**TEMPLATE NDA FOR CONTRACTOR ACCESS TO GOVERNMENT DATA**

**(ONLY FOR USE WITH INSTITUTIONAL CONTRACTOR THAT HAS A SUPPLY CONTRACT WITH UNICEF)**

**Instructions**

**Scope:** This template is for a non-disclosure agreement (NDA) when UNICEF facilitates access to government data for an institutional contractor (supplier) that has an institutional supply contract with UNICEF. This NDA is a supplemental agreement to the institutional supply contract with the contractor and does not replace the UNICEF General Terms and Conditions. All UNICEF offices can use this new template. This NDA does not apply to primary data collection by a contractor. If you would like to adapt and use this template for other types of data sharing, please contact your Supply focal point, who will coordinate with and seek clearance from the Legal Office.

**Audience:** The UNICEF Project Manager (referred to as “you” in these instructions) who is coordinating the sharing of the data with the contractor is responsible for completing this template NDA in accordance with the instructions. The NDA needs to be cleared and signed by the same UNICEF staff that signed the underlying institutional supply contract with the contractor.

**Applicable Policies:** When completing this template, please continue to comply with all applicable UNICEF policies and clearance requirements. This template does not replace those policies, nor does it address all policy areas that may be relevant in a particular case.

**Legal Clearance:** This template is comprised of two sections which together are the legally binding NDA:

* Letter Agreement (i.e. the first part of this document)
* Annex - Access Details (i.e. the second part of this document)

You may modify the Annex without obtaining Legal Office clearance, but you cannot modify the Letter Agreement without Legal Office clearance. If you wish to make modifications to the Letter Agreement, please contact Supply staff in your office, who will coordinate with and seek clearance from the Legal Office.

**UNICEF Project Manager responsibilities:**

**Own it, PRACTICE it!** Remember, it is your responsibility to set this NDA up correctly and implement and monitor compliance. This is not just a form filling exercise.

* Be familiar with the agreement (and the reasons for UNICEF's positions) so you can make the contractor understand its obligations too.
* Don't leave it until the end to prepare this NDA. If you know you’re going to need to share government data with the contractor, deal with this at the same time as you establish the supply contract with the contractor.
* Make sure you write down the access details accurately.
* Take care and pay attention to all the instructions and details.
* Read it through - does it make sense? Would someone else be able to pick this up, understand it and implement it?
* Be sure to know **what data sets** or **components** **of data sets** are legitimately required by your contractor and **for what specific purpose**.
* Make sure you have **Government consent** to provide access to the Government Data **before you begin**.
* When dealing with **highly sensitive data**, including **personal data**, contact the **Data Help Desk** **before you begin**.
* **Comply with all applicable UNICEF policies** **and Government instructions** for data sharing.
* **Obtain all necessary clearances** – including legal clearance when required (see above).
* If you wish to include any additional legal terms (e.g. on intellectual property, termination etc.), these need to be discussed with, and cleared by, the Legal Office (see above).
* **Follow the instructions** set out in this document.
* **Ensure that the entire document is internally consistent** – between the Letter Agreement and the Annex. When you make modifications to the Annex, check that all elements of the Letter Agreement still make sense.
* **And remember: COMPLETE all fields and DELETE all instructions** before sharing the document with the contractor.
* **Guidance, questions and sharing best practice:** For any questions about how to use this template or for support in completing the template (including suggested Additional Security Measures for personal data and other highly sensitive data), please contact the **UNICEF Data Help Desk** [here](https://unicef.service-now.com/cc/?id=sc_cat_item&sys_id=850401e3db957300421ce2a94b9619f7&sysparm_category=99c51053db0a6f40f65a2aea4b9619af) or via email at *dataforchildren@unicef.org*.

[UNICEF HEADQUARTERS / COUNTRY OFFICE LETTERHEAD]

[Date]

[CONTRACTOR FULL LEGAL NAME]

[CONTRACTOR ADDRESS]

**Contract: [\_\_\_\_\_\_\_\_\_\_]; no [\_\_\_\_\_]**

**Access to Data - Confidentiality Obligations**

Dear [\_\_\_\_\_\_\_\_\_\_\_]

In order to facilitate the provision of the services to the United Nations Children’s Fund (“UNICEF”) by your organization, [CONTRACTOR FULL LEGAL NAME] (“[Contractor]” or “you”), under the contract identified in the Annex to this letter (the “Contract”), you have requested to have access to and to use certain non-public, proprietary data specified in the Annex (collectively, “Government Data”) belonging to the government identified in the Annex (the “Host Government”).

This letter is to confirm that UNICEF is willing to accept your request and facilitate your access to, and permission to use, the Government Data on the conditions set out below in this letter. All capitalized terms used but not defined in this letter have the meaning assigned to them in the Annex to this letter or in the Contract. The terms contained in this letter are in addition to, and not in replacement of, the terms of the Contract. This letter and the Contract will be construed and interpreted as complementary of one another.

