



PARTNERSHIP AGREEMENT

Contract ID No.	DCR-0481-V0
Project Name:	BD18-10 : Comprehensive Eye Care (CEC) in Chittagong and Khulna Divisions of Bangladesh
Country:	Bangladesh
Period of Agreement:	01 January 2023 to 30 June 2024

This Agreement was jointly developed and has been agreed to by representatives of the following bodies:

The Fred Hollows Foundation ACN 070 556 642 (The Foundation)

and

Mazharul Haque BNSB Eye Hospital Chandpur

TABLE OF CONTENTS

A. AGREEMENT PARTICULARS 3

B. EXECUTION 4

C. AGREEMENT TERMS 5

1. DEFINITIONS AND INTERPRETATION5

2. TERM8

3. PROJECT9

4. COOPERATION AND COORDINATION10

5. FUNDING10

6. USE OF FUNDS11

7. NON- DEVELOPMENT ACTIVITIES11

8. TAXES, DUTIES AND GOVERNMENT CHARGES12

9. REPORTING REQUIREMENTS12

10. INTELLECTUAL PROPERTY14

11. CONFIDENTIALITY14

12. RECORDS, BOOKS AND ACCOUNTS15

13. AUDIT AND ACCESS16

14. ACKNOWLEDGMENT AND PUBLICITY17

15. INSURANCE18

16. CONFLICT OF INTEREST18

17. PROHIBITED DEALINGS18

18. LAWS & POLICIES19

19. INTEGRITY LAWS20

20. PRIVACY21

21. LIABILITY AND INDEMNITIES22

22. EQUITY & INCLUSION22

23. WHISTLEBLOWING, COMPLAINTS & FEEDBACK22

24. FORCE MAJEURE23

25. DISPUTE RESOLUTION24

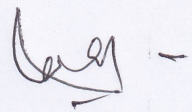
26. TERMINATION25

27. CONSEQUENCES OF TERMINATION25

28. NOTICES26

29. GENERAL PROVISIONS27

D. PROJECT SCHEDULE 31



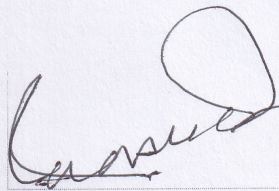
A. AGREEMENT PARTICULARS

1.	Parties:	The Fred Hollows Foundation ACN 070 556 642
		(The Foundation)
		And
		Mazharul Haque BNSB Eye Hospital Chandpur
	(Partner)	
2.	Country in which Project delivered:	Bangladesh
3.	Start Date:	01 January 2023
4.	End Date:	30 June 2024 or any other date agreed between the parties in writing from time to time
5.	Insurance requirements:	Not Applicable
6.	Nominated Currency	BDT
7.	Funds / Funding	1,37,06,210 to be paid in accordance with the Project Schedule
8.	Seat	Sydney
9.	Address for Notice (Foundation):	The Fred Hollows Foundation
		Attention: Musabbir Alam
		House No 60, Road 8, Block C, Gulshan 1, Dhaka - 1212, Bangladesh
		Tel: +88 02 222291532
		Email: malam@hollows.org
		cc:
		Locked Bag 5021 Alexandria, NSW, 2015 Australia
		Tel: (+61 2) 8741 1900
		Email: legal@hollows.org
10.	Address for Notice (Partner):	Mazharul Haque BNSB Eye Hospital Chandpur
		Attention: M A Masud Bhuiyan
		Mazharul Haque BNSB Eye Hospital, Cumilla Road, Chandpur - 3600.
		Chandpur, Chattogram
		Bangladesh
		Tel: +8801711382345
		Email: shamim@bnsb.org
11.	Special Conditions	It is expressly acknowledged and agreed by the parties that this Agreement and the obligations of the parties under this Agreement shall be dependent and conditional upon the annual Fund Release Order ("Order") by the NGO Affairs Bureau. In the event that such Order has not been obtained, The Foundation may terminate this Agreement immediately upon written notice to the Partner in accordance with Clause 26. In such event, this Agreement shall be of no force and effect and The Foundation incurs no responsibilities or liabilities under this Agreement

B. EXECUTION

Signed for and on behalf of)
Mazharul Haque BNSB Eye Hospital)
Chandpur by its authorised
representative(s)

M A MASUD BHUIYAN, GENERAL
SECRETARY



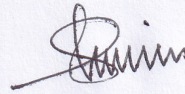
Name and designation

Signature

20.03.2023

Date

SHAMIM KHAN, PROGRAM & ADMIN



Name and designation

Signature

20.03.2023

Date

Signed for and on behalf of)
The Fred Hollows Foundation ACN 070)
556 642 by its authorised
representative(s)

MUSABBIR ALAM, ACTING COUNTRY
MANAGER



Name and designation

Signature

Date

C. AGREEMENT TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 Definitions of words or phrases used in this Agreement are in clause 1.5. Some words or phrases that are only used in the Project Schedule are defined in that document.
- 1.2 If in relation to the Project, there is any ambiguity or inconsistency between the documents comprising the Agreement, the following order of priority will apply:
- (a) the Special Conditions (if any);
 - (b) the Agreement, other than the Schedules; and
 - (c) the Schedules.
- 1.3 The Partner acknowledges that this Agreement may specify or refer to documents, guidelines, policies or standards that the Partner must comply with or have regard to in relation to the Project to comply with this Agreement.
- 1.4 This Agreement includes any document that the parties may sign from time to time, varying or extending the Agreement.
- 1.5 For the purposes of this Agreement, the following definitions apply:

Agreement means the agreement evidenced by this document and includes the schedules and annexures to this Agreement.

Agreement Particulars means the particulars specified on the second page of this Agreement, as varied by the parties in writing from time to time.

Asset means an item of plant or equipment, including a vehicle (but must not be a motorcycle or similar) with a cost or market value more than AU\$5,000 (Five thousand Australian dollars) including GST.

Authority means any national, federal, state, provincial, territorial, regional or local government or government, semi-government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or similar entity.

Change in Control means a change in any Person who exercises effective control over the Partner by holding the majority of voting shares, units or other interests in the Partner or by other means.

Confidential Information means information that is by its nature confidential and:

- (a) is designated by a party as confidential; or
- (b) a party knows or ought to know is confidential,

but does not include information which is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation.

Conflict of Interest includes having an interest (eg personal, financial, political) that conflicts or may be perceived to conflict with the ability of the Partner (or any of its Personnel) to carry out its obligations under this Agreement diligently, fairly and independently.

Contract Material means any Material prepared for, or as a result of, performing obligations under this Agreement.

Contributions means cash (other than Funding), or in-kind contributions committed to be made by each party towards the Project including cash, assets, items, goods, services, activities and Personnel described in the Project Schedule.

Country means the country specified in item 2 of the Agreement Particulars.

COVID-19 Measures means any Relevant Law, or any recommended or mandatory measures (whether or not having the force of law) introduced by any Authority having jurisdiction over a party, intended to prevent or delay the spread of COVID-19.

DFAT means the Australian Department of Foreign Affairs and Trade.

Dispute has the meaning given in clause 25.1(a).

End Date means the date specified in item 4 of the Agreement Particulars.

Existing Material means Material produced independently of this Agreement, and which is used in or supplied as part of the Contract Material.

Force Majeure Event affecting a party means anything outside that party's reasonable control which could include fire, storm, flood, earthquake, explosion, war, invasion, rebellion, sabotage, epidemic or pandemic, labour dispute, labour shortage and any act or omission (including laws, regulations, disapprovals or failures to approve) of any Regulator.

Funding or Funds means the funding or funds specified in the Project Schedule that, subject to the terms of this Agreement, is to be paid by The Foundation to the Partner in respect of the Project up to the maximum amount specified in item 7 of the Agreement Particulars.

GST means goods and services tax, value added tax or other equivalent tax.

Integrity Laws means any Relevant Law which has as its objective:

- (a) the prevention of fraud, including where a Person dishonestly obtains a benefit, or causes a loss, by deception or other means, and extends to incidents of attempted, alleged, suspected or detected fraud;
- (b) the prevention of bribery, facilitation payments or corruption, including those which prohibit the offering of any gift, payment or other benefit to any Person (or any officer, employee, agent or adviser of such Person) or are otherwise broadly intended to enact the provisions of the United Nations Convention against Corruption 2003;
- (c) the protection of children, child safety or the prevention or mandatory reporting of abuse or neglect of children;
- (d) the prevention of sexual exploitation, abuse and harrassment;
- (e) the prohibition of exploitation of workers, human trafficking, slavery, slavery-like behaviour, servitude, forced labour, child labour, debt bondage or deceptive recruiting for labour or services (or similar), or requires reporting or any other action in relation to the risks of those activities.

