



To: [●] ("**Lead Partner**")

Registered Address: [●]

Email: [●]

Date: [●]

Ref: [●]

**Global Health Workforce Programme**  
**Grant Agreement - DRAFT**

**Project title:** [●]

**Grant Amount:** £ [●]

**BACKGROUND**

Pursuant to a grant agreement dated 24 August 2023 (the "**Funding Agreement**"), the Department of Health and Social Care ("**DHSC**") awarded funding to the Global Health Partnerships – formerly THET ("**GHP**") for the period 1 August 2023 until March 2026 for the development of the health workforce in Kenya, Nigeria and Ghana, Ethiopia, Malawi and Somaliland, aiding them to build stronger, resilient health systems for post-pandemic recovery and to make progress towards universal health coverages and meet other objectives of DHSC's Global Health Workforce Programme ("**GHWP**"). The Funding Agreement specifically relates to the GHWP funding stream.

GHP has agreed to pay the Grant (as defined below) to the Lead Partner for the purposes of implementing activities under the GHWP subject to and on the terms and conditions set out in this letter, which are intended to ensure that the Grant is used for the purpose for which it is awarded. This letter together with its schedules and Annexes, when signed by both Parties, shall constitute the "**Agreement**". Relevant definitions of terms used in this Agreement are set out in Schedule 1 (Definitions and Interpretation).

**AGREED TERMS**

**1 Purpose of Grant**

- 1.1 The Lead Partner shall use the Grant only for the delivery of the GHWP and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without GHP's prior written agreement.
- 1.2 The Lead Partner shall not make any change to the Funded Activities or any part thereof without GHP's prior written agreement.
- 1.3 The Lead Partner shall be responsible for entering into, and complying with, appropriate contractual arrangements with Partners listed in the GHWP application which shall include without limitation provisions to ensure that the Partners comply with all relevant provisions of this Agreement and the Funding Agreement. The Lead Partner shall remain liable to GHP for the performance of all its obligations under this Agreement, and shall be responsible (i) for all acts and omissions of any person instructed pursuant to this Agreement to undertake any of the Lead Partner's obligations under this Agreement, including (without limitation) the Lead Partner's



- employees, agents, contractors, sub-contractors and the Partners, and (ii) for the health, safety and security of such persons and their property notwithstanding any contractual arrangements it may enter with any Partner or third party.
- 1.4 The Lead Partner may not pass on Grant monies to Partners or third parties except insofar as it is clearly detailed in the GHWP project and agreed by GHP in writing in advance.
  - 1.5 The Lead Partner shall be responsible for the safety, security and supervision of any person instructed pursuant to this Agreement to undertake any of the Lead Partner's obligations under this Agreement including (without limitation) the Lead Partner's employees, agents, contractors and sub-contractors and any volunteers engaged in the GHWP project and shall comply and procure that those persons mentioned in this paragraph 1.5 shall comply with all safety, security and supervision measures notified to the Lead Partner by GHP from time to time.
  - 1.6 The Lead Partner shall obtain and maintain, and shall procure that all of its employees, agents, contractors, sub-contractors and any volunteers engaged in the GHWP project obtain and maintain, all approvals, consents, licences, permissions and authorisations which are necessary or desirable to ensure the successful performance of the GHWP.
  - 1.7 The Lead Partner shall, and shall procure that the Partners shall, at all times comply with the terms of the International Development Act 2002 ("IDA"), including without limitation compliance with the summary of the Lead Partner's responsibilities in connection with the IDA attached to this Agreement at Annex 1, and the Lead Partner hereby undertakes that it shall not, and shall procure that the Partners shall not, provide any assistance to overseas bodies where the manner or form of such assistance may or does breach the requirements of the IDA.
  - 1.8 The Lead Partner shall (and shall procure that any Partners will) comply with the terms of the Funding Agreement insofar the terms are applicable or relevant to the Lead Partner or Partner, as the case may be, including (without limitation) all provisions applicable to Downstream Partners (as defined in the Funding Agreement), and any other provisions thereof which may be notified to the Lead Partner by GHP from time to time. In any event the Lead Partner shall promptly do all things as may be required by GHP from time to time to facilitate GHP's compliance with its obligations under the Funding Agreement. A redacted version of the Funding Agreement is appended at Annex 4 hereto to assist the Lead Partner with compliance within this paragraph 1.8.
  - 1.9 The Lead Partner shall promptly inform GHP of any circumstance(s) which will or may cause, or have caused:
    - 1.9.1 any aspect of the GHWP project to be modified;
    - 1.9.2 the Lead Partner or any Partner to be unable to implement any part of the GHWP project; or
    - 1.9.3 any significant difficulty in respect of communication with or between the Partners.



- 1.10 GHP may, acting reasonably, require change(s) to any aspect of the Lead Partner's performance of the GHWP project. Such change(s) may include (without limitation) the replacement with another person acceptable to GHP of any person(s) instructed pursuant to or in connection with this Agreement to undertake any of the Lead Partner's obligations under this Agreement (including, without limitation, the Lead Partner's employees, contractors, agents and sub-contractors) where GHP considers such person(s) as unsuitable, and the Lead Partner shall implement such change(s) as quickly as reasonably possible without direct or indirect charge to GHP.
- 1.11 Where the Lead Partner intends to apply to a third party for other funding for the GHWP project, it will notify GHP in advance of its intention to do so and provide GHP with details of the amount and purpose of such funding. The Lead Partner shall receive GHP's prior written consent before applying to a third party for other funding for the GHWP project. The Lead Partner agrees and accepts that it shall not apply for duplicate funding in respect of any part of the GHWP or any related administration costs that GHP is funding in full under this Agreement without the prior written consent of GHP.
- 1.12 The Lead Partner will inform GHP prior to creating or replacing staff in posts where they are responsible for delivery of its obligations hereunder. The Lead Partner will appoint replacement staff with appropriate qualifications and experience.
- 1.13 The Lead Partner will ensure safeguarding policies and procedures, including appropriate vetting of its employees, are carried out in accordance with good industry practice and following any reasonable instructions from GHP.
- 1.14 The Lead Partner will take all reasonable steps to prevent the sexual exploitation, abuse and harassment of any person linked to the delivery of the GHWP project by its employees, volunteers and any other partner.
- 1.15 The Lead Partner and all other partners involved in the delivery of the GHWP project have a zero-tolerance approach towards sexual exploitation, abuse and harassment. The Lead Partner will immediately contact DHSC and GHP to report any credible suspicions of, or actual incidents of sexual exploitation, abuse or harassment related to this Agreement. The Lead Partner should assess credibility based on the source of the allegation, the content, and the level of detail or evidence provided. All sexual activity with children (persons under the age of 18) is prohibited, regardless of the age of majority, or age of consent locally. The Lead Partner will apply the IASC Six Core Principles Relating to Sexual Exploitation and Abuse and the following principles and practices when implementing the activities under this arrangement and provide evidence to demonstrate this where required:
  - 1.15.1 adherence to the IASC-Minimum Operation Standards on "Protection from sexual exploitation and abuse by own personnel" and/or the sexual exploitation and abuse elements of the Core Humanitarian Standard on Quality and Accountability;



- 1.15.2 a victim/survivor-centred approach<sup>1</sup> to sexual exploitation, abuse and harassment issues;
  - 1.15.3 strong leadership and signaling on tackling sexual exploitation, abuse and harassment;
  - 1.15.4 make all reasonable efforts to address gender inequality and other power imbalances;
  - 1.15.5 reporting to enhance accountability and transparency;
  - 1.15.6 ensure that sexual exploitation, abuse and harassment standards from this arrangement are reflected in any agreements with Partners (and where the Lead Partner or Partner is an UN entity, by means such as, but not limited to, adherence to the United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners).
- 1.16 The Lead Partner should also report any credible suspicions of, or actual incidents that are not directly related to this Agreement but would be of significant impact to their partnership with GHP, DHSC or the reputation of GHP, DHSC or UK aid. For example, events that affect the governance or culture of the Lead Partner or any Partner, such as those related to senior management, must be reported.
- 1.17 All partners will fully co-operate with investigations into such events, whether led by DHSC or any of its duly authorised representatives or agents, GHP, the Lead Partner or a Partner.
- 1.18 The Grant must not be used to support activity which influences or attempts to influence the British Parliament, government or political parties, to propagate a religion or belief, or to influence the awarding or renewal of contracts or grants, or to influence legislative or regulatory action.
- 1.19 GHP makes no commitment to renewing or continuing funding after the term of this Agreement and will not be liable for any additional cost incurred by the Lead Partner either during or after the term of this Agreement.

## 2 Payment of Grant

- 2.1 Subject to paragraphs 2.2 to 2.13, and paragraphs 14 (Withholding, Suspending and Repayment of Grant), 21 (Termination by GHP) and 22 (Termination by the Lead Partner), GHP shall pay the Grant in sterling to the Lead Partner in instalments ("**Instalments**") in accordance with the staged payment schedule set out in Annex 2 and agreed and/or amended by GHP from time to time with prior written notice. The Instalments shall be paid to the bank account set out in Annex 3 (which shall be,

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<sup>1</sup> A victim/survivor centered-approach is one for which the victim/survivor's dignity, experiences, considerations, needs, and resiliencies are placed at the center of the process, from the initial program design to investigating and responding to potential incidents. Consistent with the UN Protocol on Allegations of SEA Involving Implementing Partners, the victim/survivor should be informed, consulted during the decision-making process, and provide consent on the possible use and disclosure of their information. Those interacting with the victim/survivor and/or handling information regarding the allegation will maintain confidentiality, ensure safety of the victim/survivor, and apply victim/survivor-centered principles which are safety, confidentiality, respect, and non-discrimination. When the victim/survivor is a child, the approach will consider the best interests of the child and engage with the family/caregivers as appropriate. Staff and partners should comply with host country and local child welfare and protection legislation and international standards, whichever gives greater protection.



- unless otherwise agreed by GHP in writing in advance, a standard account with a UK bank in the clearing bank system).
- 2.2 The Lead Partner agrees and accepts that payments of the Grant can only be made insofar that GHP has available funds.
  - 2.3 GHP will have no liability to the Lead Partner for any Losses caused by a delay in the payment of a Grant claim, howsoever arising.
  - 2.4 With the exception of the first Instalment, payments of each Instalment of the Grant shall be conditional upon submission by the Lead Partner of progress reports relating to the GHWP in accordance with paragraph 6 (Monitoring and Reporting) which are satisfactory to GHP.
  - 2.5 No Instalment shall be paid unless and until GHP is satisfied that such payment shall be used for proper expenditure in accordance with the budget and project plan agreed with GHP for the delivery of the GHWP project.
  - 2.6 The amount of the Grant shall not be increased in the event of any overspend by the Lead Partner in its delivery of the GHWP project. Any such amounts spent or incurred by the Lead Partner in excess of the Grant shall be the Lead Partner's responsibility.
  - 2.7 Grant monies shall be deemed to cover the cost of salary, overseas inducements, leave allowances, bonuses, profit, taxes, superannuation, non-working days and all other costs including, but not limited to, clothing, passports, visas and vaccinations, overheads and expenses of whatsoever nature that may be incurred except those otherwise expressly specifically provided for in this Agreement.
  - 2.8 Volunteer insurance will only be covered with Grant monies in cases where insurance costs are not already covered by insurance arrangements at the Lead Partner institution. Volunteer insurance expenses will therefore require GHP's prior written approval.
  - 2.9 Travel and living expenses will be paid at a rate consistent with the staged payment schedule set out in Annex 2 and agreed and/or amended by GHP from time to time with prior written notice. All journeys by rail or air will be made by a class of travel that is no more than standard / economy.
  - 2.10 Grant monies shall not be accounted as, or mixed with, the general funds of the Lead Partner.
  - 2.11 Unless GHP provides its prior written consent, the Lead Partner shall not transfer any part of the Grant to bank accounts which are not standard accounts within the clearing bank system.
  - 2.12 The Lead Partner shall repay to GHP any money incorrectly paid to it, either as a result of an error or otherwise, within seven (7) days of Lead Partner's receipt of such money. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Lead Partner.



- 2.13 Should any interest be earned on Grant monies by the Lead Partner, the Lead Partner will channel such interest back into the programme and off-set such amounts against future Instalment requests to GHP.

### **3 Use of Grant**

- 3.1 The Grant shall be used by the Lead Partner solely for the delivery of the agreed GHWP project in accordance with the terms of this Agreement. For the avoidance of doubt, the Lead Partner shall not spend Grant monies which have not been agreed in the GHWP without the prior written agreement of GHP.
- 3.2 If the GHWP project contains a contingency budget this shall not be utilised without GHP's prior written approval.
- 3.3 All items of expenditure made from Grant monies shall be directly related to the development and delivery of the GHWP project and in keeping with the aims and objectives of GHWP. Guidance as to the eligibility of certain costs not identified in the Grant budget shall be provided by GHP from time to time or otherwise upon the Lead Partner's written request, and the Lead Partner shall comply with such guidance. In the event that the nature of any proposed item of expenditure by the Lead Partner is unclear in this respect, the Lead Partner shall seek express guidance from GHP in advance of incurring such expenditure (and any failure to obtain such express guidance shall be at the Lead Partner's sole risk).
- 3.4 The Lead Partner shall promptly at GHP's request justify in writing any item(s) of expenditure made from Grant monies as being in keeping with the aims and objectives of GHWP.
- 3.5 The Lead Partner shall be responsible for the payment of any Grant monies to Partners in accordance with GHWP. For the avoidance of doubt, GHP is not obliged under the terms of this Agreement to make any payments directly to any Partner(s).
- 3.6 Where the Lead Partner has obtained funding from a third party in relation to its delivery of the GHWP project (including without limitation funding for associated administration and staffing costs), the amount of such funding shall be notified to GHP in writing together with a clear description of what that funding shall be used for.
- 3.7 The Lead Partner shall not spend any part of the Grant on the delivery of the GHWP project after the expiry of the Grant Period without the prior written consent of GHP.
- 3.8 Any part of an Instalment which remains unspent after satisfaction of the conditions applicable to such Instalment may be deducted from future Instalments at GHP's sole discretion.
- 3.9 Any liabilities arising at the end of the GHWP project, including (without limitation) any redundancy liabilities for staff employed by the Lead Partner to deliver the GHWP or in respect of any Partner, must be managed and paid for by the Lead Partner using the Grant or other resources of the Lead Partner. There will be no additional funding available from GHP for this purpose.



- 3.10 Nothing in this Agreement is intended to create a VAT taxable supply and it is the understanding of GHP and the Lead Partner that the payments of Grant monies in support of the activities set out in the GHWP project are outside the scope of VAT.
- 3.11 All amounts payable to the Lead Partner by GHP under this Agreement are inclusive of VAT properly chargeable.
- 3.12 Any amounts payable by GHP to the Lead Partner under this Agreement represent the Lead Partner's income and the Lead Partner shall be responsible for including such amounts in its accounts and for paying any relevant tax and national insurance thereon.
- 3.13 Consistent with local and international legislation and applicable United Nations Security Council resolutions, DHSC, GHP and the Lead Partner are firmly committed to the international fight against terrorism. It is the policy of DHSC to seek to ensure that none of its funds are used to provide support to individuals or entities associated with terrorism and that DHSC staff and its programmes activity are compliant with counter terrorist financing legislation. In accordance with this policy, the Lead Partner shall:
- 3.13.1 make itself aware of and comply with its obligations under the relevant counter terrorist financing legislation; and
  - 3.13.2 use best efforts to ensure that none of the Grant provided under this Agreement is used to provide support to individuals or entities associated with terrorism.
- 3.14 The Lead Partner will use best efforts to ensure that none of the funds or assets provided under this Agreement are made available or used to provide support to individuals, groups or entities associated with terrorism including those named on the following lists as updated from time to time:
- 3.14.1 HM Treasury's Office of Financial Sanctions Implementation - Financial sanctions: consolidated list of targets;
  - 3.14.2 UK Home Office - Proscribed terrorist groups or organisations;
  - 3.14.3 European Union - Consolidated list of sanctions;
  - 3.14.4 United Nations - United Nations Security Council Sanctions List; and
  - 3.14.5 World Bank - World Bank Listing of Ineligible Firms & Individuals.
- 3.15 The Lead Partner must seek permission from GHP prior to any proposed expenditure for marketing, advertising, communications and consultancy, either in connection with, or using the Grant, under this Agreement. A complete list of the controlled activities can be found at <https://www.gov.uk/government/publications/cabinet-office-controls>. The Lead Partner shall provide evidence that any marketing, advertising, communications and consultancy expenditure carried out in connection with, or using the Grant will deliver measurable outcomes that meet government objectives and can secure value for money.



- 3.16 The Grant cannot be used to fund any project specific insurance premiums intended to cover medical expenses, injury or disablement, and death unless, by exception, explicitly approved by GHP in writing in advance.
- 3.17 The Grant must be used to promote the agreed project objectives with ODA eligible countries as outlined in the OECD Development Co-Operation Directorate list, in accordance with paragraph 4 (Official Development Assistance (ODA)).

#### **4 Official Development Assistance (ODA)**

- 4.1 The Lead Partner acknowledges that it is DHSC's and GHP's intention that all monies paid to the Lead Partner under this Agreement will be properly categorised as ODA by the OECD.
- 4.2 The Lead Partner shall undertake reasonable endeavours to ensure that all monies paid to the Lead Partner pursuant to this Agreement can properly be categorised as ODA by the OECD.
- 4.3 The Lead Partner shall notify the GHP of any concern it has that monies paid to the Lead Partner pursuant to this Agreement cannot or may not be properly categorised as ODA by the OECD as soon as reasonably practical.
- 4.4 If, as a consequence of breach or negligent performance or non-performance of this Agreement, Grant monies provided to the Lead Partner are not classified as ODA by OECD, the Lead Partner shall repay to GHP a sum equal to the amount which the OECD determines is not categorised as ODA.

#### **5 Accounts, Records, Assets Inventory and Audit**

- 5.1 The Lead Partner shall at all times keep separate, detailed, accurate and up-to-date accounts and records of:
  - 5.1.1 the receipt, interest received on and expenditure of all Grant monies received by it under this Agreement; and
  - 5.1.2 any income generated from the Funded Activities.
- 5.2 The Lead Partner shall keep all accounting records, including all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least seven (7) years following receipt of any portion of the Grant monies to which such information relates or any other period as may be required by GHP or DHSC and notified to the Lead Partner by GHP or DHSC from time to time. At GHP's request, GHP and DHSC shall have the right to review, and the Lead Partner shall promptly provide access to, the Lead Partner's accounts and records that relate to the expenditure of the Grant, and GHP and DHSC shall have the right to take copies of such accounts and records.
- 5.3 The Lead Partner shall submit a full itemised list of expenditure with submission of the next Financial Report due under paragraph 5.4 below after the date such expenditure was incurred. GHP may (at its discretion) request receipt(s) to evidence any item of expenditure, such receipts to be provided within ten (10) days of request.





- 5.4 The Lead Partner shall provide GHP with a detailed financial report containing details of expenditure to date and an up-to-date budget in respect of its use of the Grant and delivery of the GHWP project every three (3) months during the Grant Period and in such format as may be reasonably required by GHP (each such report a “**Financial Report**”). The Lead Partner shall provide GHP with each Financial Report within fourteen (14) days of the last day of the three (3) month period to which it relates.
- 5.5 The Lead Partner shall provide GHP with a copy of its annual accounts within six months (or such lesser period as GHP may reasonably require) of the end of the relevant financial year in respect of each year in which the Grant is paid.
- 5.6 The Lead Partner shall comply, and facilitate GHP's compliance with, all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and GHP.
- 5.7 GHP considers any equipment and/or supplies purchased in part or fully from DHSC funds as project assets (“**Programme Funded Assets**”) if they have a useful life of more than one year; and either such equipment and/or supplies: (1) have a purchase price or development cost in excess of £500 or equivalent in local currency; or (2) is a group of lower value items (e.g. pharmaceutical products, food, relief packs, etc.) where the combined value is in excess of £500 or equivalent in local currency; or (3) can be considered an attractive item (as determined by GHP, acting reasonably) regardless of cost (e.g. mobile phones, cameras, laptops, tablets, satellite phones, vehicles, etc.).
- 5.8 Assets purchased with Grant funding must only be used for delivery of the Funded Activities.
- 5.9 The Lead Partner and all other partners in the GHWP project must not sell any Assets that have been totally or partly bought, restored, conserved (maintained or protected from damage) or improved with the Grant, unless:
- 5.9.1 the Asset can be sold for its full current market value; and
  - 5.9.2 prior permission has been obtained from GHP and DHSC in writing.
- 5.10 The Lead Partner and all other partners in the GHWP project must not sell any Asset below market value without the prior written permission from GHP and DHSC.
- 5.11 Any proceeds from the disposal of any Asset will be surrendered to GHP or DHSC in full, unless otherwise agreed in writing by DHSC.
- 5.12 Where the Grant allows for capital spend, the Lead Partner must keep a register of Fixed Assets, including all land and building(s) acquired or improved with the Grant.
- 5.13 The Lead Partner will ensure that a physical check, and where possible the Lead Partner should undertake these checks directly, of all Fixed Assets and Programme Funded Assets takes place on at least an annual basis and establish and maintain an inventory of all Programme Funded Assets (including, for the avoidance of doubt, any Fixed Assets) (the “**Inventory**”) and provide the Inventory to:



- 5.13.1 GHP, annually, alongside its annual accounts delivered to GHP pursuant to paragraph 5.5; and
  - 5.13.2 GHP and/or DHSC (as applicable) within four (4) Working Days of being requested to do so.
- 5.14 For each entry in the Inventory the following particulars must be shown where appropriate:
- 5.14.1 date of acquisition;
  - 5.14.2 description of the Asset;
  - 5.14.3 cost, net of recoverable VAT
  - 5.14.4 location of the Asset;
  - 5.14.5 serial or identification numbers;
  - 5.14.6 location of the title deeds;
  - 5.14.7 date of any Disposal;
  - 5.14.8 depreciation/amortisation policy applied;
  - 5.14.9 proceeds of any Disposal net of VAT; and
  - 5.14.10 the identity of any person to whom the Asset has been transferred or sold.
- 5.15 GHP reserves the right to require the Lead Partner to maintain the particulars set out in paragraph 5.14 for any additional items which GHP considers material to the overall Grant.
- 5.16 Where the Lead Partner uses any of the Grant to purchase any Programme Funded Asset or Fixed Asset, the Lead Partner must ensure that such Assets are maintained in good condition over the Grant Period.
- 5.17 The Lead Partner must report to GHP lost or stolen Assets, regardless of the value.
- 5.18 The Lead Partner will be accountable for the appropriate use and control of Inventory items, in line with this Agreement.
- 5.19 The Lead Partner will manage and be responsible for the risk of Assets being lost, stolen, damaged or destroyed in accordance with its own policies and procedures. GHP expects the Lead Partner to cover the cost of repairing or replacing lost, stolen, damaged or destroyed Assets and should make a risk-based decision on how best to do this. If the Lead Partner decides to take out commercial insurance to cover lost, stolen, damaged or destroyed Assets, DHSC funds cannot be used to fund the premiums unless, by exception, explicitly agreed in writing in advance.
- 5.20 DHSC will retain ultimate ownership of all Programme Funded Assets and Fixed Assets, specifically project Assets, financial Assets and information Assets, until



ownership transfer or asset disposal is otherwise agreed in writing by DHSC. The Lead Partner shall propose an appropriate disposal schedule to DHSC in writing no later than six months before the expiry of the Grant Period.

- 5.21 The Lead Partner agrees that GHP, DHSC and the Secretary of State for Health and Social Care shall be entitled to audit the delivery and performance of the activities performed under or in connection with this Agreement and/or request access to, or a report from, the Lead Partner's auditors on its audited accounts. Any such reports must be capable of being relied upon by GHP, DHSC and the Secretary of State for Health and Social Care. GHP and DHSC shall also be entitled to full access to the Lead Partner's records on an open-book basis during the term of this Agreement or such other period as GHP, DHSC and/or the Secretary of State for Health and Social Care may require.
- 5.22 The Lead Partner will permit (and comply with) any surveys of management controls and systems, including internal audit reviews, as may be required by GHP, DHSC and/or the Secretary of State for Health and Social Care.
- 5.23 The Lead Partner (and any person acting on behalf of the same) will at the request of GHP, DHSC and/or the Secretary of State for Health and Social Care permit any such party (or any third party nominated or required by any such party) access at all reasonable times to all documents (including computerised documents and data) and other information as are connected to the Grant payable under this Agreement.
- 5.24 The Lead Partner will retain such information as would be necessary to provide assurance that the Lead Partner delivered the minimum requirements of its obligations hereunder.
- 5.25 The Lead Partner shall not create a charge or grant security over any Asset or Fixed Asset.

## **6 Monitoring and Reporting**

The Lead Partner shall closely monitor the delivery and success of the GHWP throughout the Grant Period to ensure that the aims and objectives of the GHWP are being met and that this Agreement is being adhered to, and shall liaise with GHP on a regular basis through meetings and reports as set out in this paragraph 6, Annex 2 and as otherwise required by GHP for GHP's monitoring purposes.

- 6.1 The Lead Partner shall provide GHP with a finalised project monitoring and evaluation plan that is acceptable to GHP within the one (1) month period following the start of the Grant Period.
- 6.2 Unless otherwise expressly stated otherwise herein, the Parties shall agree the format to be used by the Lead Partner for the reports to be submitted in accordance with paragraphs 6.3 and 6.8 below, provided that the Lead Partner shall comply with any changes to such agreed format as may be required and notified by GHP to the Lead Partner from time to time.
- 6.3 The Lead Partner shall provide GHP with:



- 6.3.1 a narrative operational report on its use of the Grant and the delivery of the GHWP project (a “**Narrative Operational Report**”) every three (3) months during the Grant Period. The Lead Partner shall provide GHP with each Narrative Operational Report within fourteen (14) days of the last day of the three (3) month period to which it relates; and;
- 6.3.2 a funding flow in GHP’s template form (a “**Funding Flow**”) within the three (3) month period following the start of the Grant Period, such Funding Flow to detail the funding flows to Downstream Partners,
- and in each case in such format as is required pursuant to paragraph 6.2 above.
- 6.4 Where the Lead Partner has obtained funding from a third party for its delivery of part of the GHWP project, the Lead Partner shall include the amount of such funding in its Financial Reports together with details of how such funding has been used.
- 6.5 The Lead Partner shall on request provide GHP with further information, explanations and documents as GHP may reasonably require in order for it to establish that the Grant has been used properly and in accordance with this Agreement, including any requests in order for GHP to undertake the necessary due diligence, actions and determinations under paragraph 6.13.
- 6.6 The Lead Partner shall permit any person authorised by GHP such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Lead Partner’s fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.
- 6.7 The Lead Partner shall permit any person authorised by GHP and/or DHSC to visit the Lead Partner and shall procure that such persons may also visit any Partner at any time upon notice to monitor the delivery of the GHWP project, either in the United Kingdom or overseas. Where, in its reasonable opinion, either GHP or DHSC considers that additional visits are necessary to monitor the GHWP, it shall be entitled to authorise any person to make such visits on its behalf.
- 6.8 The Lead Partner shall, on the final day of the Grant Period, or within ten (10) days of the termination of this Agreement for any other reason, provide GHP with a final report in the form requested by GHP which shall detail the budget and all expenditure in connection with the GHWP project and demonstrate whether the GHWP has been successfully and properly completed in accordance with GHP’s, DHSC’s and the GHWP requirements.
- 6.9 The Lead Partner and all relevant Partner individuals will attend three-monthly project progress update meetings with GHP.
- 6.10 The Lead Partner must provide GHP and/or DHSC with all reasonable assistance and co-operation in relation to any ad-hoc information requests made by GHP and/or DHSC in relation to the Funded Activities.
- 6.11 The Lead Partner will notify GHP immediately upon becoming aware of:



- 6.11.1 any financial, administrative, managerial difficulties that may hinder or prevent the Lead Partner from fulfilling its obligations under the Agreement;
  - 6.11.2 any actual or potential breach of this Agreement; or
  - 6.11.3 any change in the information on costs (whether actual or estimated) of carrying out the Funded Activities or any event which materially affects the continued accuracy of such information.
- 6.12 The Lead Partner shall maintain a record of all gifts, both given and received, in connection with the Grant and any Funded Activity and provide this to GHP:
- 6.12.1 annually, alongside its annual accounts; and
  - 6.12.2 as soon as reasonably practicable upon GHP's request.
- 6.13 Prior to making any payments under paragraph 2, the parties acknowledge that GHP shall undertake due diligence and take the necessary steps prior to transferring the Grant and at regular intervals throughout the Grant Period in order to assess the internal controls and systems of the Lead Partner (and Partners, where necessary) and determine:
- 6.13.1 the reliability, integrity and efficiency of the Lead Partner's controls, systems and processes including compliance with applicable legislation, regulations, rules, policies and procedures;
  - 6.13.2 whether the Lead Partner can successfully deliver the relevant outputs based on its processes, past experience and whether they have the sufficient staff capacity and capability available;
  - 6.13.3 the Lead Partner's ability to correctly manage and account for aid monies and assets as well as its financial health; and
  - 6.13.4 where appropriate, whether the Lead Partner has sufficient capacity and capability to properly monitor and control its implementing partners.

