

Agreement

This Agreement (the “Agreement”) is entered between the International Organization for Migration, IOM (“the Disclosing Party”), an Organization part of the United Nations system, 17 route des Morillons, CH-1211 Geneva 19, Switzerland, represented by Mohammed Abdiker, Director, Department of Operations and Emergencies and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Receiving Party”), represented by \_\_\_\_\_\_\_\_\_\_\_. The Disclosing Party and the Receiving Party are also referred to individually as a “Party” and collectively as the “Parties”.

## Purpose of the Agreement

* 1. In accordance with the terms of this Agreement, IOM agrees to provide the Receiving Party with access to selected data from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter “Confidential information”).
	2. The selected FM data are confidential and proprietary and include socio-demographic and mobility features of population on the move. They do not include personal data.
	3. The Receiving Party is willing to receive disclosure of the Confidential Information pursuant to the terms of this Agreement with the purpose of conducting a research on quantifying the effects of the last migration waves in Europe on different outcomes regarding attitudes towards migrants, risk aversion, and propensity to be an entrepreneur.
	4. The research will be conducted by the Receiving Party. Aim of this research \_\_\_\_\_\_\_\_.
	5. The following Annex forms an internal part of this Agreement:

Annex A: IOM Data Protection Principles

**2. Disclosing Party’s obligations**

2.1 The Disclosing Party shall:

1. Following coordination with the Receiving Party, select the Confidential Information (FM data) that it deems necessary and appropriate for the implementation of the research project. It is understood that IOM shall have the sole right to decide which FM data can be shared with the Receiving Party and that IOM shall retain full ownership of such data in accordance with Article 10.1;
2. Share with the Receiving Party the Confidential Information for the purpose of conducting the research described in Article 1.3.

**3. Receiving Party’s Obligations**

3.1 The Receiving Party shall only use the Confidential Information for the purposes for which it was disclosed and shall not disclose it to more than the staff involved in this agreement.

3.2 The Receiving Party shall:

1. Use the Confidential Information to develop \_\_\_\_\_\_\_\_\_.
2. Comply with the IOM Data Protection Principles in the reception, use, transfer, storage or destruction of any Confidential Information in performance of this confidentiality agreement, so far as they are applicable. Additionally, the Confidential Information can be utilized, modified, processed and mixed with other data sources, only if the conditions of confidentiality, level of aggregation, use, publication, and dissemination of the results are granted.
3. Use its best efforts to prevent and protect the Confidential Information, or any part thereof, from disclosure to any unauthorized person.
4. Upon the request of the Disclosing Party, the Receiving Party shall return or destroy all Confidential Information, including copies or other reproductions thereof. Where the request is to:
	1. Return the Confidential Information, the Receiving Party shall do so within five (5) days of the request.
	2. Destroy the Confidential Information, the Receiving Party shall do so within five (5) days of the request and provide IOM with a certificate as regards the completed destruction.
5. Provide IOM the draft brief of its ultimate results and the draft report and incorporate in them any IOM comments.
6. Clearly note in the acknowledgment section and where else appropriate that the research report or other project publications using the Confidential Information were compiled based on DTM data provided by IOM.
7. Provide any number of electronic copies of the report and the analytical brief as requested by IOM.
8. Maintain contact and give regular updates to IOM on the progress of the report or when requested by IOM and invite IOM to any final presentation of its findings.
9. Destroy the Confidential Information within 60 days following the final product of the project and send the Disclosing Party a Certificate of Destruction.

