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| **Contract number:** | [insert eContracts ID number or other Contract number] |

*COMMENT: Delete comment before sending to counterpart*

This is a sample Non-Disclosure Agreement. It contains mutual obligations to protect, respectively, the Federation’s and the third party’s confidential information from disclosure by the other Party. This template covers situations where the confidential information is provided in the context of a Project being undertaken with or by the third party. It also covers situations outside of a project context. The highlighted text within the template gives options to choose from to suit the situation.

**MUTUAL NON-DISCLOSURE AGREEMENT**

**Between**

**THE INTERNATIONAL FEDERATION OF**

**RED CROSS AND RED CRESCENT SOCIETIES**

**And**

***(Name of Entity)***

**This Mutual Non-Disclosure Agreement** (“Agreement”) is entered into by and between the International Federation of Red Cross and Red Crescent Societies**,** an international humanitarian organisation, headquartered in Switzerland, Chemin des crêts 17, 1209 Geneva (hereinafter referred to as the “Federation”), and *(insert name and address of entity)* (hereinafter referred to as the “Partner”), each of which is a “Party” and collectively the “Parties”;

**WITNESSETH**

**WHEREAS** the Federation is an international organisation headquartered in Geneva on the basis of a status agreement executed with the Swiss Federal Council. The Federation serves the world’s largest humanitarian network of 190 National Red Cross Red Crescent Societies and over 17 million volunteers that act before, during and after disasters and health emergencies to meet the needs and improve the lives of vulnerable people without discrimination as to nationality, race, religious beliefs, class or political opinions. The Federation’s objective is to "inspire, encourage, facilitate and promote at all times all forms of humanitarian activities by the National Societies, with a view to preventing and alleviating human suffering and thereby contributing to the maintenance and the promotion of peace in the world".

**WHEREAS** the Partner is a [insert type of entity], established under the laws of [insert name of country];

**WHEREAS** the Parties [insert details of their contractual relationship, joint activities etc.]

**WHEREAS** the Parties understand and acknowledge that in the context of their broader relationship certain confidential information may pass between them, and wish to ensure that this information is protected and is not disclosed except as permitted under this Agreement;

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained in this Agreement, the Parties agree as follows:

1. **Purpose and Definitions**
	1. The purpose of this Agreement is to define and regulate the use of Confidential Information belonging to either Party and which is shared with the other Party for the purpose of [insert purpose of provision of information] [in connection with [insert details of the project] (the "Project")- *delete if not applicable*].
	2. For the purpose of this Agreement:
2. “Disclosing Party” means the Party which has provided or otherwise disclosed Confidential Information to the other Party pursuant to this Agreement.
3. “Receiving Party” means the Party that has received or otherwise obtained Confidential Information from the other Party pursuant to this Agreement.
4. **Term**

This Agreement shall commence on the last date of signature below and will continue for a period of [insert number in words and figures] [months/years] (“Term”), unless terminated earlier in accordance with the provisions of this Agreement.

1. **Confidential Information**
	1. “Confidential Information” means all information concerning or provided by the Disclosing Party (written, oral or observed), known to the Receiving Party [by reason of the Project], which has not been made public by the Disclosing Party (“Confidential Information”).
	2. Confidential Information includes:
		1. any information relating to: (a) donors and potential donors; (b) personal profiles of beneficiaries; (c) information relating to the selection or non-selection of individuals as beneficiaries; (d) personal profiles of employees; (e) business and strategic plans; (f) finances; (g) audit reports; (h) research or marketing data; (i) a relationship with any governmental entity;
		2. intellectual property and proprietary rights owned by the Disclosing Party, including software, and which is provided by the Disclosing Party [for the purpose of [insert purpose] **OR** by reason of the Project]; or
		3. information specifically designated as confidential by the Disclosing Party or that the Receiving Party knows or reasonably should know is not generally known to the public.
	3. Confidential Information does not include:
		1. information that is generally known to the public or readily ascertainable from publicly available sources; or
		2. information that the Receiving Party can show was independently developed by employees, agents or consultants of the Receiving Party without any knowledge or use of the information disclosed by the Disclosing Party under this Agreement.
	4. Confidential Information as defined above will cease to be confidential, and therefore no longer covered by this Agreement, if, after the receipt thereof by the Receiving Party, it enters the public domain other than through a breach of this Agreement by the Receiving Party.
2. **Obligation of Confidentiality**
	1. The Receiving Party may receive Confidential Information of the Disclosing Party in accordance with this Agreement. The Receiving Party shall hold the Confidential Information in strict confidence and shall take all care and precautions with the Confidential Information that it takes with its own confidential materials. The Receiving Party shall not disclose the Confidential Information to any third-party or make use of such Confidential Information for its own purposes at any time without the Disclosing Party’s express prior written consent. Where the Disclosing Party provides prior written consent, disclosure may only occur in accordance with the terms of such consent.
	2. Except as expressly permitted in this Agreement, the Confidential Information will not be copied, reverse engineered or otherwise reproduced by the Receiving Party without the express written permission of the Disclosing Party.
	3. Notwithstanding Articles 4.1 and 4.2:
		1. During the Term the Receiving Party may disclose the Disclosing Party’s Confidential Information only to those of its directors, officers, employees, volunteers, agents, consultants and professional advisors who need to know the Confidential Information in order to [carry out the Project- *or insert other reason*], and will ensure that such directors, officers, employees, volunteers, agents, consultants and professional advisors agree to, and are bound by the same terms as are contained in this Agreement.
		2. Confidential Information may be disclosed to government authorities if the disclosure is required by law and the Receiving Party has provided prompt advance notice to the Disclosing Party and a reasonable opportunity to defend against such disclosure before disclosing the Confidential Information.
	4. Upon written request by the Disclosing Party, and in any event upon the termination or expiration of this Agreement, the Receiving Party shall cease using the Confidential Information and shall destroy or return such Confidential Information of the Disclosing Party in its possession, including copies, notes, extracts thereof, including any information or documents deriving there form, in whatever form, and in the case of destruction, shall certify to such destruction at the Disclosing Party’s request.
	5. This clause shall survive the termination of this Agreement.
3. **Data Protection**

