

AGREEMENT

BETWEEN

VODAFONE FOUNDATION

AND

GHANA TELECOMMUNICATIONS COMPANY LIMITED

(Trading as VODAFONE GHANA)

AND

GHANA STATISTICAL SERVICE

AND

STIFTELSEN FLOWMINDER (FLOWMINDER FOUNDATION)

This Agreement is made on the of 2018

Between:

1. **Vodafone Foundation ("Vodafone Foundation")** Vodafone House, The Connection, Newbury, Berkshire, RG14 2FN, England of the first part;
2. **Ghana Telecommunications Company Limited ("Vodafone Ghana")** a telecommunications company whose registered address is at Telecom House, Nsawam Road, Accra of the second part;
3. **Ghana Statistical Service ("GSS")** whose address is P. O. Box GP 1098, Finance Drive, Ministries, Accra, of the third part; and
4. **Stiftelsen Flowminder (Flowminder Foundation) ("Flowminder")**, a non-profit organisation whose registered address is at Roslagsgatan 17, SE-11355, Stockholm, Sweden of the fourth part.

Together the '**Parties**' and individually the '**Party**'.

WHEREAS

- A. The Parties have agreed to work together to build a sustainable framework for integrating mobile network data analysis for national statistical support in Ghana (the "**Project**").
- B. Vodafone Ghana is a telecommunications company based in Ghana which has agreed to provide Vodafone Ghana Customer Data Records (CDR) to support GSS in provisioning of statistical data in accordance with this Agreement.
- C. The GSS is the government agency responsible for the provision of statistical information in Ghana.
- D. Flowminder is a non-profit organisation composed of academics from the development, public health and humanitarian sectors who will analyse Vodafone Ghana's CDR data for the purposes set out in clause 1.1 below.
- E. The Project is being funded by two organisations Flora Hewlett Foundation ("**FHF**") and Vodafone Foundation. FHF is not party to this Agreement.
- F. This Agreement sets out the terms and conditions under which the Parties have agreed to collaborate on the Project.

1. Project Aim:

- 1.1 The Project aims to (i) use aggregated and anonymised CDR data in combination with other data sources in the production of statistics in support of sectors such as public health, humanitarian and development planning; and (ii) to help GSS create a sustainable organisational and technical framework that enables GSS to make use of aggregates from Vodafone Ghana's CDR data.

2. Project Framework

- 2.1.1 The scope of the Project is as set out in Appendix 1.

3. Obligations

3.1 All Parties Obligations: For the Duration of this Agreement, the Parties agree to:

- 3.1.1 collaborate under the terms of this Agreement;
- 3.1.2 comply and carry out necessary activities detailed in the scope of the Project as set out in Appendix 1;
- 3.1.3 comply with the privacy provisions detailed in clause 4 and Minimum Security Requirements detailed in Appendix 3 of this Agreement; and
- 3.1.4 comply with the applicable laws relating to their obligations under this Agreement.

3.2 Vodafone Foundation

- 3.2.1 Vodafone Foundation's responsibility under this Agreement is to make payments to Flowminder in accordance with the governance of clause 5 and the cost of funding table detailed in clause 9 of this Agreement.

3.3 Vodafone Ghana

- 3.3.1 Subject to Flowminder and GSS complying with the privacy and security provisions of clause 4 of this Agreement, Vodafone Ghana agrees to provide Flowminder and GSS access to de-identified CDRs and top-up data, including but not limited to cell tower IDs, cell tower locations, de-identified caller IDs, MSISDNs, IMEIs, event timestamps, and call durations and as further described in the Data Processing Agreements in Appendix 2A and 2B (the "**Vodafone Data**").

3.4 GSS

- 3.4.1 The GSS shall use the Vodafone Data only for the production of national statistics for the purposes of measuring migration and Sustainable Development Goal indicators as detailed in Appendix 1.

3.5 Flowminder and GSS

- 3.5.1 Flowminder and GSS agree to set up a secure processing pipeline for analysis of Vodafone Data and use this data to identify socio-demographic and health issues; and comply with the Privacy and Security obligations detailed in this Agreement.