Intellectual Property Rights means all intellectual property rights subsisting anywhere in the world, including but not limited to, the following rights:

- (a) patents, copyright, rights in circuit layouts, designs, trade and service marks (including goodwill in those marks), domain names and trade names;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a),

whether or not such rights are registered or are capable of being registered but excludes rights in Confidential Information and Moral Rights.

Material means the subject matter of any Intellectual Property Rights and any tangible and intangible material, including research, data, images, photographs, films, videos, equipment, software (source code and object code), information, documents, files or records in whatever form.

Moral Rights includes the right of attribution of authorship, the right of integrity of authorship, and the right not to have authorship falsely attributed, and the rights of a similar nature anywhere in the world, as recognised at law.

Nominated Currency means the currency specified in item 6 of the Agreement Particulars.

Non-Development Activities has the meaning given in clause 7.

Personal Information means any information or data relating to an identified or identifiable individual and includes all information relating to individuals that is protected by Privacy Laws.

Person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity.

Personnel means, in relation to a party, the officers, employees, agents, contractors (including subcontractors) and volunteers of that party.

Privacy Laws means any Relevant Law which has as its objective the protection of privacy and data security, including those applicable to any practices in respect of Personal Information, such as collecting, holding, using, disclosing, processing, storing, transferring, accessing, correcting, dealing with or handling of Personal Information, or requires reporting or any other action in relation to those activities.

Project means the project(s) described in the Project Schedule.

Project Schedule means the schedule to this Agreement entitled 'Project Schedule', and includes any document annexed to, and forming part of, that schedule (if applicable).

Regulator means any third party entity (including any Authority) that can exercise authority over The Foundation or the Partner through operation of any Relevant Law.

Relevant Law means all laws (legislation and principles of common law and equity), ordinances, rules, guidelines, regulations, by-laws, proclamations, treaties, and orders, directives or approvals of any Regulator, applicable to a party, this Agreement or the Project.

Reporting Requirements means the reporting requirements for the Funding, specified in the Project Schedule.

Seat means the seat of arbitration specified in item 8 of the Agreement Particulars.

Special Condition means a special condition specified in item 11 of the Agreement Particulars.

Start Date means the date specified in item 3 of the Agreement Particulars.

Tax includes all present or future taxes, fees, levies, duties, imposts, assessment, remittances, withholdings, royalties, tariffs, fees, charges, excises, rates and levies in any part of the world including income tax, payroll tax, withholding tax, fringe benefits tax, pay-as-you-earn, pay-as-you-go, statutory pension or superannuation contributions, social security and national insurance contributions, workers' compensation payments and contributions, sales tax, customs duty, excise and stamp duty, as well as interest, penalties, fines and other costs in relation to any Tax.

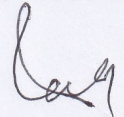
Transition Out Plan means the transition out plan prepared by the Partner and The Foundation in consideration of handover requirements and/or continuation of activities after termination.

Tribunal has the meaning given in clause 25.3(a).

Withholding Amount means the amount that The Foundation is required by law to withhold or deduct with respect to or which relates to any Tax.

1.6 In the Agreement, unless stated otherwise or a contrary intention appears:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, the document forming part of this Agreement;
- (d) headings are for ease of reference only and do not affect interpretation;
- (e) reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) reference to \$ or dollar is to the Nominated Currency;
- (g) reference to a party is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (i) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions; and



- (j) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it.

2. TERM

- 2.1 This Agreement will start on the Start Date and, unless terminated earlier, will continue until the End Date.

3. PROJECT

- 3.1 The parties are committed to delivering the Project and have agreed to:

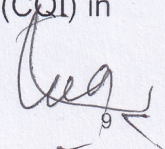
- (a) make Contributions to the Project; and
- (b) conduct the Project in accordance with this Agreement.

- 3.2 The Foundation will:

- (a) pay the Funding to the Partner in a timely and accountable manner;
- (b) liaise and work collaboratively with the Partner to:
 - (i) improve The Foundation's knowledge base of health delivery practice and outcomes, particularly in Country; and
 - (ii) monitor, review and evaluate the performance of the Project; and
- (c) provide the Partner with information, including relevant government or funder policies, procedures and guidelines, applicable to the use of the Funding and delivery of the Project.

- 3.3 The Partner must:

- (a) use the Funding strictly in accordance with this Agreement;
- (b) comply with any policies notified by The Foundation;
- (c) make all reasonable efforts to carry out and complete the Project;
- (d) ensure that the Project is carried out diligently and competently and in accordance with:
 - (i) this Agreement, including the Project Schedule; and
 - (ii) all Relevant Law;
- (e) not engage in any act or omission which in the opinion of The Foundation may be detrimental to the reputation of The Foundation;
- (f) comply with The Foundation's requests, directions, and reporting and monitoring requirements to The Foundation's satisfaction;
- (g) incorporate Cataract Surgical Outcomes Monitoring (CSOM) as part of its routine clinical practice, because The Foundation has a responsibility to its beneficiaries and donors to pursue Continuous Quality Improvement (CQI) in



all its activities. The Foundation's Medical Team and in-country CQI Leads will support the Partner in implementing its CQI initiatives.

3.4 The Partner agrees:

- (a) it must obtain all licences and approvals required in order to carry out its obligations under this Agreement;
- (b) it is responsible for remaining aware and compliant with all Relevant Law;
- (c) all Personnel that it employs are its responsibility, including payment of all employees' wages and entitlements;
- (d) it must conduct its operations in such a way as to remain financially viable; and
- (e) it remains responsible for the acts of its Personnel and also any other Person involved in the Project under the invitation and direction of the Partner.

4. COOPERATION AND COORDINATION

- 4.1 Both parties agree to meet or make contact during the term of the Agreement for the purposes of monitoring the delivery of the Project and to assist the Partner to perform its obligations under this Agreement. This may include visits by The Foundation and its Personnel to the Partner's premises and access by The Foundation to the Partner's records wherever located.
- 4.2 Both parties must act reasonably and diligently to facilitate decision making in relation to the Project.
- 4.3 The Partner must attend regular meetings arranged by The Foundation to review the progress of, and discuss any issues or matters arising in relation to, the Project which may include:
 - (a) the fulfilment of Contributions;
 - (b) the results of any performance monitoring; and
 - (c) any adjustments that may be required for the Project.
- 4.4 The parties may meet in person, by telephone or by other means of electronic communication by which all attendees are able to participate in the meeting.

5. FUNDING

- 5.1 Subject to this Agreement, The Foundation agrees to provide Funding consistent with the arrangements specified in the Project Schedule.
- 5.2 Any instalment of Funding may be withheld by The Foundation if the Partner has not complied with any obligation under this Agreement, including by failing to:
 - (a) satisfactorily acquit any upfront Funding in the manner required under the Project Schedule or otherwise by The Foundation;
 - (b) submit reports or information;
 - (c) maintain asset registers and other financial records;

- (d) supply supporting documentation to evidence expenditure (eg proof of payment);
 - (e) achieve the corresponding payment milestone to the satisfaction of The Foundation (acting reasonably); or
 - (f) promote, recognise or acknowledge donor or funding support in the manner required.
- 5.3 The Partner must use any money earned as interest on the Funding for the purposes of the Project.
- 5.4 To the extent that any Project expense is incurred in a currency other than local currency, The Partner will bear the cost of any exchange rate loss and in case of exchange rate gain, the same will be reported and reinvested in the Project.
- 5.5 If for any reporting interval, the Partner has unspent Funds, The Foundation may:
- (a) authorise the Partner to retain the unspent Funds and expend some or all of it for an approved purpose on specified terms;
 - (b) reduce a future payment or instalment of Funding to take account of the unspent Funding; or
 - (c) require by notice that the unspent Funding be repaid, and that amount will be a debt due and owing by the Partner to The Foundation.
- 5.6 The Partner agrees that The Foundation is under no obligation to provide Funding beyond the expiry or termination of this Agreement.

6. USE OF FUNDS

- 6.1 The Partner must only use the Funding:
- (a) to deliver the Project (and not for any other purpose);
 - (b) in compliance with clause 7.2;
 - (c) to procure items and meet expenses as specified, and otherwise in accordance with, the Project Schedule; and
 - (d) within the time period stipulated in the Project Schedule,
- unless otherwise approved by The Foundation in writing.
- 6.2 Where the Project Schedule specifies that Funding is provided for the purchase of a specific Asset, the Funding must only be used for the purchase of that Asset. Unless otherwise agreed, the Partner must remain the legal and beneficial owner of any Funded Asset until the end of its life and must comply with any direction from The Foundation concerning its transfer or disposal.
- 6.3 The Partner must include on its asset register any Asset supplied by The Foundation or obtained with the Funding. Any Asset on the Asset Register must be reasonably safeguarded and maintained in good working order, and the Partner bears full responsibility for its purchase, use or disposal.

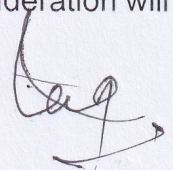
- 6.4 If the Partner uses the Funding other than as permitted under clause 6.1, without limitation as to any other rights it may have, The Foundation may by notice require the Partner to repay the misspent amount within the period stated in the notice, and that amount will be a debt due and owing by the Partner to The Foundation.
- 6.5 If at any time The Foundation makes an overpayment to the Partner, the Partner will repay the overpaid amount to The Foundation within the timeframe specified in a written notice from The Foundation. Such overpayment will be a debt due and owing by the Partner to The Foundation. The Foundation reserves the right to offset any overpayment from any other payment subsequently due to the Partner under this Agreement.

7. NON- DEVELOPMENT ACTIVITIES

- 7.1 The Partner acknowledges The Foundation does not undertake welfare, evangelistic or partisan political activities ("Non-Development Activities"). For the purposes of this clause 7:
- (a) welfare means assistance to maintain individuals in a condition on a long-term basis such as orphanages, child sponsorship, hospices and hospital care projects;
 - (b) evangelism means deliberate efforts to share one's faith to support those who belong to that faith and to proselytize others; and
 - (c) political activities means activities:
 - (i) designed to direct people out of one political persuasion to another;
 - (ii) that seek to build up infrastructure, training and/or organisational activities that are related to political structures, unless those structures are specifically designed to provide relief and/or development assistance; and/or
 - (iii) activities that support individuals or groups in undertaking the activities referred to in clauses (i) or (ii).
- 7.2 The Partner agrees, represents and warrants that it will not use any Funds for Non-Development Activities nor imply that it has received Funds to support Non-Development Activities.

8. TAXES, DUTIES AND GOVERNMENT CHARGES

- 8.1 The Partner agrees to pay all Taxes imposed or levied in connection with the performance of this Agreement and acknowledges that the Funding or Funds will not be increased on account of any Taxes.
- 8.2 The parties acknowledge and agree that for the purposes of this Agreement all amounts payable or other consideration to be provided for a supply, including the Funding or Funds and the Contributions made by the parties, under or in connection with this Agreement are inclusive of GST (if any) and the amount or consideration will not be increased for any GST payable on that supply.



- 8.3 The recipient need not make a payment for a taxable supply made under or in connection with this Agreement until the supplier has given the recipient a tax invoice for the supply to which the payment relates.
- 8.4 No party may claim or retain from the other party any amount in relation to a supply made under this Agreement for which the first party can obtain an input tax credit or decreasing adjustment.
- 8.5 Where The Foundation reasonably believes in good faith that it is required by law to withhold or deduct any Withholding Amount from the Funding or Funds:
- (a) the Partner agrees to provide The Foundation with all documentation reasonably required to enable The Foundation to understand and comply with the obligation to withhold or deduct the Withholding Amount;
 - (b) the Partner authorises The Foundation to withhold or deduct the Withholding Amount; and
 - (c) the Partner acknowledges and agrees that when The Foundation pays the Withholding Amount to the Relevant Authority:
 - (i) The Foundation is deemed to have paid an amount equal to the Withholding Amount to the Partner; and
 - (ii) The Foundation will not be under any obligation to make any additional payment to the Partner in respect of Tax withheld or deducted from the Funding or Funds.

9. REPORTING REQUIREMENTS

- 9.1 The Partner must:
- (a) comply with the Reporting Requirements;
 - (b) keep The Foundation up to date with any potential changes to the Project;
 - (c) supply any other information concerning the delivery of the Project, performance under this Agreement, or the Partner in the form and within the timeframe as notified by The Foundation to the Partner;
 - (d) assist The Foundation to undertake performance monitoring by providing statistical data and other information relevant to the Project to The Foundation at any time on request;
 - (e) provide all reports and information to the standard and format acceptable to The Foundation and ensure it is timely and true and accurate in all respects; and
 - (f) if The Foundation requests it, arrange for any of the reports required to be prepared by the Partner under this clause 9.1 to be independently audited and the audited report supplied.
- 9.2 The Partner must notify The Foundation immediately if it becomes aware of:
- (a) an allegation that raises a reasonable suspicion of serious misconduct or dishonesty on the part of the Partner or its Personnel relating to the use of the

Funding, the operation of the Project, or systemic fraud or corruption concerning any funding to the Partner;

- (b) an incident that requires an emergency or crisis response including natural disaster, threat of serious personal or environment harm, or criminal activity;
- (c) a serious untoward incident, including an incident that:
 - (i) results in serious illness or injury, loss of life, or threat to life, as a result of medical care and interventions;
 - (ii) unexpected loss of sight (WHO definition blind < 3/60) in one or both eyes as a result of medical care and interventions;
 - (iii) may result in intervention or investigation by a Regulator;
- (d) any credible suspicions of, or actual incidents of sexual exploitation, abuse or harassment related to this Agreement. All sexual activity with children (persons under the age of 18) is prohibited, regardless of the age of majority, or age of consent locally;
- (e) any credible suspicions of, or actual incidents that are not directly related to this Agreement but would be of significant impact to its relationship with The Foundation or the reputation of The Foundation or its donors. For example, events that affect the governance or culture of the Partner, such as those related to senior management, must be reported; or
- (f) a matter involving or likely to involve significant media (including social media) attention.

9.3 A failure to comply with any obligation to report or provide information may adversely impact the Partner receiving Funding under this Agreement or any other subsequent funding assistance.

9.4 The Partner must have in place a communications and transparency policy, statement or guidance document that details how it shares information about its projects to its stakeholders. The document should include an explanation of what information is made public and at what time.

10. INTELLECTUAL PROPERTY

10.1 This Agreement does not affect the ownership of Intellectual Property Rights in any Existing Material.

10.2 The Partner grants (and must procure the same grant from any relevant third party) to The Foundation a permanent, irrevocable, royalty-free, non-exclusive world-wide licence (including a right of sublicense) to use, reproduce, adapt, modify and publish any Existing Material supplied by the Partner.

10.3 Unless otherwise agreed in writing by the parties:

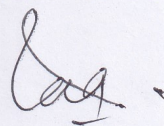
- (a) all Intellectual Property Rights in the Contract Material vest in The Foundation immediately upon creation; and
- (b) The Foundation grants to the Partner a royalty-free, non-exclusive, world-wide licence (including a right of sublicense) to use, reproduce, adapt, modify and

publish the Contract Material (including any Existing Material of The Foundation) during the term of this Agreement for the purpose of carrying out the Project.

- 10.4 Each party warrants to the other party that to the best of its knowledge the exercise by the other party of its rights under this Agreement in relation to any Existing Material and the Contract Material will not infringe the Intellectual Property Rights of any Person.
- 10.5 Each party agrees to take all reasonable steps to procure the written consent from all authors of Material it provides under this Agreement to the extent necessary to enable the other Party to utilise the Material in accordance with this Agreement, even if such use would otherwise constitute an infringement of the author's Moral Rights. If a party has been unable to obtain the consent of an author in respect of Material provided or to be provided under this Agreement, that party must notify the other party prior to providing that Material or as soon as practicable after providing that Material.

11. CONFIDENTIALITY

- 11.1 Subject to this clause 11, each party will treat the terms of this Agreement and all Confidential Information of the other party as confidential and will not, without the prior written consent of the other party (which may be subject to conditions), during or after the term of this Agreement:
- (a) use Confidential Information of the other party for any purpose other than to fulfil its obligations under this Agreement; or
 - (b) disclose Confidential Information of the other party to any third party.
- 11.2 The Partner consents to the disclosure:
- (a) by The Foundation to any relevant donor / grant funder of the Partner's identity and the existence and nature of its contract with The Foundation;
 - (b) by the relevant donor / grant funder of the Partner's identity and the existence and nature of its contract with The Foundation, for reporting purposes; and
 - (c) by The Foundation to any Person of the Partner's identity and the existence and nature of its contract with The Foundation where this is appropriate and reasonably required in order for The Foundation to fulfil its objects as described in its governing document.
- 11.3 The obligations on the parties under this clause 11 will not be taken to have been breached to the extent that Confidential Information is:
- (a) disclosed by a party to its Personnel or advisers solely to comply with obligations, or to exercise rights, under this Agreement;
 - (b) disclosed to a party's Personnel (or in the case of The Foundation, to a donor / grant funder) where required to enable effective management or auditing of activities related to this Agreement and reporting to Authorities where this serves legitimate government interests; or
 - (c) authorised or required by Relevant Law to be disclosed or is required in connection with legal proceedings.