5.1 For the purposes of this [Agreement], the following definitions shall apply.

(i) Personal Data: Any information relating to an identified or identifiable natural person.

(ii) Data Controller: The person or entity that determines the purposes and means of the processing of personal data.

1. Data Processor: The individual or entity that performs one or more processing operations on personal data under instructions from the Data Controller.
2. Personal Data Breach: Unauthorized access to, or destruction, loss, alteration or disclosure of personal data.
	* 1. The Parties shall treat personal data according to any applicable data protection laws and, where applicable, any internally binding policies (in particular, the IFRC’s Policy on the Protection of Personal Data (“IFRC Policy”)), procedures and guidelines.  However, minimally, the Parties shall ensure the following:
3. Personal Data may only be used for the purposes of fulfilling this [Agreement], and more generally according to instructions of the Party who is the Data Controller with respect to the Personal Data (acknowledging that one or both Parties may be a Data Controller);
4. Each Party shall implement sufficient physical, organizational and technical safeguards to prevent the unauthorized alteration or loss of, or access to the Personal Data;
5. [Partner] shall not undertake any onward transfer or sharing of the Personal Data to third parties without the Federation’s express agreement, and where a third party (including any government) has requested such data, the [Partner] agrees to promptly inform the Federation to allow it to assert any privileges and immunities;
6. The Data Processor shall not subcontract any part of the work involving the processing of Personal Data without the express consent of the Data Controller of the relevant Personal Data (unless otherwise required by any applicable law) and without ensuring appropriate protections are in place;
7. If the Data Processor experiences any security incident (Personal Data Breach) in relation to this [Agreement], it shall promptly provide the Data Controller with information on the nature of the incident, its likely consequences and the steps taken or proposed to be taken to address the incident;
8. The Data Processor agrees to provide reasonable assistance to the Data Controller in ensuring the Data Controller’s compliance with its data protection obligations. This commitment includes, but is not limited to maintaining a record of all Personal Data processing activities; and
9. The Data Processor shall return or destroy Personal Data and any copies thereof to the Data Controller once the project has completed, or at any time upon the Data Controller’s request;

5.3 [Partner] understands that the Federation shall be entitled to receive Personal Data related to the [Agreement] for the purposes of establishing or defending legal claims, complying with contractual or legal obligations, archiving and research, auditability and sound management, and/or other legitimate interests pursued by the Federation.

1. **Permitted uses**

**[insert details of what data will be shared, and how it may be used]**

1. **Disclosure of Information**

Nothing in this Agreement obliges either Party to disclose any particular data or information whether or not it is part of the Confidential Information.

1. **Ownership**

The Confidential Information, and all rights in and to the Confidential Information, which has been or shall be disclosed to the Receiving Party, shall remain the exclusive property of the Disclosing Party, and will be held in trust by the Receiving Party for the benefit of the Disclosing Party. No license under any patent and no copyright of the Disclosing Party, or any right respecting the Confidential Information other than expressly set out herein, is granted to the Receiving Party under this Agreement by implication or otherwise.