## **7 Acknowledgment and Publicity**

- 7.1 The Lead Partner shall acknowledge the Grant in its annual report and accounts, including an acknowledgement of GHWP, GHP and the DHSC (and GHP's and DHSC's roles in relation to the source of the Grant).
- 7.2 The Lead Partner shall not publish any material referring to the GHWP project, this Agreement, GHP or the DHSC without the prior written agreement of GHP or DHSC, as appropriate, with the exception of the requirement in paragraph 7.1. The Lead Partner shall acknowledge the support of GHP and DHSC and the GHWP in any materials that refer to the GHWP in any written or spoken public presentations about the GHWP by using the following statement: "*This project is funded through the Global Health Workforce Programme, which is funded by the UK Department of Health and Social Care (DHSC) for the benefit of the UK and partner country health sectors.*" Such acknowledgements (where appropriate or as requested by GHP and/or DHSC)



shall include GHP's and/or DHSC's name and logo (or any future name or logo adopted by GHP and/or DHSC) using the templates provided by GHP and DHSC from time to time.

- 7.3 Regarding communication and branding, the Lead Partner shall comply with all GHP's or DHSC's communication and branding guidelines issued by GHP and/or DHSC from time to time, including regarding the use of the UK aid logo.
- 7.4 If a third party wishes to use the DHSC or the programme's logo, the Lead Partner must first seek permissions from the DHSC, via GHP.
- 7.5 The Lead Partner agrees to use reasonable endeavours to participate in and co-operate with promotional activities relating to the GHWP that may be instigated and/or organised by GHP.
- 7.6 GHP may acknowledge the Lead Partner's involvement in the GHWP as appropriate without prior notice.
- 7.7 The Lead Partner shall comply with all reasonable requests from GHP to facilitate visits, provide reports, statistics, photographs and case studies that will assist GHP in its promotional activities relating to the GHWP.
- 7.8 The Lead Partner shall, and shall procure that the Partners shall, inform GHP of any publicity, academic papers or publicly available documents connected with the GHWP and allow free access to such material by DHSC and/or GHP in perpetuity.
- 7.9 The Lead Partner will (and will procure that any Partner shall) publish to the International Aid Transparency Initiative Standard on their funding in accordance with clause 29 of the Funding Agreement. The Lead Partner gives consent for this Agreement (and any subsequent amendments) and associated information to be published on DHSC's website.
- 7.10 All Partners will actively participate in GHP-organised networking and knowledge sharing throughout the GHWP.
- 7.11 The Lead Partner shall ensure that they have obtained the relevant agreement from any relevant third-party proprietor before any additions or variations are made to the standard 'off-the-shelf' versions of any third-party software and other Intellectual Property Rights. The Lead Partner will obtain and maintain all appropriate licences to use the third-party software.

## **8 Intellectual Property Rights**

- 8.1 GHP and the Lead Partner agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either GHP or the Lead Partner before the Commencement Date or developed by either party during the Grant Period, shall remain the property of that party.
- 8.2 Where GHP has provided the Lead Partner with any of its or DHSC's Intellectual Property Rights for use in connection with the GHWP (including without limitation name(s) and logo(s)), the Lead Partner shall, on termination of this Agreement for any



reason whatsoever, cease to use such Intellectual Property Rights immediately and shall either return or destroy any materials containing or comprising such Intellectual Property Rights as requested by GHP and/or DHSC, as appropriate.

- 8.3 The Lead Partner hereby grants, and shall procure that all Partners shall grant, to each of DHSC and GHP an irrevocable, perpetual, worldwide, sublicensable, transferable, royalty-free licence to use all reports, materials and all other documentation, and any other Intellectual Property Rights contained therein, which are produced in the course of the GHWP or otherwise in connection with or arising out of this Agreement, for research, publicity and other activities in support of health partnerships.
- 8.4 The Lead Partner acknowledges and agrees that DHSC and GHP may freely share any information, Know-How, system or process developed during the term of this Agreement to support similar projects to those of GHWP.

## 9 **Confidentiality**

- 9.1 Subject to paragraph 10 (Freedom of Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Confidential Information or Commercially Sensitive Information disclosed to it under or in connection with this Agreement and shall not disclose the same to any person save insofar as such disclosure is necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.
- 9.2 The obligation of confidentiality contained in this paragraph 9 shall not apply or shall cease to apply to any Confidential Information or Commercially Sensitive Information which:
- 9.2.1 at the time of its disclosure by the disclosing party is already in the public domain, or which subsequently enters the public domain, other than by breach of the terms of this Agreement by the receiving party;
- 9.2.2 is already known to the receiving party, as evidenced by written records at the time of its disclosure by the disclosing party, and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
- 9.2.3 is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party.
- 9.3 The receiving party of such Confidential Information and/or Commercially Sensitive Information shall:
- 9.3.1 treat the disclosing party's Confidential Information and Commercially Sensitive Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information and Commercially Sensitive Information contained in those materials);



- 9.3.2 not disclose the disclosing party's Confidential Information and Commercially Sensitive Information to any other person except as expressly set out in this Agreement or without obtaining the owner's prior written consent;
- 9.3.3 not use or exploit the disclosing party's Confidential Information or Commercially Sensitive Information in any way except for the purposes anticipated under this Agreement; and
- 9.3.4 immediately notify the disclosing party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the disclosing party's Confidential Information or Commercially Sensitive Information.
- 9.4 The receiving party shall be entitled to disclose the Confidential Information and/or Commercially Sensitive Information of the disclosing party where:
- 9.4.1 the receiving party is required to disclose the Confidential Information or Commercially Sensitive Information by any applicable law, provided that paragraph 10 (Freedom of Information) shall apply to disclosures required under the Information Acts;
- 9.4.2 the need for such disclosure arises out of or in connection with:
- (i) any legal challenge or potential legal challenge against DHSC or the Secretary of State for Health and Social Care arising out of or in connection with this Agreement or the Funding Agreement;
  - (ii) the examination and certification of DHSC's or the Secretary of State for Health and Social Care's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which DHSC or the Secretary of State for Health and Social Care is making use of any of the funded activities provided under this Agreement; or
  - (iii) the conduct of a central government body review in respect of this Agreement; or
- 9.4.3 the receiving party has reasonable grounds to believe that the disclosing party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.
- 9.5 If the receiving party is required by any applicable law to make a disclosure of Confidential Information or Commercially Sensitive Information, the receiving party shall as soon as reasonably practicable and to the extent permitted by applicable law notify the disclosing party of the full circumstances of the required disclosure including the relevant applicable law and/or regulatory body requiring such disclosure and the Confidential Information and Commercially Sensitive Information to which such disclosure would apply.
- 9.6 GHP, DHSC or the Secretary of State for Health and Social Care may disclose the Confidential Information or Commercially Sensitive Information of the Lead Partner:





- 9.6.1 to any central government body on the basis that the information may only be further disclosed to central government bodies;
- 9.6.2 to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
- 9.6.3 to the extent that DHSC or the Secretary of State for Health and Social Care (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- 9.6.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in clause 9.6.1 for any purpose relating to or connected with this Agreement or the Funding Agreement;
- 9.6.5 on a confidential basis for the purpose of the exercise of its rights under this Agreement or the Funding Agreement; or
- 9.6.6 to a proposed transferee, assignee or novatee of, or successor in title to DHSC or the Secretary of State for Health and Social Care,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those set out in this paragraph.

- 9.7 Nothing in this paragraph 9 shall prevent a receiving party from using any techniques, ideas or Know-How gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the disclosing party's Confidential Information or Commercially Sensitive Information or an infringement of Intellectual Property Rights.

## 10 **Freedom of Information**

- 10.1 The Lead Partner acknowledges that DHSC is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and that GHP may be obliged to provide DHSC with certain information under the requirements of FOIA. The Lead Partner shall assist and co-operate with GHP (at the Lead Partner's expense) to enable GHP to comply with these information disclosure requirements.
- 10.2 The Lead Partner shall:
  - 10.2.1 transfer the request for information to GHP as soon as practicable after receipt and in any event within two (2) Working Days of receiving a request for information;
  - 10.2.2 provide GHP with a copy of all information in its possession or power in the form that GHP requires within five (5) Working Days (or such other period as GHP may specify) of GHP requesting that information; and
  - 10.2.3 provide all necessary assistance as reasonably requested by GHP to enable GHP to respond to a request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations 2004.