**4. Receiving Party’s Warranties**

4.1 The Receiving Party warrants that it shall comply with this Agreement, and shall perform its obligations under this Agreement in such a way as to ensure that Confidential Information is not disclosed in breach of this Agreement. In particular, the Receiving Party undertakes:

1. To use the Confidential Information it receives from IOM exclusively for the Purpose mentioned in this Agreement.
2. To implement reasonable and appropriate data security measures to preserve the integrity of the Confidential Information and reasonably prevent any corruption, loss, damage, unauthorized access and improper disclosure of the same.
3. To maintain strict standards of confidentiality and employ appropriate access control measures and ensure that all transmissions of Confidential Information are encrypted.
4. To take all reasonable steps to ensure that all its officers, directors or employees and especially the persons involved in the research described in Article 1 above abide by the obligations under this Agreement.
5. To prohibit any processing of the Confidential Information which is not in accordance with the terms of this Agreement or the mandate of IOM.
6. To immediately update, rectify and/or delete the Confidential Information upon instruction from IOM.
7. To inform IOM of any current or future internal regulations, national laws or regulations known by the Receiving Party to impact the Receiving Party’s ability to abide by IOM Data Protection Principles.
8. Not to further process, disclose, publish or transmit the Confidential Information to any third party, without the prior written permission of IOM.
9. To retain the Confidential Information only to the extent, and in such a manner, that is necessary to fulfil the specified purpose(s) of transfer.

**5. Charges and Payments**

There are no financial obligations between the Parties. Each Party shall be fully responsible for covering its own costs for facilitating the successful completion of the obligations outlined in this Agreement.

**6. Intellectual Property**

6.1 Ownership of the Confidential Information provided under this Agreement remains with IOM. The Receiving Party only has the right to use the Confidential Information in accordance with the terms of this Agreement. The Receiving Party has no right to sublicense any Confidential Information received by IOM.

6.2 The transference of the Confidential Information to the Receiving Party does not imply in any way the transference of any right over that information.

6.3 All intellectual property rights resulting from the project shall be vested in the Receiving Party. The Receiving Party grants IOM a permanent, irrevocable, non-exclusive, royalty-free, worldwide and transferable license to use, reproduce, publish, distribute, and communicate the results of the research as described in Article 1 of this Agreement for non-commercial purposes.

**7. Use of the Party’s Name and Logo**

The official logo and name of each Party may only be used by the other Party in connection with this Agreement and with the prior written approval of the relevant Party.

**8. Delays/Non-Performance**

If, for any reason, one Party does not carry out or is not able to carry out its obligations under this Agreement, it must give notice and full particulars in writing to the other Party as soon as possible.

**9. Confidentiality**

All information including personal information which comes into the Parties’ possession or knowledge in connection with this Agreement is to be treated as strictly confidential. No personal information shall be communicated to any third party without the prior written approval of the person concerned. The Parties shall comply with the IOM Data Protection Principles in the event that it collects, receives, uses, transfers or stores any personal data in the performance of this Agreement. The obligations under this Article shall survive the expiration or termination of this Agreement.

The Parties acknowledge and agree that any breach of confidentiality obligations under this Agreement is a substantive breach of the provisions of the Agreement.

The provisions of this Article shall survive the expiration or termination of this Agreement.

**10. Indemnification**

10.1 The Receiving Party shall at all times defend, indemnify, and hold harmless the Disclosing Party, its officers, employees, and agents from and against all losses, costs, damages and expenses (including legal fees and costs), claims, suits, proceedings, demands and liabilities of any kind or nature to the extent arising out of or resulting from the acts or omissions of its respective employees, officers, agents or subcontractors, in the performance of this Agreement. The Disclosing Party shall promptly notify the Receiving Party of any written claim, loss, or demand for which the first Party is responsible under this Article.

10.2 The provisions of this Article shall survive the expiration or termination of this Agreement.

**11. Breach of Agreement**

The Parties acknowledge and agree that any breach of confidentiality obligations under this Agreement will cause the Disclosing Party substantial and irreparable damage. If the Receiving Party makes or threatens such disclosure in violation this Agreement, the Disclosing Party shall be entitled to seek immediate injunctive relief or any other remedy available in law or in equity.