1. **Disclaimer**
	1. Confidential Information is provided "as is". The Disclosing Party does not make any representations or warranties in respect of the Confidential Information, and shall not be liable in respect of the accuracy or completeness of the Confidential Information provided to the other Party.
	2. The provision of Confidential Information to the Receiving Party in no way constitutes an inducement, or permits the Receiving Party, to infringe any rights of the Disclosing Party or any third parties, including rights to use the name, emblem or logo of either Party or a third party, rights to copyright or privacy rights.
2. **Use of Name, Emblem and Logo**

The Parties maintain sole authority over their respective names, emblems and logos in accordance with applicable international and national law and their respective rules and regulations. The Partner shall not make use of the Federation’s name, emblem or logo, without the Federation’s express written consent.

1. **Notices and Communication**

Any notice, request, demand, consent or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally or sent by telefax or by registered mail as follows:

If to the Federation, to:

**The International Federation of Red Cross and Red Crescent Societies**

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: ­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If to the Partner, to:

**The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: ­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Remedies**

In the event that a Receiving Party or its representatives does not comply with the obligations set forth in this Agreement, the Disclosing Party shall be entitled to exercise any and all legal remedies available to it, including, without limitation, the pursuit of a claim for all damages caused by such non-compliance. In the event that the Disclosing Party is successful in the exercise of its rights, the Receiving Party hereby agrees that it will pay all attorneys’ fees and other costs incurred by the Disclosing Party in connection with the exercise of such rights.

1. **Termination**
	1. Either Party as a Disclosing Party may terminate this Agreement, giving prior written notice of one month to the other Party.
	2. A Disclosing Party may immediately terminate this Agreement if a Receiving Party or its representatives breach any of the contractual obligations contained in this Agreement.
	3. The Federation may immediately terminate this Agreement if the Partner does anything which in the reasonable opinion of the Federation brings, or is reasonably likely to bring the Federation, its name or logo, or any component of the International Red Cross and Red Crescent Movement into dispute or disrepute in any way whatsoever.
2. **Indemnity**

Each Party shall indemnify, hold harmless and defend at its own expense the other Party, its directors, officers, agents, employees and volunteers from and against all suits, claims and demands in respect of any legal liability of any nature or kind, including costs and expenses arising out of acts or omissions of the first mentioned Party or its employees or volunteers in the performance of this Agreement.

1. **Governing Law**

This Agreement shall be governed by the laws of Switzerland.

1. **Dispute Resolution**

Subject to the rights of the Parties contained in Article 10 of this Agreement:

* 1. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, that is not amicably settled by the Parties within one (1) month shall be settled by arbitration to the exclusion of the jurisdiction of local courts.
	2. The arbitration shall be held in accordance with the United Nations Commission on International Trade Law (UNCITRAL) arbitration rules at present in force of which the Parties have taken due notice. The language of arbitration shall be English and the place of arbitration Geneva, Switzerland. The arbitral tribunal shall have no authority to award punitive damages. The arbitral award shall be binding and final. This clause however shall not preclude either Party from bringing an action in any court of competent jurisdiction for injunctive or other provisional relief in order to prevent imminent harm.
1. **Privileges and Immunities**

Nothing in or relating to this Agreement shall constitute or be deemed a waiver, express or implied, of any of the privileges and immunities enjoyed by the Federation.

1. **Assignment**

Neither this Agreement nor any right granted hereunder shall be assignable or otherwise transferable, except with the prior written consent of the Parties.

1. **Amendment**

No amendment or variation to this Agreement shall operate to change or vary the terms, obligations or conditions hereof except upon mutual written agreement of the Parties.

1. **Entire Agreement**

The Parties hereto acknowledge that this Agreement sets forth the entire agreement and understanding of the Parties hereto as to the subject matter hereof, and replaces and supersedes all prior discussions, agreements, oral or written, between the Parties with respect to the subject matter.

1. **Final Provisions**

19.1 Nothing in this Agreement shall be construed as establishing an agency, partnership, joint venture, or employment relationship between the Parties. No party has the authority to act on behalf of the other party, or to commit the other party in any manner at all or cause any other party's name to be used in any way not specifically authorized by this Agreement.

19.2 The Parties represent and warrant that none of their officials have been, or shall be, admitted by the Parties to any direct or indirect benefit arising from this Agreement or the award thereof. The Parties agree that breach of this provision is a breach of an essential term of this Agreement.

**In WITNESS WHEREOF**, the duly authorized representatives of the Parties have executed this Agreement to be effective as of the last date of signature below.

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| **The International Federation of Red Cross and Red Crescent Societies**Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **[Name of counterpart] ­­**Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |