from the Supplier pursuant to this Agreement and to the Services Agreements.

ACTED acknowledges and agrees it is responsible for meeting its compliance obligations under the Data Protection Laws.

1.5. SUPPLIER OBLIGATIONS

The details of the processing activities to be carried out by the Supplier on behalf of ACTED under the Agreement are specified in the relevant Service Agreement and will mention that the Supplier acts as a Processor.



The Supplier will only process Personal Data in accordance with the Agreement and documented instructions received from ACTED. If the Supplier is legally required to process Personal Data otherwise than as instructed by ACTED, it will notify ACTED before such processing occurs, unless the law requiring such processing prohibits the Supplier from notifying ACTED, in which case it will notify ACTED as soon as that law permits it to do so.

The Supplier warrants that it has implemented and will maintain appropriate technical and organizational measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and all other unlawful forms of processing. Having regard to the state of the art and cost of their implementation, the Supplier agrees that such measures shall ensure a level of security appropriate to the risks represented by the processing and the nature of Personal Data to be protected, and will at a minimum include the security measures described in the Specific Conditions.

The Supplier agrees that it shall not assume any responsibility for determining the purposes for which and the manner in which Personal Data is processed and ensure that any legislation applicable to the Supplier does not prevent it from fulfilling either the instructions received from ACTED or its obligations under this Agreement.

The Supplier shall treat all Personal Data as confidential information and not disclose such confidential information without ACTED's prior written consent except:

- to those of its personnel who need to know the confidential information in order to carry out the Services; and
- where it is required by a court to disclose Personal Data, or there is a statutory obligation to do so, but only to the minimum extent necessary to comply with such court order or statutory obligation.

The Supplier will take reasonable steps to ensure that its personnel who have access to Personal Data:

- are reliable and have undergone adequate training in the care, protection and handling of Personal Data;
- are informed of the confidential nature of ACTED Personal Data and obliged to keep such ACTED Personal Data confidential; and
- are aware of and comply with the Supplier's obligations under this Agreement.

The Supplier shall:

- assist ACTED by implementing appropriate technical and organizational measures for the fulfilment of ACTED's obligations, to respond to requests to exercise Data Subject rights under the Data Protection Laws;
- assist and co-operate fully with ACTED in ensuring compliance with ACTED's obligations under Data Protection Laws, including but not limited to ACTED's obligations to respond to request from Data Subjects (such as access, rectification, erasure, restriction, portability or objection), investigate, remediate and provide information to Supervisory Authority or Data Subjects about Personal Data Breach without undue delay; to carry out data protection impact assessments; and to consult with Supervisory Authority regarding processing which is the subject of a data protection impact assessment.

The Supplier shall provide ACTED with a record of processing activities of all the Processing carried out by the Supplier. The record shall contain, at a minimum (i) the subject-matter and duration of the processing, (ii) the nature and purpose of the processing, (iii) the type of Personal Data and categories of Personal Data.

The Supplier will promptly notify ACTED about any instruction from ACTED which, in its opinion, infringes Data Protection Laws. The Supplier will promptly notify ACTED about any complaint, communication or request received directly by the Supplier or a Sub-processor from a Data Subject or a Supervisory Authority pertaining to ACTED Personal Data, without responding to that comply, communication or request unless it has been otherwise authorized to do so by ACTED.

The Supplier will appoint, and identify to ACTED, an individual to support ACTED in monitoring compliance with this Agreement, and make available to ACTED upon request all information and evidence necessary to demonstrate that the Supplier is complying with its obligations under this Agreement.

1.6. ENGAGING SUB-PROCESSORS

The Supplier shall ensure that each Sub-processor performs their obligations as they apply to Processing of Personal Data, as if it were party to this Agreement in place of the Supplier.

Subject to ACTED's prior written consent (such consent not to be unreasonable withheld or denied), the Supplier may appoint Sub-processors to perform and fulfil the Supplier's commitments and obligations under this Agreement and under the Services Agreements, provided that such Sub-processors has given sufficient guarantees that they will implement measures to ensure that Processing the Personal Data it carries out will meet the requirements of the Data Protection Laws and protect the rights of Data Subjects. To avoid doubt it shall be reasonable to ACTED to withhold or deny such consent if ACTED has reasonable doubts that a Sub-processor is able to perform and fulfil the Supplier's commitments and obligations under this Agreement.



Where the Supplier sub-contracts its obligations under this Agreement in accordance with this section, it shall do so only by way of written agreement with the Sub-processor which imposes the same obligations on the Sub-processor as are imposed on the Supplier under this Agreement.

The Supplier shall provide to ACTED for review such copies of the agreements with Sub-processors (which may be redacted to remove confidential commercial information not relevant to the requirements of this Agreement) as ACTED may request from time to time.

1.7. SECURITY

Taking into account the state of the art, the costs of implementation and the nature, scope, context and purpose of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Supplier warrants that it has implemented and will maintain appropriate technical, physical and organizational measures (including imposing appropriate confidentiality provisions on its employees, agents and subcontractors) to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and, in particular, where the processing involves the transmission of data over a network, against all other unlawful forms of processing. Having regard to the state of the art and cost of their implementation, the Supplier agrees that such measures shall ensure a level of security appropriate to the risks represented by the Processing and the nature of Personal Data to be protected and will at a minimum include:

- those measures described in the Agreement and its Specific Conditions;
- any other mandatory technical, physical or organizational measures that a Processor is required to take under the Data Protection Laws from time to time.

1.8. PERSONAL DATA BREACH

The Supplier shall notify ACTED immediately and without undue delay upon the Supplier or any Sub-processor becoming aware of a Personal Data Breach, providing ACTED with sufficient information to allow ACTED to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws. Notification shall be made by email to dpo@acted.org.

Such notification shall as a minimum:

- describe the nature of the Personal Data Breach, the categories and numbers of Data Subjects concerned, and the categories and numbers of Personal Data records concerned;
- communicate the name and contact detail of the Supplier's or Sub-processor's data protection officer or other relevant contact from whom more information may be obtained;
- describe the likely consequences of the Personal Data Breach; and
- describe the measures taken or proposed to be taken to address the Personal Data Breach.

The Supplier shall investigate the causes of each Data Breach at the Supplier's expense. Upon ACTED's request, the Supplier shall, at its own expense, provide in-depth supplementary reports regarding its investigation of the Data Breach and results of findings. The Supplier shall, at its own expense, cooperate with ACTED in investigating and responding to each Personal Data Breach including by allowing prompt access to its facility by ACTED and ACTED's investigator, to investigate, and obtain copies of any information, data or records requested by ACTED.

1.9. LIABILITY

Notwithstanding any provision limiting or excluding the Supplier's liability under the Services Agreements, the Supplier's liability, in respect of its obligations under this Agreement, shall not be limited.

The Supplier shall remain fully liable to ACTED for any Sub-processors' processing of Personal Data under the Agreement.

The Supplier shall maintain insurance coverage that is adequate to cover its liabilities to ACTED and/or Data Subjects under this Agreement and ensure that the Supplier's coverage does not exclude fraud or human error.

1.10. INDEMNITY

The Supplier agrees to indemnify and keep indemnified and defend at its own expense ACTED against all costs, claims, damages or expenses incurred by ACTED or for which ACTED may become liable due to (i) any failure by the Supplier or its



Sub-processors, employees or agents to comply with any of its obligations under this Agreement; or (ii) any Personal Data Breach.

1.11. AUDIT

The Supplier shall make available to ACTED on request, all information necessary to demonstrate compliance with this Agreement, and shall submit its data processing facilitates, data files and documentations and/or those of its agents, Sub-processors to reviewing, auditing and/or certifying by ACTED or any independent or impartial inspection, agents or auditors bound by a duty of confidentiality, selected by ACTED and not reasonably objected to by the Supplier, to ascertain compliance with the warranties and undertakings in this Agreement and the Services Agreements upon reasonable written notice of ACTED and during regular business hours.

1.12. RETURN AND DELETION OF PERSONAL DATA

The Parties agree that upon termination of the Services in so far as they relate to ACTED's Personal Data, or upon ACTED written request, the Supplier and all Sub-processors shall immediately cease Processing Personal Data and, at choice of ACTED, promptly return all Personal Data and the copies, notes or extracts thereof to ACTED, or securely destroy all Personal Data and certify to ACTED in writing that it or they have done so provided that where the Processing is subject to any EEA Law that requires the Supplier or Sub-processor to store all or part of the Personal Data, or in all other cases, the Supplier is required to retain Personal Data to comply with tax or legal obligations to which it is subject, the Supplier warrants that it will guarantee the confidentiality of Personal Data, and will guarantee the return and/or destruction of the Personal Data as requested by ACTED when the legal obligation to which the Supplier is subject is no longer in effect.

1.13. DATA TRANSFER OUTSIDE THE EEA

To the extent that the provision of the Services involves data transfer outside the EEA, the Supplier will comply with the C-to-P Transfer Clauses in its capacity as the Processor whereby ACTED will be regarded as the data exporter and the Supplier will be regarded as the data importer.

To the extent that any Sub-processor engaged by the Supplier in accordance with this Agreement is located in a country outside the EEA which has not been recognized by the European Commission as offering an adequate level of protection for Personal Data, the Supplier will enter into the C-to-P Transfer Clauses with the Sub-processor on ACTED's behalf whereby the Sub-processor will be regarded as the data importer and the Supplier will act as agent for ACTED as the data exporter (and for this purpose, ACTED expressly authorizes the Supplier to enter into the C-to-P Transfer Clauses as its agent with such Sub-processor) and the Supplier will fill the Specific Conditions with relevant information and provide it to ACTED.

In the event of inconsistencies between the provisions of the C-to-P Transfer Clauses and this Agreement or Services Agreements between the Parties, the C-to-P Transfer Clauses shall take precedence.

In the event that the C-to-p Transfer Clauses are amended, replaced or repealed by the European Commission or under applicable law, the Parties shall work together in good faith to enter into any updated version of the C-to-P Transfer Clauses or negotiate in god faith a solution to enable a transfer of Personal Data to be conducted in compliance with Data Protection Law.

1.14. COOPERATION WITH SUPERVISORY AUTHORITIES

Supplier will provide ACTED with full and prompt cooperation and assistance in relation to any regulatory consultation that ACTED is legally required to make in respect of Personal Data.

1.15. TERMINATION

This Agreement automatically terminate if the Parties are no longer bound by ay Services Agreements or obligations concerning the Processing of Personal Data.

In the event of a breach by the Supplier of its obligations under a Services Agreement or this Agreement, ACTED can terminate this Agreement and/or the Services Agreements by notification by letter without prejudice to any damages to which it may be entitled under the terms hereof.



ACTED

Form DPO-05.1

1.16. SEVERABILITY CLAUSE

If any provision of the Agreement is held to be or become invalid or incomplete as a whole or in parts, the validity and enforceability of the remaining provisions will not in any way be affected or impaired. Should Supervisory Authority request that the Parties process Personal Data differently than provided for in the Agreement or Supervisory Authorities, including European Data Protection Board, publicize opinions or guidance which suggest changes to this Agreement, the Parties undertake to mutually replace such provision with a valid provision which best serves the economic purpose and the will of the Parties.

1.17. GOVERNING LAW AND JURISDICTION

The Parties hereby submit to the choice of jurisdiction of France with respect to any disputes and claims howsoever arising under this Agreement, including dispute regarding its existence, validity or termination or the consequences of its nullity; and this Agreement and all non-contractual or other obligations arising out of or in connection with it are governed by the laws of France.



2. SPECIFIC CONDITIONS: DETAILS OF THE PROCESSING

- 2.1. THE SUBJECT-MATTER OF THE PROCESSING:

- 2.2. THE DURATION OF THE PROCESSING:

- 2.3. THE NATURE AND PURPOSE OF THE PROCESSING:

- 2.4. THE TYPES OF PERSONAL DATA:

- 2.5. THE CATEGORIES OF DATA SUBJECTS:

- 2.6. THE APPROVED SUBPROCESSORS ARE:



3. SPECIFIC CONDITIONS: REQUIRED SECURITY MEASURES

The Supplier represents, warrants and covenants that it shall, and has adopted and implemented, and will continue to maintain and update, physical administrative and technical safeguards and other security measures to: (i) maintain all appropriate technical and organizational security and confidentiality measures, and regularly update them, to ensure a level of security appropriate to the risk to personal Data and protect it from threats or hazards to its security and integrity, as well as accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access to Personal Data transmitted, stored or otherwise processed and all other unlawful forms of Processing; (ii) prevent, detect, contain, recover, remediate and respond to Personal Data Breaches; (iii) enforce the use of secure authentication protocols and devices consistent with best industry standards on any of the Supplier's Systems that protect, defend, secure or Process Personal Data; (iv) enforce secure access control measures consistent with current leading industry transfers for access to logical and physical resources on any of the Supplier's Systems that protect, defend, secure or Process Personal Data; (v) require the use of then-current best industry standards encryption for all storage and transmission of Personal Data at a minimal of 256-bit encryption, or whatever higher level of encryption; (vi) include automated security measures, included but not limited to current leading industry standard perimeter monitoring and protection systems, auditing systems, firewalls, and security agent software capable of detecting and mitigation threats from viruses, spyware, and other malicious code on any of the Supplier's Systems that protect, defend, secure or Process Personal Data or access ACTED systems and all deliverables sent to ACTED; (vii) consider whether pseudonymization or encryption of the Personal Data is appropriate; (viii) take into account the need to ensure on-going confidentiality, integrity, availability and resilience of systems and services processing Personal Data; (ix) take into account the need to be able to restore the availability and access to data in a timely manner in the event of a physical or technical incident.

In addition to any data security set forth, the Supplier shall comply with the following:



4. SPECIFIC CONDITIONS: DESCRIPTION OF TRANSFERS¹

4.1. DATA EXPORTER

Briefly outline the Supplier's activities relevant to the transfer.

4.2. DATA IMPORTER

Specify the Supplier's activities relevant to the transfer.

4.3. DATA SUBJECTS

The personal data transferred concern the following categories of data subjects²:

4.4. CATEGORIES OF DATA

The personal data transferred concern the following categories of data³:

4.5. SPECIAL CATEGORIES OF DATA (IF APPROPRIATE)

The personal data transferred concern the following special categories of data⁴:

4.6. PROCESSING OPERATIONS

The personal data transferred will be following basic processing activities:

Name of Supplier's Authorized Representative: _____

Authorized signature and stamp: _____

¹ To be completed only in case of transfer of personal data outside the EU.

² Note: typical categories might be: employees, dependents of employees, beneficiaries; vendor contracts.

³ Note: Typical categories, depending on the type of data subject, may include business contact details, home address and phone number, employment history, education/qualifications, transaction history.

⁴ Note: Specify if your using/transferring any information about an individual's racial/ethnic origin, health, sexuality, political opinions, religious beliefs, criminal background or alleged offences, or trade union membership.