4. Data protection

- 4.1 For the purposes of the clauses related to Data Protection, "Processing" shall mean an operation or activity or set of operations by automatic or other means that concerns data or personal data and the collection, organisation, adaptation or alteration or alteration of the information or data, retrieval, consultation or use of the information or data, disclosure of the information or data by transmission, dissemination or other means available, or alignment, combination or blocking, erasure or destruction of the information or data;

4.2 Flowminder and GSS warrant and undertake that at all times:

- 4.2.1 they shall only Process such Vodafone Data, any materials or documentation that may be provided by Vodafone Ghana to Flowminder and GSS in connection with the Vodafone Data ("Documentation") or any results, data-driven insights, feedback and any other output arising from any Processing of the Vodafone Data or Documentation ("Results") for the Purpose outlined in the agreed Data Processing Agreement in Appendix 2, in accordance with this Agreement and as may subsequently be agreed by the Parties in writing and, in so doing, shall act solely on the instructions of Vodafone Ghana. In particular, Flowminder and GSS shall not themselves exercise control, nor shall it transfer, or purport to transfer, control of such Vodafone Data to a third party, except as it may be specifically instructed to do so by Vodafone Ghana or as may be expressly permitted by Vodafone Ghana in writing;
 - 4.2.2 they shall Process Vodafone Data only and shall not attempt to extract, copy, migrate or otherwise transfer Vodafone Data (for the avoidance of doubt this excludes the Results of any analytics (for example epidemiological models) under this Agreement, provided such Results are strictly anonymous and aggregate and are treated as confidential information of Vodafone Ghana) as detailed in Appendix 4;
 - 4.2.3 they shall not Process, apply or use the Vodafone Data, Documentation or Results other than for the Purpose, and, in no circumstances, for any commercial, illegal or fraudulent purposes; and
 - 4.2.4 they maintain and shall continue to maintain appropriate and sufficient technical and organisational security measures to protect such Vodafone Data, Documentation and Results against accidental or unlawful destruction or accidental loss, damage, alteration, unauthorised disclosure or access, in compliance with Appendix 3 of this Agreement which sets out the Minimum Legal Security Requirements around Flowminder and GSS's access to and use Vodafone Data and against all other unlawful forms of Processing.
- 4.3 Flowminder and GSS shall notify Vodafone Ghana in the most expedient time possible under the circumstances and without unreasonable delay of any accidental, unauthorized, or unlawful destruction, loss, alteration, or disclosure of, or access to, Vodafone Data, Documentation or Results, real or threatened ("**Security Breach**"). Flowminder and GSS shall also provide Vodafone Ghana with a detailed description of the Security Breach, the type of data that was the subject of the Security Breach and the identity of each affected person as soon as such information can be collected or otherwise becomes available, as well as any other information Vodafone Ghana may reasonably request relating to the Security Breach. Flowminder and GSS agree to take action immediately to investigate the Security Breach and to identify, prevent and make reasonable efforts to mitigate the effects of any such Security Breach in accordance with its obligations under Clause 4.12 and, with Vodafone Ghana's prior agreement, to carry out any recovery or other action necessary to remedy the Security Breach. Flowminder and GSS will not release or publish any filing, communication, notice, press

release, or report concerning any Security Breach in respect of Vodafone Data ("**Notices**") without Vodafone Ghana's prior approval. Where the Security Breach results from a breach of Clause 4.1 by Flowminder and GSS, the actions and steps described in this Clause 4.33 shall, without prejudice to Vodafone Ghana's right to seek any legal remedy as a result of the breach, be undertaken at the expense of Flowminder or GSS, and Flowminder or GSS shall pay for or reimburse Vodafone Ghana for all costs, losses and expenses relating to the cost of preparing and publishing Notices.

- 4.4 Flowminder and GSS shall, unless prohibited by law or regulation, inform Vodafone Ghana promptly, and in any event within five (5) business days, of any inquiry, communication, request or complaint received from (i) any Governmental, regulatory or supervisory authority, including but not limited to Privacy Authorities or the U.S. Federal Trade Commission; or (ii) any data subject, relating the Purpose, any Vodafone Data, Documentation or Results or any obligations under Applicable Law, and will furnish all reasonable assistance to Vodafone Ghana to enable Vodafone Ghana to respond to such inquiries, communications, requests or complaints and to meet applicable statutory or regulatory deadlines.
- 4.5 Vodafone Ghana shall have no liability to Flowminder and or GSS (including, but not limited to, losses, liabilities, costs (including legal costs), charges (including bank charges), expenses (including taxation), actions, proceedings, claims and demands, fines and damages, and/or interest payments) in the event of any failure to provide access to any Vodafone Data or Documentation to Flowminder and or GSS, or to provide access to any Vodafone Data or Documentation in any volume and/or on any date agreed.
- 4.6 Without prejudice to any other right or remedy of Vodafone Ghana, Flowminder and GSS's Processing of Vodafone Data or Documentation may be immediately suspended if Vodafone Ghana reasonably considers it necessary to investigate any matters related to such Processing or if such Processing becomes unlawful or might otherwise bring Vodafone Ghana or any Vodafone group affiliate into disrepute or damages their reputation or goodwill.
- 4.7 Vodafone Ghana shall be entitled to require Flowminder and GSS to confirm at any time that it is compliant with this Agreement, including by answering any specific questions that Vodafone Ghana may have in respect of Flowminder and GSS's Processing of the Vodafone Data, Documentation or Results or Flowminder and GSS's use of the Vodafone Data, together with any available supporting evidence (which shall be confidential information). Flowminder and GSS shall provide any such confirmation of compliance, evidence and answers accurately and without undue delay. Vodafone Ghana shall be entitled to suspend Flowminder and GSS's Processing of Vodafone Data and Documentation during any such process and/or thereafter if Vodafone Ghana is not reasonably satisfied with Flowminder and GSS's response(s).

