

Data Protection Agreement

Agreement Between:

- 1 ACTED Yemen, having its registered office at Sana'a Haddah Zone (the "Data Controller"); and
- 2 _____, having its registered office at _____ (the "Data Processor").

Purpose of this Agreement

- A For the purpose of facilitating cash transfers from the Data Controller to a beneficiary receiving the cash transfer, the Data Controller collects and processes the Personal Data of such beneficiaries.
- B The Data Controller has engaged the Data Processor to render the Services, which includes processing beneficiary data on the Data Controllers' behalf.
- C The Data Controller is subject to laws, regulations and codes of conduct, principles and operational standards that place obligations on the Data Controller to respect the privacy and protect the Personal Data of beneficiaries in the processing of such data, whether independently or through appointed Data Processors.
- D Accordingly, this agreement pertains to the protection of Personal Data accessed or otherwise received; and processed by the Data Processor on the Data Controller's behalf in the course of rendering the Services.

It is agreed:

1. Definitions and Interpretation

- 1.1 In this agreement:

Data Controller means ACTED being the person who determines the purposes for which and the manner in which any Personal Data is, or is to be, processed.

Data Processor means the Financial Service Provider, a person who processes Personal Data on behalf of the Data Controller during the course of rendering the Services.

Data Subject means the beneficiaries of cash transfers facilitated by ACTED and persons to whom the Personal Data refers.

Personal Data means any personal information including identifying information such as the name, identification or passport number, mobile telephone number, email address, cash transaction details, of whatever nature, format or media that by whatever means, is provided to the Data Processor by the Data Controller, is accessed by the Data Processor on the authority of the Data Controller or is otherwise received by the Data Processor on the Data Controller's behalf and includes transactional or other information associated with the Data Subject generated by the Data Processor in the course of providing the Service to the Data Controller.

Processing in relation to Personal Data, includes the obtaining, recording or holding of such data or carrying out any operation or set of operations on the data, including organisation, adaptation, or alteration; disclosure by transmission, dissemination, or otherwise; and alignment, combination, blocking, erasure, or destruction.

Schedule means the schedules annexed to and forming part of this agreement.

Services means the specific activities for which the Data Controller has engaged the Data Processor as set out in the main agreement.

2. Data Processing

- 2.1 The Data Processor agrees to process the Personal Data to which this agreement applies, and in particular, the Data Processor agrees that it shall:
- a- Process the Personal Data in accordance with the terms and conditions set out in this agreement and where the standards imposed by the data protection legislation regulating the Data Processor processing of the Personal Data are higher than those prescribed in this agreement, then in accordance with such legislation;
 - b- Process the Personal Data strictly in accordance with the purposes relevant to the Services in the manner specified from time to time by the Data Controller; and for no other purpose or in any other manner except with the express prior written consent of the Data Controller;
 - c- Implement appropriate technical and organisational measures to safeguard the Personal Data from unauthorised or unlawful processing or accidental loss, destruction or damage, 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;
 - d- Regard the Personal Data as confidential data and not disclose such data to any person other than to employees, agents to whom disclosure is necessary for the performance of the service within and beyond the activity timeline. Data must be treated as confidential on a personal level and secured with suitable organizational and technical measures to prevent unauthorized access, illegal processing or distribution, as well as accidental loss, modification or destruction. Any unauthorized collection, processing, or use of such data by FSP is prohibited. Any data processing undertaken by an individual that has not been authorized to carry out as part of his/her legitimate duties is unauthorized. Duly-authorized employees may have access to personal information only as is appropriate for the type and scope of the task in question.
 - e- Implement technical and organisational measures to ensure the confidentiality, privacy, integrity, availability, accuracy and security of the Personal Data including establishing organisational policies for employees, agents and sub-contractors aimed at complying with the Data Processor's duties to safeguard the Personal Data in accordance with this agreement;
 - f- Implement backup processes as agreed between the Data Controller and Data Processor to procure the availability of the Personal Data at all times and ensure that the Data Controller will have access to such backup of the Personal Data as is reasonably required by the Data Controller;
 - g- Ensure that any disclosure to an employee, agent is subject to a binding legal obligation to comply with the obligations of the Data Processor under this 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 with an employee, agent or sub-contractor shall not relieve the Data Processor of its obligation to comply fully with this agreement, and the Data Processor shall remain fully responsible and liable for ensuring full compliance with this agreement;
 - h- Comply with any request from the Data Controller to amend, transfer or delete Personal Data; provide a copy of all or specified Personal Data held by it in a format and or a media reasonably specified by the Data Controller within reasonable timeframes as agreed between the parties [Agency to insert relevant time periods at its discretion];
 - i- Should the Data Processor 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 the Data Controller and provide the Data Controller with full co-operation and assistance in relation to any complaints, notices or communications;
- j- Promptly inform the Data Controller if any Personal Data is lost or destroyed or becomes damaged, corrupted or unsuitable and at the request of the Data Controller, restore such Personal Data at its own expense;
 - k- In the event of the exercise by Data Subjects of any rights in relation to their Personal Data, inform the Data Controller as soon as possible,
 - l- Assist the Data Controller with all Data Subject information requests which may be received from any Data Subject in relation to any Personal Data;
 - m- Not use the Personal Data of Data Subjects 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 consent of the Data Controller or to comply with a court order. For the avoidance of doubt, the Data Processor is not prohibited from contact, communication or engaging with the Data Subject in so far as this does not involve processing of Personal Data and the Data Processor ensures that the promotion or offer of services is not in any manner associated to the Data Controller or the Data Controller's services;
 - n- Notify the Data Controller of the country(s) in which the Personal Data will be processed where such country(s) is not the country of the Data Processor's registered office;
 - o- Not process or transfer the Personal Data outside of the country of its registered office except with the express prior written consent of the Data Controller pursuant to a request in writing from the Data Processor to the Data Controller;
 - p- Permit and procure that its data processing facilities, procedures and documentation be submitted for scrutiny by the Data Controller or its authorised representatives, on request, in order to audit or otherwise ascertain compliance with the terms of this agreement;
 - q- Advise the Data Controller of any significant change in the risk of unauthorised or unlawful processing or accidental loss, destruction or damage of Personal Data; and
 - r- Report [in accordance with agreed reasonable timeframes] to the Data Controller on the steps it has taken to ensure compliance with clause 3.1. of this agreement.