1. **Dispute resolution**
	1. Any dispute, controversy or claim arising out of or in relation to this Agreement, or the breach, termination or invalidity thereof, shall be settled amicably by negotiation between the Parties.
	2. In the event that the dispute, controversy or claim has not been resolved by negotiation within 3 (three) months of receipt of the notice from one party of the existence of such dispute, controversy or claim, either Party may request that the dispute, controversy or claim is resolved by conciliation by one conciliator in accordance with the UNCITRAL Conciliation Rules of 1980. Article 16 of the UNCITRAL Conciliation Rules does not apply.
	3. In the event that such conciliation is unsuccessful, either Party may submit the dispute, controversy or claim to arbitration no later than 3 (three) months following the date of termination of conciliation proceedings as per Article 15 of the UNCITRAL Conciliation Rules. The arbitration will be carried out in accordance with the 2010 UNCITRAL arbitration rules as adopted in 2013. The number of arbitrators shall be one and the language of arbitral proceedings shall be English, unless otherwise agreed by the Parties in writing. The arbitral tribunal shall have no authority to award punitive damages. The arbitral award will be final and binding. [[1]](#footnote-1)
	4. The present Agreement as well as the arbitration agreement above shall be governed by the terms of the present Agreement and supplemented by internationally accepted general principles of law for the issues not covered by the Agreement, to the exclusion of any single national system of law that would defer the Agreement to the laws of any given jurisdiction. Internationally accepted general principles of law shall be deemed to include the UNIDROIT Principles of International Commercial Contracts. Dispute resolution shall be pursued confidentially by both Parties. This Article survives the expiration or termination of the present Agreement.
2. **Assignment and Subcontracting**

13.1 The Receiving Party shall not assign the activities under this Agreement in part or whole, except with the prior written approval of the other Disclosing. Any such unauthorized assignment will not be binding and may be cause for termination of the Agreement.

13.2 The Receiving Party shall not subcontract to a service provider the activities under this Agreement in part or whole, except with the prior written approval of the Disclosing Party which may be given through electronic means. Such approval will not relieve the Receiving Party of any of its obligations under this Agreement. The terms of any subcontract will be subject to, and will be construed in a manner that is fully in accordance with, all of the terms and conditions of this Agreement. The Receiving Party will bear all costs for engaging any service provider. Any unauthorized subcontract may be cause for termination of the Agreement.

**14. Miscellaneous provisions**

14.1 Failure by either Party to insist in any one or more instances on a strict performance of any of the provisions of this Agreement shall not constitute a waiver or relinquishment of the right to enforce the provisions of this Agreement in future instances, but this right shall continue and remain in full force and effect.

14.2 If any part of this Agreement is found to be invalid or unenforceable, that part shall be severed from this Agreement and the remainder of the Agreement shall remain in full force.

14.3 This Agreement embodies the entire agreement between the Parties and supersedes all prior agreements and understandings, if any, relating to the subject matter of this Agreement.

14.4 Nothing in this Agreement shall be deemed a waiver, expressed or implied, of any of the privileges and immunities enjoyed by the Receiving Party as an intergovernmental organization.

1. **Entry Into Force, Amendments And Duration**

15.1 This Agreement shall enter into force on the date of its signature by the duly authorized representatives of the Parties.

15.2 This Agreement may be amended by mutual consent of the Parties. The proposed amendment should be made in writing to the other Party and shall enter into force upon its acceptance in writing by the Parties.

15.3 Either Party may terminate this Agreement at any time upon giving the other Party thirty (30) days’ written notice of such termination. Upon termination of this Agreement, the Receiving Party shall destroy within five working days all Confidential Information received by the Disclosing Party, including any copies or reproductions thereof, and shall send a confirmation by email of their destructions to the Disclosing Party, unless the Disclosing Party instructs the Receiving Party differently.

|  |  |
| --- | --- |
| **ENTITY**  | **INTERNATIONAL ORGANIZATION FOR MIGRATION** Mohammed AbdikerDirector Department of Operations and EmergenciesDate: |

1. UNCITRAL Arbitration Rules are available from [www.uncitral.org](http://www.uncitral.org/). [↑](#footnote-ref-1)