

CLICK-THROUGH TERMS OF USE AGREEMENT FOR USE OF UNRESTRICTED RESOURCE FROM IMPACT

REQUESTOR INFORMATION

[User:FullName]

[User:OfficePhone]

[User:CellPhone]

[User:Email]

[User:Address]

[Org:Name]

Researcher hereby confirms that the foregoing account information is correct and agrees to notify the ICC if the foregoing contact information changes.

If any of the foregoing account information has changed, do not proceed; edit your account information or establish a new account and reapply to use the Resource.

NOTICE: This Click-Through Agreement (the "Agreement") is only applicable to a Resource in the Unrestricted Use Resource Class in the IMPACT portal catalog. It does not include Resource from other Resource Classes in this application.

This Agreement contains the terms and conditions applicable to the use of selected datasets or resources ("Resource") from the U.S. Department of Homeland Security's Information Marketplace for Policy and Analysis of Cyber-risk & Trust ("IMPACT") that are provided to requestors with the Resource Providers' consent through the IMPACT Coordinating Center ("ICC"), operating as [Coordinating Center name].

Please read this Agreement carefully. The terms of this Agreement are between you ("Researcher") and [Coordinating Center name], which functions as the ICC.

Researcher desires to use the selected Resource for legitimate cyber security research and development purposes.

The ICC is willing to provide, and Researcher desires to accept, such Resource subject to the terms and conditions of this Agreement, which constitutes consideration.

General Terms and Conditions

Researcher agrees to the following terms as a condition of the use of the Resource:

This Agreement is effective as of your acceptance of the terms and conditions and will remain effective for a period of twelve (12) months or until it is terminated by the ICC for failure to comply with this Agreement.

1. Researcher's Contact Information and Organization

1.1 The ICC's records indicate that Researcher's account information is as shown above under Researcher Information, and Researcher Information is hereby incorporated into this Agreement.

1.2 Researcher confirms that the foregoing account information is correct and agrees to notify the ICC if the foregoing contact information changes. If any of the foregoing account information has changed, do not proceed; edit your account information or establish a new account and reapply to use the Resource.

2. Researcher's Request to Use Unrestricted Resource

Researcher hereby confirms that the foregoing desired use of requested Resource, as shown under Purpose and Resource Requested and incorporated into this Agreement, is accurate and complete.

3. Use and Disclosure of Resource

3.1 Researcher shall restrict access to and disclosure of the Resource to only those persons directly under the direction of Researcher and who are involved with the intended project. Researcher shall not send, transmit, or otherwise cause the Resource to be transported to any country or location outside of the United States that is not on the Approved IMPACT Country List at www.impactcybertrust.org.

3.2 Researcher shall notify the ICC if s/he leaves his/her current organization during the period this Agreement is in effect or is no longer the principal investigator or lead Researcher for the project using the Resource.

3.3 Researcher agrees to use the Resource solely for the stated purpose set forth above under Purpose and Resource Requested and in all respects in accordance with the terms herein and shall communicate such to all persons working on the project who have access to the Resource. Researcher agrees that upon reasonable notice, the ICC may audit the Researcher's use of the Resource and compliance with the terms of this Agreement.

3.4 Researcher agrees to comply with any restrictions on commercial uses of the Resource, as stated on the IMPACT portal catalog.

3.4a If the entry for Commercial Allowed is "True," then the Resource may be used for commercial purposes.

3.4b If the entry for Commercial Allowed is "False," then the Resource may NOT be used for any commercial purpose, including, but not limited to, inserting any part of Resource into any commercial data, or using it in any commercial products or services.

3.5 Researcher shall protect Resource by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized or inadvertent use, disclosure, dissemination, or publication of Resource. Researcher shall notify the ICC as soon as possible in the event of any unauthorized access to the Resource.

3.6 Researcher agrees that the ICC may make public the name of Researcher, the name of Researcher's organization, and a description of the Resource that the ICC has made available to Researcher pursuant to this Agreement, and has obtained the necessary consent from Researcher's organization.

3.7 Upon receipt of the Resource, the Researcher is granted a limited, non-exclusive, revocable, non-transferable license for the term of this Agreement to use the Resource in all respects in accordance with this Agreement.

3.8 Researcher shall not attempt to translate, unlock, override, reverse engineer, or otherwise take any steps to defeat any anonymization or obfuscation methods or tools that have been applied to the Resource, or to attempt to determine the identity of a specific individual.

3.9 Researcher may publish research results based on the analysis of the Resource, provided, however:

3.9a. Published results must not include any results that contain personally identifiable or otherwise sensitive information derived from the Resource, including, but not limited to, any information that could be used to recreate the contents or the structure of the original trace data or the ability to map any data back to a specific individual.

3.9b. Researcher must acknowledge the Resource Provider in all published works (including web pages, papers published by a third party, and presentations) using the Resource with a reference in the text and list of citations for each dataset as follows: The [Provider] [Resource Name] - [dates used], www.impactcybertrust.org, and any Resource Identifier if provided by IMPACT. Researcher shall further include the following acknowledgement for each dataset: "Support for the [Provider] [ResourceName] is provided by the U.S. Department of Homeland Security, Science and Technology Directorate, IMPACT program."

3.9c. Researcher shall submit to the ICC citations and links for any and all public releases, publications, or documents that pertain to the use of Resource to [ICC Email Address][ICC Email Address]. Researcher authorizes the ICC and/or Resource Provider to publicly post such citations and links. If the citations or links would reveal confidential or proprietary data (including U.S. Government sensitive/classified information) and cannot be redacted, such citations and links shall not be required.

3.10 Researcher agrees that the disclosure of the Resource without the ICC's express written permission or as otherwise permitted under this Agreement may cause the ICC irreparable harm and that any breach or threatened breach of this Agreement by Researcher may entitle the ICC to injunctive relief, in addition to any other legal or equitable remedies available to it, in any court of competent jurisdiction.

3.11 To the extent allowed by law, Researcher agrees to hold harmless, indemnify, and defend the ICC and its trustees, directors, officers, employees, and agents from all claims, liabilities, demands, damages, expenses (including, without limitation, reasonable attorney's fees) and losses arising out of any acts or omissions by Researcher.

3.12 NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE ICC BE RESPONSIBLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OR LOSSES OF ANY KIND, INCLUDING DAMAGES FOR LOST GOODWILL, LOST PROFITS, LOST BUSINESS OR OTHER INDIRECT ECONOMIC DAMAGES, WHETHER SUCH CLAIM IS BASED ON CONTRACT, NEGLIGENCE, TORT (INCLUDING STRICT LIABILITY) OR OTHER LEGAL THEORY, AS A RESULT OF A BREACH OF ANY WARRANTY OR ANY OTHER TERM OF THIS AGREEMENT, AND REGARDLESS OF WHETHER A PARTY WAS ADVISED OR HAD REASON TO KNOW OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

3.13 Researcher agrees that the ICC has the right to terminate this Agreement and/or Researcher's IMPACT account if Researcher violates this Agreement or provides ICC information that is false, inaccurate, incomplete, or otherwise designed to conceal material information. Upon termination of this Agreement by the ICC or expiration of this Agreement, Researcher shall cease all use of the Resource and comply with ICC's instructions regarding disposition of the Resource.

3.14 This Agreement is binding upon the Researcher and is not assignable in whole or in part by Researcher. The ICC may assign this Agreement: (i) to any successor of ICC by way of merger or consolidation or the acquisition of substantially all of the assets of ICC relating to the subject matter of this Agreement; or (ii) to an entity granted the right and authority by agreement with the Department of Homeland Security to perform similar obligations for the IMPACT Program, provided further, that such successor or entity shall expressly assume all of the rights, obligations, and liabilities of the assigning Party under this Agreement.

3.15 This Agreement shall be construed under and governed by the laws of the State of Arizona, and all disputes shall be resolved in the Maricopa County Superior Court in Arizona (where [Coordinating Center name]'s lawyers are located). The Researcher and ICC consent to this venue and personal jurisdiction of this court.

3.16 This Agreement represents the ENTIRE AGREEMENT between the Researcher and the ICC and supersedes any prior negotiations, proposals, or understandings relating to this Click-Through Resource Use Agreement or Researcher's use of the Resource. Any representation, inducement, or agreement that is not contained in this Agreement shall not be of any force or effect. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each remaining provision shall be valid and enforceable as permitted by law.

3.17 Research attests that s/he is authorized to contractually enter into this Agreement on his/her behalf and on behalf of the Researcher's organization.