- 11.4 The Partner agrees that if certain data is supplied by The Foundation on the basis that it must not be transferred, transmitted or disclosed or allowed to be taken, transferred, transmitted, accessed or disclosed outside a particular country, then the Partner must (and must ensure its Personnel) comply with such conditions.
- 11.5 Each party must notify the other party immediately if it knows or suspects that there has been a breach of this clause 11.
- 11.6 Upon expiry or termination of this Agreement each party undertakes, if requested by the other party, to return to the other party any materials, files or property in its possession that contain the Confidential Information of the other party (except to the extent any copy is required to be retained to meet insurance obligations or requirements under Relevant Law, in which case any retained Confidential Information continues to be protected under this clause 11).

12. RECORDS, BOOKS AND ACCOUNTS

12.1 The Partner must, at its own cost:

- (a) at all times maintain full, true, separate and up-to-date records, books and accounts in relation to the Project, Funds and this Agreement, including operational records, financial records and records in relation to the Funds. Such records, books and accounts must, without limitation:
- (i) record all operational activities in relation to the Project, including to enable the prevention, detection and investigation of fraud;
 - (ii) record all receipts and expenses related to the Project, including those involving foreign exchange transactions;
 - (iii) enable all receipts and expenses related to the Project to be identified and reported in accordance with this Agreement;
 - (iv) enable the amounts payable by The Foundation under this Agreement to be determined;
 - (v) be kept in a manner that permits them to be conveniently and properly audited or reviewed;
 - (vi) enable the extraction of all information relevant to this Agreement; and
- (b) retain all records, books and accounts relating to the Project, the Funds and this Agreement for a period of seven years after the expiry or termination of this Agreement.

13. AUDIT AND ACCESS

- 13.1 The parties will conduct evaluations of the Project as provided for in the Project Schedule.
- 13.2 In addition, The Foundation may at any time conduct an audit or performance review relevant to the performance of the Partner's obligations under this Agreement. In which case, The Foundation will provide the Partner with notice specifying the aspects the subject of the review and any Personnel, premises or records to which The

Foundation requires access. Such notice may be updated during the conduct of the review.

- 13.3 The review may include gathering and analysing information to assess a range of matters, including:
- (a) performance outcomes and impact;
 - (b) use of Funding;
 - (c) opportunities for enhancement;
 - (d) compliance with Relevant Laws and policies, including consideration of any recommended actions to ensure compliance or to remedy non-compliance under this Agreement; and
 - (e) any other matters considered by The Foundation to be relevant to the Project or this Agreement.
- 13.4 The Foundation can by notice to the Partner nominate third parties to conduct the audit or review, including as may be required for The Foundation to comply with its own funding obligations.
- 13.5 The Partner must grant access to:
- (a) Personnel who are or have been involved in the conduct of the Project;
 - (b) any locations or premises that it owns or controls from which the Project is being conducted; and
 - (c) any record or document (including any system in which such record is stored) relating to the performance of the Project,
- to The Foundation or any third party authorised by The Foundation.
- 13.6 The Partner must cooperate fully and require its Personnel to cooperate fully with any request for assistance as part of any such review or audit, including locating or making copies of any records that relate to the Funding or the conduct of the Project.
- 13.7 The Partner must:
- (a) provide any information or documents that is requested in relation to a review or audit; and
 - (b) warrant that to the best of its knowledge such information and documents are true and correct.
- 13.8 The Partner must afford adequate facilities for audit and inspection of its records and systems by The Foundation and Persons authorised by The Foundation at all reasonable times and must allow copies and extracts to be taken.
- 13.9 The Partner acknowledges that, as part of its Audit, Risk and CQI programs, The Foundation will monitor and assess the Partner's CSOM and CQI activities via a clinical support consultation.
- 13.10 The obligations under this clause 13 apply for the term of the Agreement and for a period of seven years from the expiry or termination of this Agreement.

13.11 The Partner must ensure that where any part of the Project is delivered under a subcontract, any subcontract contains equivalent clauses permitting access to staff, premises, accounts, records and documents to the same extent provided for in this clause 13.

14. ACKNOWLEDGMENT AND PUBLICITY

- 14.1 The Partner must ensure that the Funding and Contribution of The Foundation and any institutional donor is acknowledged in the manner specified in the Project Schedule or any other form of acknowledgement The Foundation requires, in all publications, research, reports, conference presentations by the Partner in connection with the Project, whether in print, media, audio visual materials, webpages or at public activities and events.
- 14.2 Each party must keep the other party informed of all planned publication, promotional activities or media releases in connection with the Project, in advance of such plans being published or implemented.
- 14.3 The Partner will provide The Foundation an opportunity to participate as co-author of each research, report or conference presentation as appropriate (in accordance with international authorship standards).
- 14.4 Joint statements and joint media releases in relation to the Project or this Agreement will be approved by both parties in writing prior to release.
- 14.5 Neither party may represent the other, including through the usage of the other party's logos or branding, without the prior written consent of the other party.
- 14.6 The Partner agrees that The Foundation may use the Partner's logo or branding, where appropriate and reasonably required to:
- (a) fulfil The Foundation's obligations under this Agreement;
 - (b) promote or report on the Project; or
 - (c) advance The Foundation's objects as described in its governing document.
- 14.7 The Partner must not publish (including by way of a presentation) any information concerning this Agreement unless it has prior written approval from The Foundation (such approval not to be unreasonably withheld or delayed).
- 14.8 The Partner agrees to facilitate the collection of stories and case studies of health workers, patients and beneficiaries, including allowing The Foundation staff to visit project sites to collect stories, where it is safe to do so and would not place undue burden on the Partner. The Foundation will organise any visits in advance and discuss the nature of the visit with the Partner in advance. Any case studies collected will only occur with the informed consent of the Partner, workers, patients or beneficiaries involved in line with The Foundation's Safeguarding People Policy.

15. INSURANCE

- 15.1 In connection with the Project, the Partner must have and maintain for the term of this Agreement, valid and enforceable appropriate insurance policies relevant to its activities and the performance of the Project including any specific insurance policies specified in the Agreement Particulars.

- 15.2 If the Partner is required to have and maintain professional indemnity insurance, the Partner must continue to maintain such insurance for a period of seven years following the expiry or termination of the Agreement.
- 15.3 The Partner must notify The Foundation immediately if appropriate insurance becomes unavailable in the Country at any time during the term of this Agreement.
- 15.4 On request, the Partner must provide to The Foundation a copy of any insurance policy obtained in accordance with this clause 15 and confirmation that it is current (for example, a certificate of currency from its insurers or insurance brokers).

16. CONFLICT OF INTEREST

- 16.1 The Partner must ensure that no Conflict of Interest exists, or is likely to arise, that would affect its (or, to the best of its knowledge after making diligent inquiry, its Personnel's) ability to perform the Project in accordance with this Agreement.
- 16.2 The Partner must keep and implement a policy about Conflicts of Interest, including guiding principles and procedures for identifying, declaring and dealing with Conflicts of Interest.
- 16.3 If a Conflict of Interest arises, or appears likely to arise, the Partner must:
- (a) notify The Foundation immediately in writing of the Conflict of Interest and all relevant information about the Conflict of Interest;
 - (b) keep a record of each instance of a Conflict of Interest arising in respect of the Project and how the matter was dealt with; and
 - (c) take the necessary steps to resolve or otherwise deal with the Conflict of Interest to The Foundation's satisfaction.

17. PROHIBITED DEALINGS

- 17.1 The Partner must ensure that Persons involved in implementing the Project, including itself and its Personnel are not, nor are any of the Funds provided under this Agreement used in any way to directly or indirectly provide support, resources or assets to Persons (including those acting on their behalf, at their direction, or who are owned or controlled by such persons):
- (a) directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
 - (b) listed on the Criminal Code Act List <https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations>;
 - (c) listed on the Sanctions List <http://dfat.gov.au/international-relations/security/sanctions/pages/consolidated-list.aspx>; ^[SEP]
 - (d) listed on the World Bank List <https://projects.worldbank.org/en/projects-operations/procurement/debarred-firms>;
 - (e) listed on lists notified or made available by The Foundation to the Partner from time to time.