1. Government Ownership. You accept and acknowledge that the Government Data is proprietary to the Host Government and that you will not claim any ownership or any other rights in the Government Data.
2. Confidential Information. For the purposes of the Contract, the Government Data is deemed to be UNICEF’s Confidential Information (as defined in the Contract) and all of the provisions of Article 5 of the UNICEF General Terms and Conditions of Contract (Services) in the Contract apply to your access and use of the Government Data. You will take the Additional Security Measures described in the Annex to this letter.
3. Access. Your access and use is limited to the Government Data and no other data is being made available to you under this letter. UNICEF will make this Government Data available to you through the Access Modality described in the Annex to this letter. To the extent that such access is provided through access credentials (such as password protected means), you agree to treat all such access credentials as Confidential Information and to take all reasonable precautions to prevent unauthorized or accidental disclosure of such access credentials. You will not share such access credentials with any person except your Authorized Users.
4. Permitted Purpose Only. You will only use the Government Data for the Permitted Purpose specified in the Annex to this letter and no other purpose. You will notuse the Government Data, and you will ensure that your Authorized Users do not use the Government Data, for any other purposes, including (but not limited to) developing analyses, publications, product or service offerings to third parties, without the express prior written consent of the Government and UNICEF.
5. Authorized Users. Access to the Government Data under this letter is limited to only your Personnel that are listed as an Authorized User in the Annex. You will be responsible for the compliance by your Authorized Users with the conditions on access set out in this letter. If you wish to amend the list of Authorized Users, you must obtain UNICEF’s prior written consent before doing so and UNICEF will update the Annex to this letter and share the updated Annex with you for confirmation.
6. No Sub-license. The permission granted under this letter is limited to your organization only and does not extend to your Sub-Contractors or Affiliates. You may not assign or sub-license the permission granted to you under this letter. If you wish to share any Government Data with any Sub-Contractor or Affiliates, you need to obtain the prior written approval and clearance from UNICEF. Only those of your Sub-Contractors or Affiliates that sign a separate non-disclosure agreement with UNICEF can receive access to the Government Data.
7. Compelled Disclosure. In accordance with Article 5.3 of the UNICEF General Terms and Conditions of Contract (Services), if you receive a request for disclosure of Government Data under any judicial or law enforcement process, before you make the requested disclosure, you will give UNICEF sufficient notice of the request in order to allow UNICEF to have a reasonable opportunity to take protective measures or take such other action as may be appropriate and will notify the relevant authority of this.
8. Data Protection Standards. In accordance with Article 5.6 of the UNICEF General Terms and Conditions of Contract (Services), you confirm that you have a data protection policy in place that meets all applicable data protection standards and legal requirements and that you will apply such policy in the storage, use, processing, retention and destruction of the Government Data.
9. Segregation of Data. In accordance with Article 5.7 of the UNICEF General Terms and Conditions of Contract (Services), you will use reasonable efforts to ensure the logical segregation of the Government Data from other information to the fullest extent possible. You will also use safeguards and controls (such as administrative, technical, physical, procedural and security infrastructures, facilities, tools, technologies, practices and other protective measures) that are necessary and sufficient to meet your confidentiality obligations as they apply to the Government Data.
10. Security Incident. In accordance with Article 5.9 of the UNICEF General Terms and Conditions of Contract (Services), you will immediately notify UNICEF if there is any actual, suspected or threatened unauthorized or accidental disclosure of the Government Data or other Security Incident affecting the Government Data and you will implement any all necessary damage mitigation and remedial actions.
11. Access Period; Termination. The access and permission given to you under this letter is limited to the Access Period. UNICEF may, but is not obliged to, agree to extend the Access Period upon your request. If you or any of your Authorized Users breaches any of the conditions set out in this letter, UNICEF may terminate your access to the Government Data and withdraw its permission for you to use the Government Data with immediate effect. UNICEF may also terminate the Contract in accordance with Article 6.2(b) of the UNICEF General Terms and Conditions of Contract (Services).
12. Return / Destruction of Data. When the Access Period ends, unless otherwise agreed with UNICEF and the Host Government, you will return to UNICEF all the Government Data, or, at UNICEF’s option, destroy all copies of the Government Data held by any Authorized Users and confirm such destruction to UNICEF in writing.
13. Survival of Obligations. Your obligations under this letter will survive the expiry of the Access Period or termination of the access and permission granted under this letter.

Nothing in or related to this letter will be treated as a waiver of the privileges and immunities of the United Nations and its subsidiary organs, including UNICEF.

Please confirm your agreement with the conditions set out in this letter, on behalf of your organization, by signing, dating, and returning to us the enclosed copy of this letter. As soon as we receive the copy of this letter countersigned by you, we will facilitate the access to the Government Data described in this letter and your Access Period will begin.

We look forward to working with you for the fulfillment of the Contract.