- 10.3 DHSC shall be responsible for determining at its absolute discretion whether the information:
- 10.3.1 is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004;
  - 10.3.2 is to be disclosed in response to a request for information, and in no event shall the Lead Partner respond directly to a request for information unless expressly authorised to do so by GHP or DHSC.
- 10.4 The Lead Partner acknowledges that DHSC may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part I of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose information:
- 10.4.1 without consulting with the Lead Partner; or
  - 10.4.2 following consultation with the Lead Partner and having taken its views into account,
- provided always that where paragraph 10.4.1 applies DHSC shall, in accordance with any recommendations of the Code of Practice on Access to Government Information, take reasonable steps, where appropriate, to give the Lead Partner advanced notice, or failing that, to draw the disclosure to the Lead Partner's attention after any such disclosure.
- 10.5 The Lead Partner shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit GHP and/or DHSC to inspect such records as requested from time to time.
- 10.6 [It is acknowledged that the Lead Partner must observe its obligations under the [FOIA / Freedom of Information (Scotland) Act 2002]<sup>2</sup>, and under the common law duty of confidentiality and shall comply with all applicable laws (and shall notify GHP immediately of any significant departure from such applicable laws).
- 10.7 GHP acknowledges that the Lead Partner may itself be subject to obligations under the [FOIA / Freedom of Information (Scotland) Act 2002]<sup>3</sup> or the EIR that require it disclose information concerning the GHWP project as contemplated by this Agreement and GHP agrees that it shall assist and co-operate with the Lead Partner (at the Lead Partner's expense) to enable the Lead Partner to comply with these information disclosure requirements. The Lead Partner will not be in breach of obligations under this paragraph 10 or obligations of confidentiality under paragraph 9 (Confidentiality) to the extent it is required by law to disclose information under the [FOIA / Freedom of Information (Scotland) Act 2002]<sup>4</sup> or the EIR. The Lead Partner shall:

<sup>2</sup> To select depending on whether the Lead Partner is based in Scotland (in which case refer to the Freedom of Information (Scotland) Act 2002 only) or England, Wales or Northern Ireland (in which case refer to the FOIA only)

<sup>3</sup> To select depending on whether the Lead Partner is based in Scotland (in which case refer to the Freedom of Information (Scotland) Act 2002 only) or England, Wales or Northern Ireland (in which case refer to the FOIA only)

<sup>4</sup> To select depending on whether the Lead Partner is based in Scotland (in which case refer to the Freedom of Information (Scotland) Act 2002 only) or England, Wales or Northern Ireland (in which case refer to the FOIA only)



- 10.7.1 wherever practicable, give GHP reasonable advance notice of the intended disclosure;
- 10.7.2 make such disclosure only to the extent required and for the purpose of complying with the requirements; and
- 10.7.3 take all reasonable measures to ensure, as far as it is possible to do so, the continued confidentiality of any Confidential Information or Commercially Sensitive Information shared.

## 11 Data Protection

- 11.1 The Parties confirm that they shall, and the Lead Partner shall procure that its staff and Partners shall, comply with their obligations and duties under Data Protection Legislation. In particular:
  - 11.1.1 where necessary, the Parties shall obtain and maintain appropriate data protection notification entries on the UK Information Commissioner's Register of Data Controllers;
  - 11.1.2 in the event a party is acting as a data processor (hereafter the "**Processing Party**") (as defined by the Data Protection Legislation) for the other party (hereafter the "**Controller Party**"), the Processing Party undertakes in respect of personal data and sensitive personal data (as defined by Data Protection Legislation) processed by it ("**Personal Data**" and "**Sensitive Personal Data**" respectively):
    - (i) to process the Personal Data strictly in accordance with the terms of this Agreement and the Controller Party's reasonable instructions from time to time; if the Processing Party cannot provide such compliance for any reason, the Processing Party agrees to inform the Controller Party promptly. In this situation the Controller Party is entitled to suspend the transfer of Personal Data and/or terminate this Agreement;
    - (ii) take appropriate technical and organisational measures against the unauthorised or unlawful processing of the Personal Data and against the accidental loss or destruction of, or damage to, the Personal Data (including without limitation adequate back up procedures and disaster recovery systems). Such measures shall (taking into account the state of technological development and the cost of implementing such measures) be appropriate to the nature of the Personal Data processed by the Processing Party;
    - (iii) ensure that only its employees who may be required during the course of their employment to perform tasks relating to the services undertaken to be provided by the Processing Party under this Agreement shall have access to the Personal Data. The Processing Party shall ensure that all employees used by it to process Personal Data have undergone training in Data Protection Legislation and in the care and handling of Personal Data;



- (iv) process the Personal Data in accordance with all applicable Data Protection Legislation;
- (v) notify (insofar permitted by law) the Controller Party about any request which may be received from individuals who are the subject of the Personal Data (“**Data Subjects**”) without responding to that request, unless the Processing Party has been authorised to do so by the Controller Party;
- (vi) assist the Controller Party promptly with all requests which may be received from Data Subjects. The Controller Party shall reimburse the Processing Party for any reasonable costs which the Processing Party may incur in complying with this requirement;
- (vii) not use the Personal Data for any purposes which may be inconsistent with those notified to the Data Subject on or before collection provided that the Controller Party has previously supplied copies of all such notices to the Processing Party;
- (viii) not disclose the Personal Data to a third party in any circumstances other than at the specific request of the Controller Party or as otherwise specified in this Agreement;
- (ix) notify the Controller Party immediately upon receiving any notice or communication from any supervisory or government body which relates directly or indirectly to the processing of the Personal Data and provide full cooperation and assistance to the Controller Party in relation to any such notice or communication;
- (x) provide a written description of the technical and organisational methods employed by the Processing Party for processing Personal Data (within the timescales required by the Controller Party);
- (xi) not process Personal Data outside the United Kingdom without the prior written consent of the Controller Party and, where the Controller Party consents to a transfer, to comply with:
  - (A) the obligations of a Data Controller (as set out in the Data Protection Legislation) under Article 46 of the UK General Data Protection Regulation, including by entering into appropriate standard data protection clauses (pursuant to the UK General Data Protection Regulation) and by providing an adequate level of protection to any Personal Data that is transferred; and
  - (B) any reasonable instructions notified to it by the Controller Party.
- (xii) not assign, transfer or sub-contract any right or obligation under this paragraph 11 without the Controller Party’s prior written consent.

11.2 The Processing Party and Controller Party shall discuss and agree appropriate security measures to be implemented in respect of the exchange of GHWP data and other data including without limitation Personal Data, between the Parties.



- 11.3 The Processing Party will allow its data processing facilities, procedures and documentation which relate to the processing of the Personal Data to be scrutinised by the employees or agents of the Controller Party, in order to ascertain compliance with the terms of this Agreement.
- 11.4 Each Party shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the other Party to breach any of its applicable obligations under the Data Protection Legislation.
- 11.5 The rights and obligations set out in this Agreement shall automatically terminate upon the expiry of this Agreement. On termination of this Agreement the Processing Party will cease processing the Personal Data and return the Personal Data to the Controller Party or destroy the Personal Data as the Controller Party requests.

## **12 Procurement Law, Subsidy Control and Value for Money**

- 12.1 The Lead Partner will ensure that any of its Representatives involved in the Funded Activities will, adopt such policies and procedures that are required in order to ensure that value for money has been obtained in the procurement of goods or services funded by the Grant.
- 12.2 Where the Lead Partner is a Contracting Authority (as defined in the Procurement Regulations) the Lead Partner will comply, as necessary, with the Procurement Regulations when procuring goods and services in connection with this Agreement and both GHP and DHSC shall not be liable for the Lead Partner's failure to comply with its obligations under the Procurement Regulations.
- 12.3 The Lead Partner will ensure that delivery of the Funded Activities does not put GHP or DHSC in breach of the UK's international obligations in respect of subsidies.
- 12.4 The Lead Partner will maintain appropriate records of compliance with the relevant subsidy control regime and will take all reasonable steps to assist the GHP and DHSC to comply with the same and respond to any proceedings or investigation(s) into the Funded Activities by any relevant court or tribunal of relevant jurisdiction or regulatory body.
- 12.5 The Lead Partner acknowledges and accepts that the Grant is awarded on the basis that the Funded Activities being undertaken using the Grant are, and will remain, non-economic activities. The Lead Partner shall ensure that measures are taken (where necessary), and maintained, to ensure that the Grant is not used to cross-subsidise any economic activity.
- 12.6 The Lead Partner acknowledges and represents that the Grant is being awarded on the basis that the Funded Activities being undertaken using the Grant do not affect trade in goods and wholesale electricity between Northern Ireland and the European Union and shall ensure that the Grant is not used in way that affects any such trade.

## **13 Rectification**

- 13.1 In the event GHP and/or DHSC:



- 13.1.1 considers the performance of any activity undertaken by the Lead Partner or any Partner using Grant funds is not in accordance with the terms of this Agreement or in line with the GHWP objectives; or
- 13.1.2 requires additional information or considers that any report and/or other documentation provided by the Lead Partner under this Agreement is deficient;

it shall notify the Lead Partner of its concerns and specify any action required to rectify the situation and a timescale within which such remedial action must be taken. Lead Partner shall, and/or shall procure that any Partners shall, comply with such remedial action within the applicable timescales (and it being acknowledged that any such timescale shall not be more than twenty (20) Working Days) notified to Lead Partner pursuant to this paragraph.

#### **14 Withholding, Suspending and Repayment of Grant**

- 14.1 GHP's intention is that the Grant will be paid to the Lead Partner in full. However, without prejudice to GHP's other rights and remedies under this Agreement, at law or otherwise, GHP may at its sole discretion suspend this Agreement and withhold or suspend payment of the Grant monies or any Instalment(s) and/or require the immediate repayment of all or part of the Grant already paid if:
  - 14.1.1 the Grant is used for purposes other than those for which it has been awarded;
  - 14.1.2 GHP considers that the Lead Partner has not made satisfactory progress with the delivery of the GHWP and has not rectified this in accordance with paragraph 13 (Rectification) above;
  - 14.1.3 if the Lead Partner submits deficient reports pursuant to paragraph 6 (Monitoring and Reporting) above and does not rectify such reports in accordance with paragraph 13 (Rectification) above;
  - 14.1.4 the delivery of the GHWP does not start within three (3) months of the Commencement Date and the Lead Partner has failed to provide GHP with a reasonable explanation for the delay (as determined by GHP, acting reasonably);
  - 14.1.5 the GHWP is modified or in any aspect not completed pursuant to paragraphs 1.1 (Purpose of Grant) and 1.2 (Purpose of Grant) above;
  - 14.1.6 the Lead Partner or any Partner is, in the reasonable opinion of GHP, delivering the GHWP in a negligent manner;
  - 14.1.7 the Lead Partner obtains duplicate funding from a third party for the GHWP project;
  - 14.1.8 the Lead Partner or any Partner obtains funding from a third party which, in the reasonable opinion of GHP, undertakes activities that are likely to bring the reputation of the GHWP, DHSC and/or GHP into disrepute;
  - 14.1.9 the Lead Partner provides GHP with any materially misleading or inaccurate information or omits to provide GHP with any material information;



- 14.1.10 the Lead Partner, a Partner, or any of either of their staff, agents, consultants and sub-contractors commits or committed a Prohibited Act;
- 14.1.11 any member of the governing body, employee or volunteer of the Lead Partner has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the GHWP project, or (b) taken any actions which, in the reasonable opinion of GHP, bring or are likely to bring GHP's or DHSC's name or reputation or that of the GHWP to disrepute;
- 14.1.12 the Lead Partner ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- 14.1.13 the Lead Partner becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due;
- 14.1.14 the Lead Partner or any Partner commits a material breach of any of the terms of this Agreement including without limitation a breach of warranty as set out in paragraph 18 (Warranties) and/or a breach of any of the obligations in paragraphs 1.5 (Purpose of Grant) and 1.6 (Purpose of Grant) above which (if capable of remedy) it fails to remedy within thirty (30) days of receiving written notice specifying the breach and requiring such breach to be remedied;
- 14.1.15 DHSC require GHP to repay all or any part of the Grant pursuant to the terms of the Funding Agreement;
- 14.1.16 the Lead Partner transfers, assigns or novates to any third party, or encumbers in any way, the Grant without GHP's consent; or
- 14.1.17 in the event of actual or suspected sexual exploitation, abuse or harassment.

## **15 Anti-Discrimination**

- 15.1 The Lead Partner shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment and shall provide GHP on request with a copy of any equal opportunities policy or statement it has in place.
- 15.2 The Lead Partner shall take all reasonable steps to secure the observance of paragraph 15.1 by all Partners, servants, contractors, employees or agents of the Lead Partner and all suppliers and sub-contractors engaged on the GHWP..

## **16 Human Rights and Financial Impropriety**

- 16.1 The Lead Partner shall (and shall use its reasonable endeavours to procure that its staff and Partners shall) at all times comply with the provisions of the HRA applicable to it in the performance of this Agreement.



- 16.2 The Lead Partner shall undertake, or refrain from undertaking, such acts as GHP requests so as to enable GHP to comply with its obligations under the HRA.
- 16.3 The Lead Partner must inform GHP immediately if there are any grounds for suspecting Aid Diversion and/or financial irregularity in the use of the Grant, explain what steps are being taken to investigate the Aid Diversion or financial irregularity (as applicable) and keep GHP informed about the progress of the investigation. For these purposes “financial irregularity” includes (but is not limited to) potential fraud or other impropriety, mismanagement, and the use of grant for any purpose other than those stipulated in this Agreement.
- 16.4 The Lead Partner will immediately and without undue delay inform GHP of any event which interferes or threatens to materially interfere with the successful implementation of the projects, programmes and activities, including credible suspicion of or actual fraud, corruption, money-laundering or any other financial irregularity or impropriety (“**Financial Impropriety**”).
- 16.5 In the event of any credible indications that UK funds may have been subject to fraud or financial impropriety, the Parties and DHSC, may, at any time during the period of this arrangement and up to five years after the end of the programme, arrange for additional investigations, on-the spot checks and/or inspections to be carried out. These may be carried out by the Parties or DHSC, or any of their duly authorised representatives.
- 16.6 Where information is requested by the DHSC or GHP as part of an investigation into fraud or Financial Impropriety, the Lead Partner cannot request any remuneration or benefits for any labour associated with fulfilling that request unless agreed in writing between the Parties.
- 16.7 The Parties reserve the ability to recover funds that have been subject to proven fraud and will work together to do so. Where Financial Impropriety is alleged, GHP reserves the ability to suspend or terminate funding with immediate effect, in preference to the standard notice period and irrespective of any contractual requirements, and to seek civil or criminal sanctions where appropriate.

## 17 Limitation of Liability

- 17.1 Subject to paragraph 17.4 GHP accepts no liability for any Losses that may arise, whether directly or indirectly, from or in connection with:
- 17.1.1 the Lead Partner, its staff, agents, contractors, or any Partner(s) engaging in the GHWP project;
  - 17.1.2 the use of the Grant; or
  - 17.1.3 the withdrawal of the Grant,

or which otherwise arise from or in connection with this Agreement.

- 17.2 The Lead Partner shall indemnify and hold harmless GHP and DHSC and each of their employees, agents, contractors, officers and/or sub-contractors (together, the “**Indemnified Parties**”) against all Losses arising from or incurred (whether directly or





indirectly) as result of (i) any action(s) and/or omission(s) of the Lead Partner and/or any Partner in relation to the GHWP, (ii) the non-fulfilment of obligations of the Lead Partner and/or any Partner under this Agreement, or (iii) the Lead Partner's or any Partner's obligations to third parties.

17.3 Subject to paragraphs 17.1 and 17.4 (Limitation of Liability):

17.3.1 GHP's liability under this Agreement is limited in aggregate to an amount equal to the Grant; and

17.3.2 the Lead Partner's liability under this Agreement is limited in aggregate to **£ [●] / an amount equal to [multiple of Grant]]<sup>5</sup>.**

17.4 Nothing in this Agreement shall exclude or limit:

17.4.1 either party's liability for death or personal injury caused by its (or its agent's or Partner's) negligence, or for fraud or fraudulent misrepresentation; or

17.4.2 either party's liability that cannot, as a matter of law, be limited or excluded.

17.5 Subject to paragraph 17.4, neither Party shall be liable for any loss of profits, turnover, savings, business opportunities, revenue or damage to goodwill (in each case whether direct or indirect) or any other indirect, special or consequential loss or damage of any nature howsoever caused and whether or not reasonably foreseeable or such possibility notified to the relevant Party.

## 18 Warranties

18.1 The Lead Partner warrants, undertakes and agrees that on the Commencement Date and on each day throughout the duration of the Agreement that:

18.1.1 it has full power and authority to execute, deliver and perform its obligations under this Agreement;

18.1.2 the Agreement is executed by a duly authorised representative of the Lead Partner;

18.1.3 there are no currently in force or binding agreements with third parties the terms of which would prevent it from entering into the Agreement or would materially impede the performance by it of its obligations under the Agreement;

18.1.4 it will perform its obligations under this Agreement using suitable, appropriately qualified, experienced and competent personnel and Partners;

18.1.5 it has all necessary resources, capacity and expertise to deliver the GHWP (assuming due receipt of the Grant);

18.1.6 it has not committed, nor shall it commit, any Prohibited Act and shall procure that Partners undertake and agree not to commit any Prohibited Act;

<sup>5</sup> GHP to include multiple of grant amount or appropriate cap



- 18.1.7 it shall and shall procure that the Partners shall at all times comply with all applicable laws (including without limitation the IDA in accordance with paragraph 1.7 (Purpose of Grant) above), regulations and all applicable codes of practice and other similar codes or recommendations both in the UK and in the countries in which they are operating, and shall notify GHP immediately of any significant departure from such laws, regulations, codes or recommendations;
- 18.1.8 it shall and shall procure that the Partners shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the GHWP;
- 18.1.9 it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- 18.1.10 it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- 18.1.11 it shall and shall procure that the Partners shall comply with all relevant medical and ethical standards and all applicable legislation and codes of practice in force in England and Wales and any other territory in which the GHWP takes place or to which the GHWP relates;
- 18.1.12 all financial and other information supplied by or on behalf of the Lead Partner in connection with this Agreement was true and accurate in all material respects as at the date it was provided and is not misleading in any material respect because of any omission, subsequent occurrence or ambiguity or for any other reason;
- 18.1.13 it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant;
- 18.1.14 it is not aware of anything in its own affairs, which it has not disclosed to GHP or any of GHP's advisers, which might reasonably have influenced the decision of GHP to make the Grant on the terms contained in this Agreement; and
- 18.1.15 since the date of its last accounts there has been no material change in its financial position or prospects.

## 19 **Insurance**

- 19.1 The Lead Partner shall, for the duration of this Agreement and for six years after termination or expiry of this Agreement, effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Lead Partner and its Representatives, arising out of the Lead Partner's and its Representatives' performance of this Agreement, including without limitation death or personal injury, illness, disability, healthcare, travel and loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Lead Partner.



- 19.2 The Lead Partner shall hold employer's liability insurance in respect of its staff, servants, agents, suppliers and Partner(s) used in the performance of its obligations under this Agreement in accordance with any legal requirement for the time being in force.
- 19.3 The Lead Partner shall give GHP, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 19.4 If, for whatever reason, the Lead Partner fails to give effect to and maintain the insurances required by this Agreement GHP may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Lead Partner.
- 19.5 The terms of any insurance or the amount of cover shall not relieve the Lead Partner of any liabilities under this Agreement. It shall be the responsibility of the Lead Partner to determine, acting in a reasonable and prudent manner, the amount of insurance cover that will be adequate to enable the Lead Partner to satisfy any liability referred to in paragraph 17 (Limitation of Liability).
- 19.6 Notwithstanding paragraph 19.1, the Lead Partner shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Partners involved in the performance of the GHWP project hold and maintain appropriate cover. To comply with its obligations under this clause, and as a minimum, the Lead Partner shall ensure professional indemnity insurance held by the Lead Partner and by any agent, Partner or consultant involved in the performance of the GHWP has a limit of indemnity of not less than £10,000,000 for any occurrences arising out of each and every event. Such insurance shall be maintained for a minimum of six years following the expiration or earlier termination of this Agreement.