The Partner must establish and maintain policies and procedures to ensure that the Partner and its Personnel comply with the obligations set out in this clause and periodically screen all Persons involved in implementing the Project against such lists, and provide evidence of such screening upon request by The Foundation.

- 17.2 If, during the term of the Agreement, the Partner becomes aware of any link whatsoever, including the provision of Funds, between it or its Personnel and any Person of concern referred to in clause 17.1, the Partner must inform The Foundation immediately.
- 17.3 The Partner acknowledges that The Foundation's requirements in relation to counter-terrorism may change from time to time. The Partner agrees to comply with such changes within the period specified by The Foundation or if no period is specified then within a reasonable time.

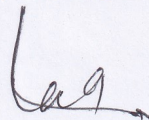
18. LAWS & POLICIES

18.1 The Partner must, and must ensure that its Personnel, have regard to and comply with Relevant Law, guidelines and policies, including those in Australia and in the Country, which are applicable to the Partner's performance of its obligations under this Agreement. This includes all laws, guidelines and policies nominated by The Foundation (accessible at www.hollows.org/au/safeguarding-and-policies), including The Foundation's:

- (i) Safeguarding People Policy or DFAT's Child Protection Policy (accessible at <http://www.dfat.gov.au/childprotection>) and DFAT's Prevention of Sexual Exploitation, Abuse and Harassment Policy, accessible at <https://www.dfat.gov.au/international-relations/security/sanctions/consolidated-list>);
 - (ii) Privacy Policy;
 - (iii) Sustainability Policy;
 - (iv) Speak Up Policy;
 - (v) Financial Crime Policy;
 - (vi) Human Rights, Gender Equity and Disability Inclusion Policy,
- or policies which are no less stringent.
- (b) all laws, guidelines and policies related to child protection, corruption, privacy, environmental protection, gender equity, human rights, modern slavery, safeguarding and preventing sexual exploitation, abuse and harassment, including the Integrity Laws.

18.2 The Partner must ensure that it does not:

- (a) cause The Foundation to be in breach of any Relevant Law, guideline or policy;
or
- (b) engage in activity which results or is likely to result in The Foundation breaching or being unable to comply with any of the conditions, obligations or requirements which must it must meet in order to maintain its registration as a



charity or its endorsement for charity concessions and/or as a deductible gift recipient.

- 18.3 If any change to the Project is necessary to comply with Relevant Law, guideline or policy, including due to a change in Relevant Law, the party identifying the need for change must promptly notify the other party. After consultation, The Foundation will notify the Partner in writing of the necessary changes to this Agreement, which will then be implemented by the parties.
- 18.4 The Partner must notify The Foundation as soon as practicable of any breaches, or suspected breaches by it or any of its Personnel, of any of its obligations under this clause 18 and upon request, take such remedial action as The Foundation requires.

19. INTEGRITY LAWS

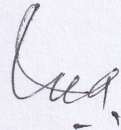
- 19.1 The parties have a zero-tolerance approach to conduct which contravenes Integrity Laws.
- 19.2 The Partner warrants that, to the best of its knowledge, the Partner and its Personnel do not engage in any conduct (act or omission) which contravenes Integrity Laws and the Partner is not aware of any risks present in its operations or supply chains that may contravene such laws or, if it is so aware, it has disclosed such matters (allegations, investigations or instances) to The Foundation and taken appropriate action to mitigate, remediate and reduce those risks.
- 19.3 The Partner warrants that the Partner and its Personnel have not made or caused to be made, or received or sought to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or improper practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement.
- 19.4 The Partner must ensure that Persons involved in implementing the Project, including itself and its Personnel are not, nor are any of the Funds provided under this Agreement used in any way to provide support, resources or assets to Persons contravening Integrity Laws.
- 19.5 The Partner must ensure that in performing its obligations under this Agreement, the Partner and its Personnel:
- (a) do not engage in any conduct (act or omission) which may contravene any Integrity Laws;
 - (b) comply with any Foundation-supplied policy relating to conduct the subject of any Integrity Laws; and
 - (c) do all things required or necessary to mitigate or reduce risks and remain compliant with all Integrity Laws.
- 19.6 For the term of this Agreement, the Partner agrees it will have policies and practices in place which are no less stringent than The Foundation's Safeguarding People Policy or DFAT's Child Protection Policy, or work with The Foundation to develop same. Until such policy has been developed the Partner agrees to comply with The Foundation's Policy and ensure that all its Personnel sign The Foundation's Safeguarding Code of Conduct.

- 19.7 Within one month following the date of this Agreement, the Partner must ensure that a fraud risk assessment and zero tolerance fraud control strategy is in place for the Project. The risk assessment and strategy must contain appropriate prevention, detection, investigation and reporting processes and procedures, that are satisfactory to The Foundation.
- 19.8 The Partner acknowledges it is responsible for preventing and detecting practices in contravention of Integrity Laws.
- 19.9 In respect of this Agreement and the Project, the Partner must:
- (a) immediately notify The Foundation if it becomes aware of a possible, potential, suspected or actual breach by the Partner or its Personnel of any Integrity Laws or any policies relating to any Integrity Laws;
 - (b) cooperate in good faith with The Foundation in investigating the circumstances relevant to any possible, potential, suspected or actual breach of any Integrity Laws, whether or not notification has been given under clause 19.9(a);
 - (c) provide such assistance and information as The Foundation reasonably requires to prepare any reports or statement required by The Foundation in respect of matters the subject of Integrity Laws (including for The Foundation to comply with its legal obligations); and
 - (d) establish and maintain policies and procedures to ensure that the Partner and its Personnel comply with the obligations set out in this clause 19.

20. **PRIVACY**

- 20.1 In carrying out the Project and performing this Agreement, the Partner must comply with all Privacy Laws and any privacy policies or requirements of The Foundation, particularly in relation to the security, use and destruction of patient data, and upon request the Partner must provide any supporting information to demonstrate this to The Foundation's satisfaction.
- 20.2 The Partner must reasonably cooperate with The Foundation to resolve any issues and assist and cooperate with The Foundation in The Foundation fulfilling its obligations under Privacy Laws.
- 20.3 In supplying any reports, material or other information to The Foundation, the Partner will ensure that no personally identifiable patient data is provided to The Foundation (unless specifically requested and agreed upon).
- 20.4 The Partner warrants that where any Personal Information is provided, the Partner has obtained all consents in the form required by the Relevant Laws and The Foundation (as notified by The Foundation to the Partner from time to time) prior to including any Personal Information.

For example, obtaining informed verbal consent from all photo subjects. And in the case of identifiable child/children (under 18 years) obtaining this consent from a parent or legal guardian and keeping a record of the consent in the form required by The Foundation.



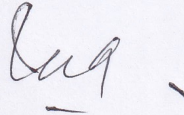
21. LIABILITY AND INDEMNITIES

- 21.1 Subject to clause 21.4, the Partner indemnifies The Foundation, its directors, members, officers, agents, volunteers and employees (those indemnified) against any claim, liability, loss or damage (including legal costs and expenses) suffered by any of those indemnified arising in connection with any breach of this Agreement or Relevant Law by the Partner or its Personnel.
- 21.2 The Partner agrees that The Foundation may enforce the indemnity in favour of the Persons specified in clause 21.1 for the benefit of each of such Persons in the name of The Foundation or of such Persons.
- 21.3 The Partner's liability to indemnify under clause 21.1 is reduced proportionally to the extent that any act or omission of those indemnified contributed to the claim, liability, loss or damage.
- 21.4 To the maximum extent permitted by Relevant Law, no party may make a claim against the other party or any of its Personnel, and no party will be liable to the other party for any indirect, economic, special or consequential loss or damage, and for any loss of revenue, loss of production, loss of operating time, loss of use, business interruption, loss of profit, loss of data or lost opportunities, arising from or in connection with this Agreement.

22. EQUITY & INCLUSION

- 22.1 The Partner will take all reasonable action to ensure that the activities performed under this Agreement are delivered in a manner giving fair and equal access to and be inclusive of all people regardless of gender, age, place of residence, socio-economic status, ethnicity/indigeneity/race, disability, or any other factor.