Yours sincerely,

[\_\_\_\_\_\_\_\_]

[Name]

[Title]

**CONFIRMED AND AGREED ON BEHALF OF [*FULL LEGAL* *NAME OF CONTRACTOR*]:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

**Annex**

**Access Details**

[**IMPORTANT Instructions**: If UNICEF is providing access to Government Data directly, make sure you have the approval by the Government to do so and that this Annex is consistent with the terms and conditions of that approval. If the access is being provided by a government official, make sure that the relevant government ministry official – at the appropriate level of authority - has reviewed and approved this Annex. Make sure you keep a copy of that authority and/or approval on file.]

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| --- | --- |
| **Contractor** | [FULL LEGAL NAME][ADDRESS] |
| **Contract** | Contract between UNICEF and the Contractor dated [\_\_\_] with contract no [\_\_\_\_\_] |
| **Host Government** | The Government of [*country*], through the Ministry of [\_\_\_\_\_\_\_\_\_\_]. |
| **Contractor Data Project Manager** | [Instructions: This person will be the central coordinator and contact person for dealing with UNICEF under this Agreement.]  [NAME], [TITLE]; (email: [\_\_\_\_\_\_]; telephone: [\_\_\_\_\_\_]) |
| **Contractor Data Protection Policy** | [Instructions: Include the title of the Contractor’s data protection policy (as per Contractor’s confirmation under point 8 in the letter above). If the Contractor does not have a data protection policy, please contact the **UNICEF Data Help Desk** for guidance.]  [TITLE OF POLICY]; a copy of which [can be found at [*include WEB LINK*][is available upon request]. |
| **Government Data** | [Instructions: Include a detailed description of each data set or components of data sets (e.g., format of data content, government department, time period, geographic range, services etc.) In some cases, it may be appropriate to share only a subset of the data set (i.e., with some variables removed) if not all the data is needed. Only share the data that the Contractor actually needs to provide the deliverables under the Contract.]  The following data sets:   1. [description], [format of data content], [government department], [time period of data set], [geographic range], [government services] 2. [\_\_\_\_\_\_\_] 3. [\_\_\_\_\_\_\_] 4. [\_\_\_\_\_\_\_] |
| **Permitted Purpose** | [Instructions: Describe the specific purpose for which access to the Government Data has been approved by the Government. Be as specific and detailed as possible about the permitted purpose to avoid any misunderstandings. This is very important. For support in defining the Permitted Purpose, please **contact** the **UNICEF Data Help Desk**.]  The Data Sets can only be used for the following purpose:  [\_\_\_\_\_\_\_\_\_\_\_\_\_\_] |
| **Access Period** | From [*dd/mm/yr*]to[*dd/mm/yr*] |
| **Access Modality** | [Instructions: Describe the technical/operational means of access. If access is being granted to a government system or components of government information systems, there may be additional considerations to be reflected in this Annex. Important, do not share UNICEF’s access credentials with the Contractor, instead ask the appropriate government official to provide the Contractor with its own access credentials.]  [e.g. 1, UNICEF will arrange for the Data Sets to be sent to Contractor Data Project Manager in two separate emails:   * an exported file, with password protected encryption; and * the authentication details.]   [e.g. 2, The Data Sets will be accessible via a password protected link sent to the Contractor Data Project Manager.] |
| **Authorized Users** | [Instructions: Only Contractor’s personnel can be listed here. See points 5-6 in the letter above. If the Contractor wants to share the data with its subcontractors or affiliates, please contact the UNICEF Data Help Desk for advice.]   1. [*Name and Title*]; [*contact details*] 2. [*Name and Title*]; [*contact details*] 3. [*Name and Title*]; [*contact details*] 4. [*Name and Title*]; [*contact details*] |
| **Additional Security Measures** | [Instructions: Include here any specific precautions you would like the Contractor to take in the relevant context. Examples:  - separated storage/ server;  - central storage location vs emailing shared copies;  - documented plan/ response in case of data breaches; etc.  Remember some data is particularly sensitive. Particular attention should be given to data access and security measures when dealing with personally identifiable data, data on vulnerable groups, biometric data, artificial intelligence (AI) data or new or novel approaches to data collections, analysis or use. **We strongly encourage you to reach out early to discuss your plans with the UNICEF Data Help Desk**, and to ensure that you have received the appropriate research ethics approval and addressed the necessary data security measures required by your office and/or the Host Government.]  [\_\_\_\_\_\_\_\_\_\_\_\_] |
| **Instructions for Return or Destruction of Government Data** | [Instructions: If the Contractor insists on retention for archival purposes, discuss with the Government and include agreed position here*.* The Government must agree to any retention. If the Contractor was provided access credentials for a government system, make sure that the permission authorities are changed so the Contractor will no longer have access after the end of the Access Period.].  [e.g. The Department of [ ] in the Host Government agreed to the retention by the Contractor of [one copy] of each of the following data sets for [ ] years for archival purposes only:   1. [description], [format of data content], [government department], [time period of data set], [geographic range], [government services] 2. [\_\_\_\_\_\_\_] |