## **20** **Duration**

- 20.1 Except where terminated earlier pursuant to its terms or as otherwise specified herein or agreed in writing, the terms of this Agreement shall apply from the date of this Agreement until the later to occur of:
- 20.1.1 the expiry of the Grant Period; and
- 20.1.2 the date on which all Grant monies have been spent on Funded Activities by the Lead Partner in accordance with the terms of this Agreement.
- 20.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement and which are stated or by their nature are intended to continue shall survive such expiry or termination and continue in full force and effect until they have been fulfilled. In addition, termination or expiry of the Agreement, howsoever caused, shall not prejudice any rights and remedies of either Party or of DHSC which may have accrued under the Agreement up to the date of termination or expiry, and shall not affect any provision of the Agreement which is expressly or by implication intended to come into or remain in effect on or after termination or expiry.



## 21 Termination by GHP

21.1 In addition to GHP's rights to suspend this Agreement and Grant payments and/or reclaim Grant monies under paragraph 14 (Withholding, Suspension and Repayment of Grant) and without prejudice to any other rights and remedies available to GHP, GHP may at its sole discretion:

- 21.1.1 terminate or suspend this Agreement and any Grant payments hereunder on giving the Lead Partner thirty (30) days' written notice;
- 21.1.2 terminate this Agreement with immediate effect by providing written notice to the Lead Partner if:
  - (i) the Grant is used for purposes other than those for which it has been awarded;
  - (ii) the Lead Partner or any Partner has committed any Prohibited Act;
  - (iii) the Funding Agreement is terminated for any reason whatsoever;
  - (iv) Lead Partner or any Partner commits a material breach of any of the terms of this Agreement (including without limitation a breach of warranty as set out in paragraph 18 (Warranties) and/or a breach of any of the obligations in paragraphs 1.5 (Purpose of Grant) and 1.6 (Purpose of Grant) above) which (if capable of remedy) it fails to remedy within thirty (30) days of receiving written notice specifying the breach and requiring such breach to be remedied;
  - (v) the Lead Partner becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due;
  - (vi) the Lead Partner suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
  - (vii) there is a change of identity or character of the Downstream Partner (such assessment to be made at GHP's sole discretion), including but not limited to, through a takeover, merger, change of ownership or control; or
  - (viii) an event occurs which damages or is capable of damaging the reputation or integrity of DHSC, GHP or that of the project to which this Agreement relates;
  - (ix) the Lead Partner is, in the reasonable opinion of GHP, delivering the Funded Activities in a negligent manner;
  - (x) the Lead Partner obtains duplicate funding from a third party for the Funded Activities without obtaining the prior written consent of GHP in accordance with paragraph 1.11;



- (xi) the Lead Partner provides GHP with any materially misleading or inaccurate information;
- (xii) GHP determines (acting reasonably) that any director or employee of the Lead Partner has:
  - (A) acted dishonestly or negligently at any time during the term of this Agreement and to the detriment of the DHSC or GHP; or
  - (B) taken any actions which unfairly bring or are likely to unfairly bring the DHSC or GHP's name or reputation and/or the DHSC or GHP into disrepute;
- (xiii) the Lead Partner transfers, assigns or novates to any third party, or encumbers in any way, the Grant without the GHP's consent;
- (xiv) in the event of actual or suspected Financial Impropriety or Aid Diversion; and
- (xv) in the event of actual or suspected sexual exploitation, abuse or harassment.

## **22 Termination by the Lead Partner**

The Lead Partner may withdraw its application for Grant funding and terminate this Agreement at any time by giving not less than thirty (30) days' written notice to GHP stating the reasons for such withdrawal. In the event of any such termination the Lead Partner shall submit for GHP's approval an account in writing to GHP which shall state the amount spent in the performance of the GHWP project to the date of termination and identifying all fees and costs properly incurred or committed by them in relation to this Agreement or its termination which cannot be avoided or recovered.

## **23 Effect of Termination/Suspension/Expiry**

23.1 Where this Agreement has been terminated or suspended:

- 23.1.1 the Lead Partner shall take all such steps as are necessary to terminate or suspend, as appropriate, the GHWP project in a cost-effective, timely and orderly manner including without limitation: (i) suspending or terminating any contracts entered into pursuant to this Agreement; and (ii) cooperating with, and doing all things as required by, GHP in order to effect the transfer of the Grant to a third party;
- 23.1.2 the Lead Partner shall repay to GHP within ten (10) days of the termination of this Agreement all Grant monies received from GHP under this Agreement which remain unspent at the date of termination less any amount which has been approved by GHP pursuant to paragraph 22 (Termination by the Lead Partner) in respect of such committed fees and costs;
- 23.1.3 GHP shall pay any Grant monies due or outstanding under the terms of this Agreement as at the date of termination or suspension, as appropriate; and



- 23.1.4 GHP will reimburse such expenses as are properly incurred under the terms of this Agreement by the Lead Partner after the date of suspension or termination, as appropriate, and which cannot be avoided or recovered by the Lead Partner.
- 23.2 The Lead Partner shall assist the development and provision of an Exit Plan as required by GHP at no additional cost.
- 23.3 Wherever under the Agreement any sum of money is recoverable from or payable by the Lead Partner (including any sum that the Lead Partner is liable to pay to GHP in respect of any breach of the Agreement), GHP may unilaterally deduct that sum from any sum then due, or which at any later time may become due, to the Lead Partner under the Agreement or under any other agreement or contract with GHP.
- 23.4 Except for the circumstances contemplated by paragraph 23.1.2, the Lead Partner shall make any payments due to GHP without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise. Should the Lead Partner be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the GHWP Programme or compliance with this Agreement it will notify GHP as soon as possible so that, if possible, and without creating any legal obligation, GHP will have an opportunity to provide assistance in resolving the problem or to take action to protect GHP and the Grant monies.
- 23.5 GHP will not be liable to pay any of the Lead Partner's costs or those of any contractor/supplier of the Lead Partner (including any other Partners) related to any transfer or termination of the employment of any employees engaged in the provision of the provision of the work or services performed by the Lead Partner (or such Partners) prior to the date of termination.
- 23.6 For the avoidance of doubt, following the termination of this Agreement for any reason, GHP shall have no obligation to pay for any reason any Instalments or Grant monies to the Lead Partner which have not, at the date of termination, been paid to the Lead Partner.

## **24 Assignment/Subcontracting**

- 24.1 With the exception of matters specified and agreed in the GHWP, the Lead Partner may not, without the prior written consent of GHP, assign, transfer, novate, sub-contract, or deal in any way with all or part of the benefit and/or the burden of this Agreement or, except as contemplated as part of the GHWP, transfer or pay to any other person any part of the Grant.
- 24.2 GHP shall be entitled to assign the benefit of this Agreement without the consent of the Lead Partner.

## **25 Waiver and Variation**

- 25.1 No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.
- 25.2 GHP may at its entire discretion vary the Grant as a result of changes to activities funded by this Grant or for any other reason. Any variation made under this paragraph 25.2 will not take effect until notified by GHP to the Lead Partner in writing and



wherever practicable the GHP shall give a minimum of twenty-five (25) days' written notice before any such variation takes effect.

- 25.3 Subject to paragraph 25.2 above, this Agreement or any part of it may only be amended by advance agreement in writing between the Parties.

## 26 Notices

26.1 All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, mailed (first class postage prepaid) or if sent via electronic mail to the address of the relevant Party (as referred to in paragraph 26.2 below). If personally delivered or sent via electronic mail all such communications shall be deemed to have been given when actually received (except that if received on a non-Working Day or after 5.00 pm on any Working Day, they shall be deemed received on the next Working Day), if mailed all such communications shall be deemed to have been given and received on the second Working Day following such mailing.

26.2 All notices pursuant to this Agreement shall be sent to the other Party at the address shown below, or such other address as notified to the other Party in writing:

in respect of the Lead Partner:

Address: [●]

Telephone: [●]

Email: [●]

Attention: [●]

in respect of GHP:

Address: 3rd Floor, 86 – 90 Paul Street, London, EC2A 4NE

Telephone: 07399 621271

Email: grants@thet.org

Attention: Mathilde Wangen

26.3 In the event of any complaint or dispute (which does not relate to GHP's right to withhold funds or terminate) arising between the Parties in relation to this Agreement or any aspect of the GHWP the matter should first be referred for resolution to GHP's Head of Programmes or any other individual nominated by GHP from time to time.

26.4 Should the complaint or dispute remain unresolved within fourteen (14) days of the matter first being referred to the Head of Programmes or other nominated individual, as the case may be, either party may refer the matter to the Chief Executive of GHP and the Chief Executive of the Lead Partner with an instruction to attempt to resolve the dispute by agreement within twenty-eight (28) days, or such other period as may be mutually agreed by GHP and the Lead Partner.



- 26.5 In the absence of agreement under paragraph 26.4, the Parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the Parties shall bear the costs and expenses of the mediation equally.
- 26.6 If the Parties fail to reach agreement within thirty (30) days of the appointment of a mediator pursuant to paragraph 26.5, such failure shall be without prejudice to the right of either party subsequently to refer any dispute to litigation, but the Parties agree that mediation shall have taken place before resorting to litigation.
- 26.7 Nothing in this paragraph 26 will restrict the right of either party to commence legal proceedings at any time to preserve or protect any legal or equitable right or remedy (including an injunction).

## **27 Force Majeure**

- 27.1 No party shall be responsible to the other party for any delay in performance or non-performance due to Force Majeure, but the affected party shall promptly upon occurrence of any such causes inform the other party, stating that such cause has delayed or prevented its performance hereunder and thereafter such party shall take all action within its power to comply with the terms of this Agreement as fully and promptly as possible. If the Force Majeure in question prevails for a continuous period in excess of two (2) weeks, the Parties shall enter into discussions with a view to alleviating its effects or to agree reasonable alternative arrangements.

## **28 No Partnership or Agency**

- 28.1 This Agreement shall not create any partnership or joint venture between GHP and the Lead Partner, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

## **29 Joint and Several Liability**

- 29.1 Where the Lead Partner is not a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Lead Partner shall be jointly and severally liable for the Lead Partner's obligations and liabilities arising under this Agreement.