23. WHISTLEBLOWING, COMPLAINTS & FEEDBACK

- 23.1 The Partner is encouraged to provide feedback to The Foundation via The Foundation's address for notices.
- 23.2 If the Partner wishes to make a complaint in relation to The Foundation, it should provide details of the matter to The Foundation in a timely manner using the complaints mechanism available via The Foundation's website.
- 23.3 The Partner must establish and maintain policies and procedures to enable people to make complaints to the Partner in a safe and confidential manner. If a member of the public raises a complaint with the Partner which relates to the Project or services it provides to The Foundation, the Partner must immediately notify The Foundation.
- 23.4 The Partner and The Foundation will work together to resolve any such complaint in a timely manner.
- 23.5 The Partner acknowledges that The Foundation provides access to its whistleblowing process, which permits the Partner to notify The Foundation about misconduct or any improper state of affairs or circumstances at The Foundation. The process is also available for the Partner to report concerns that may be observed during interactions with The Foundation.
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23.6 To make a report via this process, the Partner should follow the guidance set out in The Foundation's Speak-Up Policy, available on The Foundation's website (accessible at <https://www.hollows.org/au/legal-pages/complaints>).

24. FORCE MAJEURE

24.1 Each party is relieved from performing its obligations under this Agreement to the extent it is subject to a Force Majeure Event, provided it has taken reasonable steps to mitigate the impact of the Force Majeure Event.

24.2 Once the Force Majeure Event has ended, the party must as soon as possible recommence performance of this Agreement and where possible, carry out all acts which it would have been liable to carry out had the Force Majeure Event not occurred.

24.3 If the Partner is unable to perform its obligations under this Agreement for more than 30 days due to a Force Majeure Event, The Foundation may vary, at its sole discretion, any outstanding Funds to be supplied to the Partner including by reducing the Funds to be paid to the Partner or changing when those Funds will be paid.

24.4 If the Partner is unable to perform its obligations under this Agreement for more than 60 days due to a Force Majeure Event, The Foundation may immediately terminate this Agreement by written notice to the Partner.

24.5 The parties expressly acknowledge the existence of the COVID-19 pandemic and its associated impact, and agree that clause 24.1 does not require either party to breach any COVID-19 Measures whether or not having the force of law. Each party agrees that the conditions and impact as at the date of this Agreement, do not constitute a Force Majeure Event, or otherwise entitle the parties to terminate, suspend or avoid their obligations, unless and until those conditions and impact materially change, including because of:

- (a) the enactment or introduction of any new COVID-19 Measures that directly affect a party's performance of this Agreement;
- (b) the non-availability or restricted availability of appropriate levels of labour, plant, vessels, machinery or materials, necessary for a party's performance of this Agreement, as a result of any new COVID-19 Measures;
- (c) any illness, quarantining, shielding or self-isolation of a party or its Personnel (or its subcontractors and their Personnel) where the decision to quarantine or self-isolate is recommended or mandated by any new COVID-19 Measures,

25. DISPUTE RESOLUTION

25.1 Notice

- (a) A party may notify the other party in writing of a dispute, disagreement, controversy or claim arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination ("**Dispute**").
- (b) The parties shall use best endeavors to resolve the notified Dispute through negotiation, including by way of internal escalation.

- (c) If the parties are not able to resolve the Dispute through internal negotiation, either of the parties may refer the Dispute to an independent, qualified mediator, agreed between the parties. The role of the mediator will be to mediate a negotiated settlement to the Dispute.

25.2 Reference to arbitration

- (a) If the parties cannot agree on a mediator or parties do not reach a negotiated settlement within 4 months of the Dispute's notification, the Dispute shall be referred to and finally resolved by arbitration administered by the International Court of Arbitration of the International Chamber of Commerce (ICC) in accordance with the ICC Rules of Arbitration for the time being in force.
- (b) To the extent that the ICC Rules of Arbitration are inconsistent with the terms of this Agreement, the terms of this Agreement will prevail. The ICC Rules of Arbitration are otherwise deemed to be incorporated by reference in this clause 25.2.
- (c) The arbitration agreement shall be governed by and construed in accordance with the governing law specified in clause 29.10.
- (d) The seat of arbitration shall be the Seat specified in the Agreement Particulars.
- (e) The language of the arbitration shall be English.

25.3 Arbitral tribunal and conduct of arbitration

- (a) The arbitral tribunal ("Tribunal") shall consist of one (1) arbitrator.
- (b) The Tribunal shall decide any Dispute strictly in accordance with the governing law specified in clause 29.10.
- (c) The Tribunal's decision shall be final and binding in accordance with the ICC Rules of Arbitration and may be enforced in any court having jurisdiction.
- (d) The arbitration will be private and confidential and all obligations of confidentiality imposed by this Agreement also extend to information relating to the arbitration.
- (e) A party may, at any time, commence court proceedings solely for the purpose of obtaining urgent interlocutory relief.

26. TERMINATION

- 26.1 Either party may terminate this Agreement by giving three months' written notice to the other party.
- 26.2 The Foundation may terminate this Agreement immediately by written notice to the Partner if The Foundation is unable to obtain the annual Order by the NGO Affairs Bureau for any reason.
- 26.3 The Foundation may terminate this Agreement for convenience by giving 30 days' written notice to the Partner if:
 - (a) The Foundation's own approved annual budget does not provide for the continuation of all or some of the funding for the Project; or

- (b) the funding which The Foundation is relying upon to provide the Funding for the Project is withdrawn (for any reason by the funding body).
- 26.4 Either party may terminate this Agreement by giving notice in writing to the other party if the other party is in breach of any provision of this Agreement and:
- (a) the breach is not capable of remedy; or
 - (b) if capable of remedy, has not been remedied within 14 days of the party not in default giving notice of the breach to the defaulting party.
- 26.5 The Foundation may terminate this Agreement immediately by written notice if it considers that the Partner:
- (a) is, or is likely to become, insolvent, bankrupt or similar;
 - (b) is no longer eligible or entitled to the Funds;
 - (c) cannot appropriately resolve an actual Conflict of Interest;
 - (d) has a Change in Control which negatively affects the Partner's ability to comply with this Agreement;
 - (e) does, or has done, anything that is detrimental to the reputation of The Foundation;
 - (f) has breached clause 17, 18 or 19 of this Agreement.
- 26.6 If a party purports to terminate this Agreement under clause 26, but was not permitted to terminate for default under the circumstances or did not properly effect the termination, the termination will be deemed to have been for convenience in accordance with clause 26.1.

27. CONSEQUENCES OF TERMINATION

- 27.1 If either party terminates this Agreement, the Partner must:
- (a) do everything possible to prevent or limit all losses, costs and expenses arising from termination;
 - (b) terminate its role in the Project in a prompt and orderly manner and in accordance with any Transition Out Plan;
 - (c) unless otherwise agreed in writing repay any Funding not spent or legally committed on the Project as at the date of termination; and
 - (d) provide all reports and accounts required under this Agreement to The Foundation,
- within 5 business days of the termination (or as otherwise provided in any Transition Out Plan).
- 27.2 In the event of termination under Clause 26.2, this Agreement shall be of no force and effect and The Foundation incurs no responsibilities or liabilities under this Agreement.
- 27.3 In the event of any termination for convenience (except termination under Clause 26.2 above) under this Agreement, The Foundation shall only be liable for:

- (a) costs properly incurred or committed by the Partner in accordance with this Agreement, up to the effective date of the termination;
- (b) reasonable costs unavoidably incurred by the Partner in winding up the Partner's staffing and administrative arrangements that were made solely for the implementation of the Project; and
- (c) reasonable costs unavoidably incurred by the Partner arising from termination of any contractual obligations owed by the Partner to contractors or suppliers for the Project,

where the Partner has done everything it can to mitigate costs, and the Partner has substantiated such costs to the satisfaction of The Foundation.

27.4 The Foundation is not liable to compensate the Partner under clauses **Error! Reference source not found.** and 27.3 for:

- (a) any loss of profit or benefits that the Partner would have received had the termination not occurred; or
- (b) subject to clause 27.3 (b) or (c), any obligation to pay out third party costs for early termination or redundancies of staff.

27.5 In any event, any amounts payable by The Foundation to the Partner under clause 27.3, when added to the amount of Funding paid to the Partner (less any Funds repaid in accordance with clause 27.1), will not exceed the maximum Funding amount specified for the Project as set out in the Project Schedule.

27.6 Termination does not limit or adversely affect any other right or remedy that may be available or have accrued as at the date of termination.

27.7 As soon as reasonably practicable after notice of termination is given under the Agreement, the Partner will prepare and provide The Foundation with its proposed Transition Out Plan setting out the practical and logistical steps, in appropriate detail, the Partner will take up to and following the end of the Term to transition from performing its role in the Project.