3. Warranties

- 3.1 The Data Processor warrants that:
- a- It will process the Personal Data in compliance with laws, enactments, regulations, orders, standards and other similar instruments applicable to the Data Processor; and in accordance with the terms and conditions of this agreement;
 - b- In order to observe the rights of ownership and/or other proprietary or intellectual property rights of the Data Controller in the Personal Data, not copy, retain or process the Personal Data in any manner over the course of this agreement and upon expiration or termination of this agreement, except as required by law or in accordance this agreement.

4. Violation, sanction and reporting

Any failure to comply with the current policy or to deliberately violate the rules set in the policy will result in the launch of an appropriate investigation by ACTED. The procedures are contained in ACTED's Child Protection Policy; ACTED's Anti-Terrorism Policy; as well as the Code of Conduct and the global Finance, Logistics, Administration & Human Resources, Transparency & Audit and Security & Safety manuals and the Complaint

Response Mechanism. Depending on the gravity of the suspicion or accusations, ACTED may suspend staff or relations with other stakeholder during the investigation. This will not be subject to challenge.

Depending on the outcome of the independent investigation, if it comes to light that anyone associated with ACTED has deliberately violated the rules set in the policy for its personal profit or any other usage of personal data, or has systematically and deliberately contravened with the principles and standards contained in this document, ACTED will take immediate disciplinary action and any other action which may be appropriate to the circumstances. This may mean, for example, for partners -withdrawal of funding/support; Contractors and consultants -termination of contract.

Depending on the nature, circumstances and location of the case and violation, ACTED will also consider involving authorities such as the police to ensure the protection of personal data and victims.

5. Indemnity

- 5.1 The Data Processor agrees to indemnify and keep indemnified and defend at its own expenses the Data Controller against all costs, claims, damages or expenses incurred by the Data Controller or for which the Data Controller may become liable due to any failure by the Data Processor or its employees, subcontractors or agents to comply with the obligations under this agreement.

6. Termination

- 6.1 This agreement shall not be terminated upon termination or expiry of the Data Processor's obligations in relation to the Services, this agreement will be valid for five years from services end date.
- 6.2 The Data Controller shall be entitled to terminate this Agreement forthwith by notice in writing to the Data Processor if:
 - a- The Data Processor is in a material or persistent breach of this Agreement which, in the case of a breach capable of remedy, shall not have been remedied within {...} days from the date of receipt by the Data Processor of a notice from the Data Controller identifying the breach and requiring its remedy; or
 - b- The Data Processor becomes insolvent, has a receiver, administrator, or administrative receiver appointed over the whole or any part of its assets, enters into any compound with creditors, or has an order made or resolution passed for it to be wound up (otherwise than in furtherance of a scheme for solvent amalgamation or reconstruction).
- 6.3 On termination of this agreement the Data Processor shall, in accordance with the direction of the Data Controller:
 - a- Deliver or destroy all Personal Data supplied by the Data Controller in its possession or under its control;
 - b- Instruct all its employees, agents and sub-contractors to facilitate and ensure the delivery or destruction of the Personal Data including copies of the Personal Data in accordance with the Data Controller's direction.

7. Governing Law

- 7.1 This agreement will be governed by the laws of Yemen, and the parties submit to the exclusive jurisdiction of the Courts of Yemen, for all purposes connected with this agreement, including the enforcement of any order or judgment made under or in connection with it.

8. Waiver

- 8.1 Failure by either party to exercise or enforce any rights available to that party or the giving of any forbearance, delay or indulgence shall not be construed as a waiver of that party's rights under this agreement.

9. Invalidity

- 9.1 If any term or provision of this agreement shall be held to be illegal or unenforceable in whole or in part under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to form part of this agreement, but the enforceability of the remainder of this agreement shall not be affected, provided however that if any term or provision or part of this agreement is severed as illegal or unenforceable, the parties shall seek to agree to modify this agreement to the extent necessary to render it lawful and enforceable, and as nearly as possible to reflect the intentions of the parties embodied in this agreement, including without limitation the illegal or unenforceable term or provision or part.

Date

Location

Signature and stamp Data Controller

Signature and Stamp Data Processor