5 Governance

- 5.1 The Parties will convene a monthly management call with representatives from each Party to provide ongoing oversight of progress across the Project

including but not limited to reviewing the progress against milestones and Vodafone Foundation approving forthcoming financial disbursements and payments.

- 5.1 The Parties agree to provide Vodafone Foundation with monthly update and detailed programmatic and budgetary quarterly reports ahead of such meetings.

6 Term and Commencement

6.1 This Agreement shall come into effect upon execution by all Parties ("Effective Date") and shall continue in full force and effect for a period of three (3) years from the Effective Date ("Term") unless terminated in accordance with the provisions of Clause 7 (Termination)

6.1 If any Party wishes to renew this Agreement for another three (3) years, it shall give to the other Parties one (1) months' notice in writing of its intention prior to the expiration of the Term.

6.2 Each Data Processing Agreement shall commence on the effective date agreed in writing by the Parties for such Data Processing Agreement and shall continue in full force and effect until either Party gives written notice to the other Party of the termination of such Data Processing Agreement.

6.3 Upon termination of this Agreement:

- 6.3.1 each Party shall, within two (2) working days return or delete all confidential information of the other Party, unless retention is expressly permitted by the other Party or, in relation to any Vodafone Data, Documentation or Results, unless Vodafone Ghana approved its publication in accordance with clause 11;
- 6.3.2 all rights and authorisations granted by one Party to the other Party under this Agreement shall cease immediately;
- 6.3.3 any accrued rights of the Parties as at the date of such termination shall not be affected by termination, and termination shall not bring to an end any provision of the Agreement which expressly or impliedly comes into force or continues in force on such termination.

7 Termination

7.1 Any Party may terminate this Agreement immediately if:

7.1.1 A Party becomes insolvent; or

7.1.2 A Party commits a material breach of the Agreement and (in the case of a remediable breach) fails to remedy the breach after receiving 30 days' written notice to do so from any Party.

7.2 Any Party may terminate this Agreement upon giving the other Parties Thirty (30) days written notice.

7.3

[Redacted Financial Details]

7.3.1

[Redacted Financial Details]

8 Intellectual Property Rights

8.1 Each Party shall retain ownership of its own Intellectual Property (IP) prior to entering into this Agreement along with any background IP. Nothing in this Agreement shall amount to an assignment or transfer of any Intellectual Property Rights (IPR) owned by any Party prior to entering into this Agreement. Any and all IPR in the Vodafone Data and Documentation, shall remain with Vodafone Ghana. Except for Flowminder's and GSS's right to process the Vodafone Data and Documentation, as expressly granted in this Agreement, Flowminder and GSS shall not acquire any title, rights of ownership, or IPR of whatever nature in the Vodafone Data and Documentation or in any copies of it.

8.2 Flowminder and GSS shall own any foreground IPR in the Results including but not limited to arising from or in connection with the Results. However, Flowminder and GSS's use of such Results will be subject to Vodafone Ghana's prior approval in accordance with the obligations and requirements in clause 12.

8.3 In addition, Flowminder and GSS hereby grant to Vodafone Ghana a non-exclusive, perpetual, royalty free and unlimited licence in the foreground IPR in clause 8.2 for any purpose.

8.4 Vodafone agrees not to assert the IPR identified in 8.2 against publications approved by Vodafone in accordance with clause 12.