27.8 The Foundation will notify the Partner of the agreed Transition Out Plan which the parties recognise is intended to provide for an orderly handover and co-ordinated transition enabling the Partner to cease its role in the Project.

27.9 The parties will work together to ensure the Transition Out Plan approved by the Foundation is appropriately implemented.

28. NOTICES

28.1 Any notice to be given under this Agreement must be in writing and addressed to the relevant party's address for notice specified in the Agreement Particulars.

28.2 Subject to clause 28.5, notices to be given under this Agreement may be:

- (a) delivered by hand; or
- (b) posted by first class air mail or courier to the postal address of the relevant party as specified in the Agreement Particulars; or

- (c) transmitted by email to the email address of the relevant party as specified in the Agreement Particulars.

28.3 Subject to clause 28.4, any notice to be given under this Agreement will be deemed to have been given:

- (a) in the case of postage by first class air mail or courier, on the 10th business day after the date of posting, in the place where the notice was posted;
- (b) in the case of delivery by hand, on delivery; and
- (c) in the case of email, at the time sent to the addressee's email address, unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee.

28.4 If a notice is given:

- (a) after 5:00 pm in the place of receipt; or
- (b) on a day which is not a business day in the place of receipt,

it will be deemed to have been given at 9:00 am on the next day which is a business day in the place of receipt.

28.5 Notices concerning breach or termination of this Agreement must not be sent by email, and if sent by post or courier must require recorded (signed for) delivery.

29. GENERAL PROVISIONS

29.1 Legal contract

This Agreement is intended to be legally binding on the parties.

29.2 Further assurances

The parties agree to do any act and sign any document to give effect to any provision of this Agreement.

29.3 Amendment

This Agreement may only be varied as agreed in writing by the parties.

29.4 Subcontracting

- (a) The Partner must not, without The Foundation's prior written consent (which may be subject to conditions), subcontract the whole or any part of its obligations under this Agreement.
- (b) The Partner is responsible for the actions of any subcontractor, and any consent from The Foundation to the subcontract, does not relieve the Partner of its liability under this Agreement.
- (c) The Partner must ensure that any subcontract entered into is consistent with this Agreement, including the obligations under clauses 17 to 16, and that all subcontractors comply with their subcontracts.

- (d) Upon request, the Partner must provide a copy of any subcontract to The Foundation.
- (e) The Foundation may acting reasonably revoke the approval of a subcontractor at any time, and the Partner acknowledges it must manage this risk.

29.5 No assignment

The Partner may not assign this Agreement or any of the benefits or obligations under this Agreement to another party without The Foundation's prior written consent.

29.6 Waiver

A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

29.7 Relationship

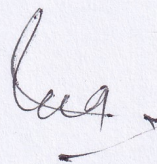
No agency or legal partnership exists between the parties and the Partner must not represent it is a partner at law, employee or agent of The Foundation. No party is authorised to make representations on behalf of another party in any manner whatsoever.

29.8 Counterparts

- (a) The parties may execute this Agreement in counterparts, each of which taken together, will constitute one instrument. The parties may communicate their execution by posting the executed document, providing a copy of the executed document by scanning and sending a pdf (portable document format) copy of the executed document by email.
- (b) Where a party is permitted by Relevant Law to electronically sign an electronic copy of this agreement (via DocuSign or similar applications or by affixing an electronic copy of any relevant signature) it may do so and bind itself accordingly. This will satisfy all other requirements for this Agreement to be in writing and signed by that party. The parties intend that any electronic copy so signed will constitute an executed original counterpart, and any print-out of the copy with the relevant signatures appearing will also constitute an executed original counterpart.
- (c) In the event that this Agreement is executed in two languages, the parties acknowledge that the English version of this Agreement represents the understanding of both parties. Any other version is provided as a translation only. In case of any conflict between the English version of this Agreement and any translation hereof, the English version shall prevail.

29.9 Survival

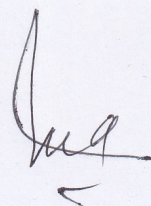
- (a) Any representation, warranty or indemnity given by the Partner is independent and survives termination of this agreement.
- (b) Any other term which is expressed as or by implication from its nature is intended to survive expiry or termination of this Agreement survives, including:
 - (i) 1 (Definitions and Interpretation);
 - (ii) 3 (Project);



- (iii) 5 (Funding);
- (iv) 6 (Use of Funds);
- (v) 7 (Non-Development Activities);
- (vi) 8 (Taxes, Duties and Government Charges);
- (vii) 9 (Reporting Requirements);
- (viii) 10 (Intellectual Property);
- (ix) 11 (Confidentiality);
- (x) 14 (Acknowledgement and Publicity);
- (xi) 15 (Insurance);
- (xii) 16 (Conflict of Interest);
- (xiii) 17 (Prohibited Dealings);
- (xiv) 18 (Laws and Policies);
- (xv) 19 (Integrity Laws);
- (xvi) 20 (Privacy);
- (xvii) 21 (Liability and Indemnities);
- (xviii) 27 (Consequences of Termination); and
- (xix) 29 (General Provisions).

29.10 Governing Law

This Agreement will be governed by the laws of New South Wales, Australia. Subject to clause 25, the Parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any court hearing appeals from those courts.



D. PROJECT SCHEDULE

1. PROJECT GOAL

I. Project Goal

To reduce avoidable blindness in Khulna and Chittagong Divisions by 2024
--

2. END OF PROJECT OUTCOME, AND PROJECT OUTCOMES AND OUTPUTS

End of Project Outcome:

1. The divisional eye care health system is strengthened to provide comprehensive and sustainable eye care service delivery in Khulna and Chittagong Divisions is accessible and gender equitable.
2. Divisional Eye Health System are supported to deliver accessible and gender equitable eye care services.

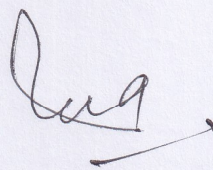
Outcome:

Outcome 3: Women and indigenous group have improved access for prevention, detection and treatment of eye health diseases.

Outputs

- Output 3.1: Poor people (especially women and marginalised groups) have improved access to eye care facilities for management and treatment of eye care services
- Output 3.2: Poor people (especially women and marginalized groups) are provided with subsidized eye care services.
- Output 3.3: Specific strategies implemented for improving access for Indigenous groups.

3. DETAILED ACTIVITIES AND EXPECTED OUTPUT BY YEAR



No	Detailed activities	Indicators/Expected Output							
		2023				2024			
1	Eye Screening to identify cataract patients.	27,100				8,000			
		Q1	Q2	Q3	Q4	Q1	Q2		
		2,200	6,300	9,000	9,000	8,000	0		
2	Conduct cataract surgery	2,710				800			
		Q1	Q2	Q3	Q4	Q1	Q2		
		220	630	900	900	800	0		
3	Eye screening to identify patients with URE	3,840				2,000			
		Q1	Q2	Q3	Q4	Q1	Q2		
		440	1,000	1,200	1,200	2,000	0		
4	Spectacle distribution	960				500			
		Q1	Q2	Q3	Q4	Q1	Q2		
		110	250	300	300	500	0		

4. PROJECT ROLES AND RESPONSIBILITIES

4.1. The Foundation will support in creating demand at the community level through implementation of intense communication campaign, gender friendly facility, on the job and refresher training, and orientation on compliance/ policies and ensure risk mitigation strategies for Covid-19 are in place and being followed.

4.2. The Partner will: support and provide quality cataract surgery and other eye care services, reduce gender inequity, dependable MIS data, case studies, outreach screening, and support in providing the service providers and patients with covid safety equipment and measures, and support cost of any additional expenses.

The Partner will be responsible for the following matters as may be required by the Deputy Commissioner Office (DCO):

- a. prepare the monthly progress report in accordance with the templates as maybe required by the Deputy Commissioner Office (DCO) and timely submit these reports to DCO within the deadline set by the DCO. The Partner shall likewise provide a copy of the monthly progress report to The Foundation
- b. attends the monthly meetings organized by the DCO; and
- c. collects the testimonial which verifies the work carried out by the Partner from DCO at the end of the year and provide such testimonial to The Foundation, for the purposes of audit, and compliance with the NGO Affairs Bureau.

5. PROJECT FUNDING LIMIT & ANNUAL BUDGET

- 5.1. The maximum Funding limit for the Term of this Agreement will be BDT 1,37,06,210 (One Crore Thirty-Seven Lac Six Thousand Two Hundred Ten Taka Only over 18 months from January 2023 to June 2024.
- 5.2. The total Annual Budget for 2023 is BDT 1,04,61,710 and for 2024 is BDT 32,44,500, the breakdown of which is set out in the table below. Annual Budgets will be confirmed each year via a variation prior to commencement of the subsequent year.
- 5.3. The Partner acknowledges that The Foundation has a reserved right to amend the Funding limit and the Annual Budget at its discretion based on the Project Approval and Fund Release Order by the NGO Affairs Bureau and based on the available budget of The Foundation. The Foundation will notify the Partner of any changes to the Funding limit and/or Annual Budget within a reasonable time prior to the change coming into effect.
- 5.4. Any underspend at the end of the Annual Budget period cannot be rolled over into a subsequent Annual Budget period without prior written approval from The Foundation.

2023

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Fixed costs													
Variable Project costs (Cataract)		5,40,750	4,68,650	2,88,400	9,01,250	10,81,500	10,81,500	10,81,500	10,81,500	10,81,500	10,81,500	10,81,500	97,69,550
Variable Project costs (RE)		43,260	36,050	21,630	72,100	86,520	72,100	72,100	72,100	72,100	72,100	72,100	6,92,160
Total		5,84,010	5,04,700	3,10,030	9,73,350	11,68,020	11,53,600	11,53,600	11,53,600	11,53,600	11,53,600	11,53,600	1,04,61,710

2024

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Fixed costs													
Variable Project costs (Cataract)		18,02,500	10,81,500										28,84,000
Variable Project costs (RE)		2,16,300	1,44,200										3,60,500
Total		20,18,800	12,25,700										32,44,500

6. CONTRIBUTIONS

Not Applicable

7. MAJOR EXPENSES

INTERNATIONAL TRAVEL PLANS:

Not Applicable

PURCHASE OF MAJOR EQUIPMENT AND OTHER SUPPLIES:

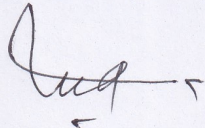
Not Applicable

8. PAYMENT MILESTONES

Item	Payment due date (the later of):	Payment amount (exclusive VAT)	Mode of Payment
A	<p>It is estimated that the Partner will screen 35,100 patients to identify and conduct 3,510 cataract surgeries. Screening and surgery cost per unit is BDT @BDT 3605 including 3% AIT. 3% AIT will be deducted and deposited to Bangladesh Government's Treasury as source TAX.</p> <p>Monthly payment will be reimbursed upon submission of invoice based on the actual number of surgeries performed.</p> <p>a. Patients screened as per monthly target.</p> <p>b. Cataract surgeries conducted as per monthly target.</p> <p>Out of which, atleast 55% to be female and 45% to be male, from marginalized groups.</p> <p>d. Outreach screening camps organized.</p> <p>e. Consumable items (i.e., IOL lens, black sun glass and medicines), travel cost, accommodation, and food.</p>	<p>An amount of BDT 3,500 (excluding AIT) per Surgery will be paid to the Partner depending on their monthly performance.</p>	<p>Payment will be made as reimbursement basis by using online banking platform (BEFTN)</p>
B	<p>It is estimated that the Partner will screen 5,840 patients to identify 1,460 RE cases. RE screening and spectacles cost per unit is @BDT 721 including 3% AIT. 3% AIT will be deducted and deposited to Bangladesh Government's Treasury as source TAX.</p>	<p>An amount of BDT 700 (excluding AIT) per spectacle including screening will be paid to the Partner depending on their monthly performance</p>	<p>Payment will be made as reimbursement basis by using online banking platform (BEFTN)</p>

The Funding shall be deposited/transferred to the bank account of the Partner with details as follows (or such other bank account as may be notified in writing by the Partner to The Foundation provided that it complies with the requirement of The Foundation):

Bank Name: Social Islami Bank Ltd.
 Bank Branch: Chandpur Branch
 Bank Account Name: Mazharul Haque BNSB Eye Hospital (FHF)
 Bank Account No: **0371360000563**



Note: Satisfactory Acquittal means that a project must acquit 70% of the year-to-date budget at the time of each subsequent instalment falling due. If 70% of funds are not acquitted by the due date for each subsequent instalment, payment will be withheld and made upon evidence of the completion of 70% of the year to date instalment/s.

9. ROUTINE REPORTING REQUIREMENTS

9.1. Annual Progress Reports: a report detailing:

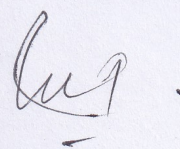
- (i) the Partner's progress towards achieving, or the achievement of, the required Project outcomes; and
- (ii) if the Partner has not achieved one or more required outcomes, details of those outcomes and an explanation of why each one was not achieved, which must be provided:
- (iii) in respect of each Annual Reporting Period (being 1 January to 31 December) during the Term within 10 calendar days after the end of the Annual Reporting Period; and
- (iv) in respect of the entire period of the Project: 4 weeks after completion of the Project or 5 business days after the termination of this Agreement, whichever is earlier.

9.2. Annual Financial Reports: detailing the amount of Funds:

- (i) that have been expended in that Annual Reporting Period, and details of what the Funds were expended on;
 - (ii) that have been committed (in that Annual Reporting Period or previously, if applicable) but not yet expended, and details of what the Funds were committed to and when they were committed; and
 - (iii) that remain unexpended and uncommitted.
- which must be provided:
- (iv) in respect of each Annual Reporting Period during the Term within 10 calendar days after the end of each Annual Reporting Period; and
 - (v) in respect of the period of the Project: 4 weeks after completion of the Project or 5 business days after the termination of this Agreement, whichever is earlier.

9.3. Annual Financial Statement:

An audited statement specifying whether all Funds have been managed and expended in accordance with this Agreement and in support of the agreed outcomes. If required by The Foundation, the audit must be an independent audit. The audit statement is to be lodged with The Foundation within 60 days of



the request. Unless otherwise agreed, the statement must be provided at no cost to The Foundation.

9.4. Monthly and Quarterly Reports:

(a) Monthly and Quarterly Reports must be provided in respect of each month and quarter (1 January to 31 March, 1 April to 30 June, 1 July to 30 September, and 1 October to 31 December) during the term of the Agreement:

- A. A Monthly MIS report to be submitted on or before 27th of each respective month. FHF provided reporting template must be followed.
- B. A Comprehensive quarterly report and case study with photos must be submitted.
- C. A monthly invoice to be submitted on or before 27th of each month based on actual performance.

(b) Monthly Reports must detail:

- (i) the amount of the Funds:
 - A. that have been expended in that [month, and details of what the Funds were expended on.
- (ii) clinical outcome reporting, including additional reporting on serious untoward incidents where requested.
- (iii) narrative report including project activities completed and outputs as well as timing for remaining activities.

9.5. Reporting Format

The Monthly] Financial Reports should be provided in the following format or in such other format as may be notified by The Foundation:

Monthly] Financial Reports

Date of Report ____ / ____ / 2023__

Description	Expenditure (BDT)				Actuals (YTD)	Budget (YTD)	Variance (YTD)
	Month]	Month]	Month]	Month]			
[Insert Item description]							[X]%
[Insert Item description]							[X]%
[Insert Item description]							[X]%
Total Funds expended	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	[X]%

Description	Expenditure (BDT)					Actuals (YTD)	Budget (YTD)	Variance (YTD)
	Month]	Month]	Month]	Month]	Month]			
Funds received but NOT expended								

10. BRANDING / ACKNOWLEDGMENTS

The Foundation will provide a style guide and approved logos, fonts, and colours for use on communications materials, where appropriate, and whenever our partnership is being acknowledged.

As this project is funded by the Australian Government through the Australian NGO Cooperation Program (ANCP), it is a contractual requirement to acknowledge the support of the Australian Government through ANCP, and it is therefore the responsibility of everybody either working on or providing support to ANCP-funded projects to ensure appropriate acknowledgement is applied.

The Australian Aid identifier, below, is the most common form of physical acknowledgement required to be visible on project equipment or banners so that anyone can clearly tell that the project is funded by the Australian Government. You can access the identifier in various formats (accessible here: <https://www.dfat.gov.au/about-us/corporate/Pages/logos-and-style-guides#aid-logo>).



In addition to using the correct branding, all communications materials should include text that acknowledges the Australian Government and the ANCP, e.g. *'[Project] is supported by the Australian Government through the Australian NGO Cooperation Program (ANCP).'*

Please ensure that photos submitted in monthly reporting display this evidence of acknowledgement from time to time.

Similarly, when talking to partners/other stakeholders about an ANCP-funded project, it is also important to acknowledge that not only is it a DFAT-funded project, but also a part of ANCP. If you need support to do this, please reach out to your partner FHF country office.