8.5 Flowminder and GSS shall notify Vodafone Ghana if its use of open source software may affect Vodafone Ghana's ownership of the Vodafone Data or Results or IPR in the Vodafone Data or Results (e.g. if the Vodafone Data or Results become subject to any open source software licences, or if the Vodafone Data or Results cease to be confidential)

8.6 Code, reports, articles, statistics and models that Flowminder or GSS develop under this Agreement will be released by Flowminder and/or GSS under an open source license of Flowminder's and GSS' choosing, except any code or information considered by any of the Parties as commercially sensitive and therefore confidential.

9 Cost of Funding

9.1

[Redacted Financial Details]

[Redacted Financial Details]

9.2

[Redacted Financial Details]

- 9.3 Except as otherwise stated in this Agreement, each party shall pay its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect and performance of this Agreement.

10 Liability

- 10.1 Flowminder and/or GSS shall, to the extent permitted by law, indemnify Vodafone Ghana and Vodafone Foundation (the "**Indemnified Party**") and keep the Indemnified Party fully and effectively indemnified against all Losses incurred or suffered by the Indemnified Party for:
- 10.1.1 any Processing of the Vodafone Data, Documentation and/or Results in violation of this Agreement, and/or
- 10.1.2 any claim brought against the Indemnified Party for any actual or alleged infringement of a third party's intellectual property rights arising out of any publications made by, or on behalf of, Flowminder and/GSS containing any Vodafone Data, Documentation or Results.
- 10.2 Except in respect of clause 10.1 above, nothing in this Agreement shall exclude or limit the liability of a Party:
- 10.2.1 for death or personal injury caused by a Party's negligence;
- 10.2.2 for fraudulent misrepresentation or fraud; and
- 10.2.3 for breach of confidentiality.
- 10.3 Exclusions: Subject to clause 10.2 no Party shall have any liability under this Agreement for any losses suffered by any other Party whether such losses constitute direct or indirect loss even if such losses or the possibility of liability being incurred was advised in advance for: (i) loss of profits; (ii) loss of opportunity; (iii) loss of business; (iv) depletion of goodwill or similar losses; (v) loss of anticipated savings; (vi) loss of goods; (vii) loss of contract; (viii) loss of opportunity; (ix) pre-contract expenditure;

and/or (x) for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

10.4 Subject to clauses 10.2 and without prejudice to clause 10.3 (exclusions) the Parties agree for the Term of the Agreement:

10.4.1 Vodafone Foundation's total liability under or connection with this Agreement to the other Parties in aggregate shall be limited [REDACTED]

10.4.2 Vodafone Ghana's total liability under or in connection with this Agreement to the other Parties in aggregate shall be limited to the total of [REDACTED] percent) of Funding;

10.4.3 GSS total liability under or in connection with this Agreement to each of the other Parties shall be limited to the amount of [REDACTED] of the total Funding; and

10.4.4 Flowminder total liability under or in connection with this Agreement to each of the other Parties shall be limited to [REDACTED] percent) of the total Funding.

11. Confidentiality and Press Releases

11.1 This Agreement and any information in or about this Agreement that is not publicly available is confidential. Such confidential information may be disclosed by a Party to their employees only, strictly on a need-to-know basis, unless otherwise agreed in writing between the Parties.

11.2 Any form of publication by a Party such as but not limited to academic publications and press releases connected with the co-operation is not permitted without the prior written consent of the other Parties.

11.3 Clause 11.1 does not apply to information that:

11.3.1 is obtained from a source other than one of the Parties and such source did not require the Parties to hold such secrets or information in confidence and did not limit or restrict such Parties' use thereof;

11.3.2 becomes public knowledge other than through the fault of any of the Parties;

11.3.3 is required to be disclosed by any competent legal or regulatory authority; or

11.3.4 is permitted to be used or disclosed pursuant to the terms of a separate agreement between the Parties in which case such use or disclosure shall be governed by the terms of the relevant agreement.

12. Publication of Research Results

12.1 Vodafone Ghana shall have the right to and approve all documents and datasets based on disclosed Data from Vodafone Ghana that Flowminder and GSS plan to publish, prior to such publication, and to require removal or changes to any parts

of the planned publications that constitute Vodafone Ghana confidential information.

- 12.2 Every publication and documentation based on the Project shall make reference and/or acknowledge all the Parties in the collaboration.
- 12.3 Flowminder and GSS shall provide such documents to Vodafone Ghana no later than 30 days prior to the anticipated date of publication, and Vodafone Ghana shall have fifteen (15) days to review such documents.

13. Notices

Any notice, request or consent required or permitted to be given or made pursuant to this Agreement shall be in writing. Any such notice or request shall be deemed to have been given or made when delivered by a Party to the recipient Party or Parties at the addresses detailed below. Any notice shall be deemed to have been duly received (i) if delivered personally, when left at the address and for the contact referred to in this clause; (ii) if sent by recorded delivery, at 9.00 am on the fifth business day after posting; (iii) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or (iv) if sent by fax, upon receipt of successful transmission during any business day.

For Vodafone Foundation

Title:
Name:

Address:

Telephone No:
Email:

For Ghana Telecommunications Company Limited

Title:
Name:

Address:

Telephone No:
Email:

For Ghana Statistical Service

Title:
Name:

Address:

Telephone No:

For Flowminder Foundation

Email: [REDACTED]

Title: [REDACTED]

Name: [REDACTED]

Address: [REDACTED]

Email: [REDACTED]

14. Assignment

No Party shall assign, transfer, novate or otherwise dispose of or deal with this Agreement or any part of it without the previous consent in writing of the other Parties.

15. Rights of third parties

This Agreement is made solely and specifically between and for the benefit of the Parties and is not intended to be for the benefit of and shall not be enforceable by any person who is not named at the date of this Agreement as a party to it.

16. Severability

If any provision in this Agreement is determined to be illegal or unenforceable by any court of competent jurisdiction such provision shall be deemed to have been deleted without affecting the remaining provisions of this Agreement.

17. No Partnership/Agency

Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the Parties, or to authorize a Party to act as agent for any other, and the Parties shall not have authority to act in the name or on behalf of or otherwise to bind the others in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

18. Variations and Amendments

Any variations or amendments to this Agreement shall be agreed upon by the Parties in writing.

19. Counterparts

This Agreement may be signed in any number of counterparts, each of which, when signed, shall be an original and all of which together evidence the same agreement. For the purposes of completion, faxed or scanned signatures by the Parties' legal advisers shall be binding. Any Party who provides a faxed or scanned signed counterpart to the other Parties on completion agrees to provide original, signed counterparts to the other Parties.

20. Entire Agreement

This Agreement supersedes any previous agreement between the Parties and represents the entire agreement between the Parties in relation thereto. Each Party acknowledges that it has not entered into this Agreement in reliance wholly or partly on any representation or warranty made by or on behalf of any other Party (whether orally or in writing) other than as expressly set out in this Agreement and waives all rights and remedies which might otherwise be available to it, except nothing in this Agreement shall limit or exclude any liability of a Party for fraud.

21. Dispute Resolution and Governing Law

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of Ghana. Any dispute arising from or in connection with this Agreement shall be settled amicably. In the event that the Parties fail to settle amicably, a Party may opt for arbitration. The arbitration shall be done in accordance with the Alternative Dispute Resolution Act, 2010 (Act 798) or any statutory modification or re-enactment thereof for the time being in force. The place of arbitration shall be Accra, Ghana. The language of arbitration shall be English. Where any Party wishes to commence court proceedings, each Party irrevocably submits to the exclusive jurisdiction of the courts of Ghana over any claim or matter arising under or in connection with this Agreement.

For the avoidance of doubt, the Parties hereto agree that all activities undertaken in this Agreement shall be in accordance with the Data Protection Act, 2012 (Act 843) and the General Data Protection Regulation (EU) 2016/679.

IN WITNESS WHEREOF the Parties hereto have hereunto set their hands on the day and year first above written.

Signed by.......... Witnessed by.....

for and on behalf of **Vodafone Foundation**

Name: 

Name: 

Position: 

Position: 

Name: 

Date: 

Position: 

Signed by.......... Witnessed by

for and on behalf of **Ghana
Telecommunications Company Limited**

Name: 

Name: 

Position: 

Position: [Redacted]

Date: [Redacted]

Signed by: [Redacted].....

for and on behalf of **Ghana Statistical Service**

Name: [Redacted]

Position: [Redacted]

Date: [Redacted]

Signed by: [Redacted].....

for and on behalf of **Flowminder Foundation**

Name: [Redacted]

Position: [Redacted]

Date: [Redacted]

Witnessed by: [Redacted].....

Name: [Redacted]

Position: [Redacted]

Witnessed by: [Redacted].....

Name: [Redacted]

Position: [Redacted]

APPENDIX 1

Vodafone Ghana-GSS-Flowminder Project: Overview of Data Flow and Analysis