## **30 Contracts (Rights of Third Parties) Act 1999**

- 30.1 This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999 except for DHSC, who shall be entitled to enforce any term of this Agreement.

## **31 Governing Law**

- 31.1 This Agreement shall be governed by and construed in accordance with the law of England and the Parties irrevocably submit to the exclusive jurisdiction of the English courts.





## 32 Environmental Requirements

- 32.1 The Lead Partner and all partners involved in the GHWP project shall perform the GHWP in a way so as to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- 32.2 The Lead Partner and all partners involved in the GHWP shall pay due regard to the use of recycled products, so long as they are not detrimental to the provision of the GHWP or the environment, to include the use of all packaging, which should be capable of recovery for re-use or recycling.
- 32.3 The Lead Partner and all partners involved in the GHWP project shall take all possible precautions to ensure that any equipment and materials used in the provision of the GHWP project do not contain chlorofluorocarbons, halons or any other damaging substances, unless unavoidable, in which case GHP shall be notified in advance of their use. The Lead Partner and all partners involved in the GHWP endeavour to reduce fuel emissions wherever possible in carrying out the GHWP.

## 33 Prevention of Bribery

- 33.1 The Lead Partner:
- 33.1.1 shall not, and shall procure that its staff, agents, consultants and sub-contractors shall not, in connection with this Agreement, commit a Prohibited Act;
- 33.1.2 shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct has been carried out in the UK;
- 33.1.3 shall comply with the GHP's anti-bribery policies, as updated from time to time and notified to the Lead Partner;
- 33.1.4 shall have and shall maintain throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with paragraph 33;
- 33.1.5 shall promptly report to GHP any request or demand for any undue financial or other advantage of any kind received by the Lead Partner in connection with the Funded Activities;
- 33.1.6 shall immediately notify GHP in writing if a foreign public official becomes an officer or employee of the Lead Partner or acquires a direct or indirect interest in the Lead Partner, and the Lead Partner warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement;
- 33.1.7 shall, if requested, provide GHP with any reasonable assistance, at the GHP's reasonable cost, to enable GHP to perform any activity required by any relevant



government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

- 33.1.8 within one (1) month of the Commencement Date, and annually thereafter, certify to GHP in writing (such certification to be signed by an officer of the Lead Partner) compliance with this paragraph 33 by the Lead Partner and all persons associated with it or other persons who are supplying goods or services in connection with this Agreement. The Lead Partner shall provide such supporting evidence of compliance as GHP may reasonably request.
- 33.2 For the purpose of this paragraph 33, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purpose of this paragraph 33, a person associated with the Lead Partner includes any agent, delegate or subcontractor of the Agent.

If the terms and conditions set out in this Agreement are acceptable to the Lead Partner, please sign and date where indicated below, retain one copy for your records and return the other signed copy to GHP at the following address: 3<sup>rd</sup> Floor, 86-90 Paul Street, London, EC2A 4NE

Signatures:

For and on behalf of GHP

For and on behalf of the Lead Partner

Signed:

Signed:

Name: Ben Simms

Name:

Position: Chief Executive Officer

Position:

Date:

Date:





## Schedule 1 – Definitions and Interpretation

### **1** Definitions

In this Agreement the following terms shall have the following meanings:

“**Agreement**” means this letter together with its schedules and Annexes.

“**Aid Diversion**” means any event that prevents funds being directed to the aid outcomes or recipients intended;

“**Asset**”; means any assets that are to be purchased or developed using the Grant, including equipment or any other assets which may be a Fixed Asset as appropriate in the relevant context;

“**Bribery Act**” means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

“**Commercially Sensitive Information**” means information of a commercially sensitive nature relating to GHP or DHSC or the Secretary of State for Health and Social Care, its or their Intellectual Property Rights, or its or their business which GHP has indicated to the Lead Partner that, if disclosed by the Lead Partner, would cause GHP significant commercial disadvantage or material financial loss;

“**Commencement Date**” means the earlier of:

- a. the date on which GHP transfers the Grant to the account details set out in Annex 3; and
- b. the date on which the Lead Partner begins the delivery of Funded Activities;

“**Confidential Information**” means all Personal Data (as defined in Data Protection Legislation) and any information, however conveyed or disclosed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party to this Agreement or DHSC or the Secretary of State for Health and Social Care, including all Intellectual Property Rights, together with all information clearly designated as being confidential (whether or not marked “confidential”) or which ought reasonably to be considered confidential;

“**GHWP project**” means the activities described in detail in the Lead Partner’s GHWP: Grant application form and budget template as amended from time to time;

“**Data Protection Legislation**” means the UK GDPR, Data Protection Act 2018 and Privacy and Electronic Communications (EC Directive) Regulations 2003; and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;

“**DHSC**” means the Department for Health and Social Care;

“**Disposal**” means the disposal, sale, transfer of the Grant or any interest in any Asset and includes any contract for disposal;

“**Downstream Partner**” shall have the meaning given to it in the Funding Agreement;

“**EIR**” means the Environmental Information Regulations 2004;



“**Exit Plan**” means the plan required allowing for the cessation or transfer of the Funded Activities set out in paragraph 23 (Effect of Termination/Suspension/Expiry);

“**Fixed Assets**” means any Asset which consists of land, buildings, plant and equipment acquired, developed, enhanced, constructed or owned by the Lead Partner in connection with the Funded Activities;

“**Financial Impropriety**” has the meaning given to it in paragraph 16.4 (Human Rights and Financial Impropriety);

“**Force Majeure**” means in relation to either Party, any circumstances beyond the reasonable control of that Party including (insofar as beyond such control but without prejudice to the generality of the foregoing expression), without limitation, any strike, lock-out, or other form of industrial action, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or Act of God or act of nature; provided that in each case a mere shortage of materials, equipment, labour or supplies and any event or other consequence arising as a result of or in connection with Brexit shall not constitute Force Majeure;

“**FOIA**” means the Freedom of Information Act 2000;

“**Funded Activities**” means the activities for which the Grant has been awarded, in furtherance of the GHWP project and in compliance with paragraph 1 (Purpose of Grant) of the terms of this Agreement;

“**Funding Agreement**” means the grant agreement made between the DHSC and GHP and Department dated 01 August 2023, a redacted copy of which is set out at Annex 4 hereto;

“**Grant**” means a maximum sum of £[●] to be paid to the Lead Partner in accordance with this Agreement;

“**Grant Period**” means the period for which the Grant is awarded starting on the Commencement Date and ending on 31 January 2025;

“**HRA**” means the Human Rights Act 1998;

“**IDA**” means the International Development Act 2002, a summary of which, including the Lead Partner’s main responsibilities thereunder in relation to the GHWP and the Grant, is attached to this Agreement at Annex 1;

“**Information Acts**” means the Data Protection Act 2018, UK GDPR, FOIA and the EIR, as amended from time to time;

“**Inventory**” means has the meaning given to in paragraph 5.13 (Accounts, Records, Assets Inventory and Audit);

“**Intellectual Property Rights**” means all patents, petty patents, rights in trade secrets (such as inventions (whether patentable or not)), trademarks, service marks copyrights (including authors' and neighbouring or related "moral" rights) and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions;

“**Know-How**” means information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research,



design, development, manufacture, use or sale;

“**Losses**” means all claims, demands, actions losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise;

“**Modern Slavery Act**” means Modern Slavery Act 2015 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

“**ODA**” means official development assistance as defined by the OECD;

“**OECD**” means the Organisation for Economic Cooperation and Development;

“**Partner**” means those partners specified in the Lead Partner's application in relation to the GHWP with whom the Lead Partner will work with in carrying out the GHWP;

“**Party**” means a party to this Agreement;

“**Programme Funded Assets**” means has the meaning given to it in paragraph 5.7 (Accounts, Records, Assets Inventory and Audit);

“**Procurement Regulations**” means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Utilities Contracts Regulations 2016 and Defence and Security Public Contracts Regulations 2011;

“**Prohibited Act**” means:

- (a) offering, giving or agreeing to give to any servant of GHP and/or DHSC any gift or consideration of any kind as an inducement or reward for:
  - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with GHP and/or DHSC; or
  - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with GHP and/or DHSC;
- (b) entering into this Agreement or any other contract with GHP and/or DHSC where a commission has been paid or has been agreed to be paid by the Lead Partner or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to GHP;
- (c) committing any offence:
  - (i) under the Bribery Act;
  - (ii) under the Modern Slavery Act
  - (iii) under legislation creating offences in respect of fraudulent acts, corruption, bribery, theft, terrorist financing and other misuse of funds; or



- (iv) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with GHP and/or DHSC; or
- (d) defrauding or attempting to defraud or conspiring to defraud GHP and/or DHSC;

“**Representatives**” means any of the Parties’ duly authorised directors, employees, officers, agents, professional advisors and consultants;

“**UK GDPR**” means the General Data Protection Regulation (EU) 2016/679; as it forms part of retained law, as defined in the European Union (Withdrawal) Act 2018; and

“**Working Day**” means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday in England.

## **2 Interpretation**

2.1 In this Agreement, unless the context otherwise requires:

- 2.1.1 the singular includes the plural and vice versa;
- 2.1.2 reference to a gender includes the other gender and the neuter;
- 2.1.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body and its permitted successors and assigns;
- 2.1.4 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time;
- 2.1.5 the words "including", "other", "in particular", "for example" and similar words will not limit the generality of the preceding words and will be construed as if they were immediately followed by the words "without limitation";
- 2.1.6 references to “writing” include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing will be construed accordingly;
- 2.1.7 references to “paragraphs” and “Annexes” are, unless otherwise provided, references to the paragraphs and annexes of this Agreement and references in any Annex to parts, paragraphs and tables are, unless otherwise provided, references to the parts, paragraphs and tables of the Annex in which these references appear;
- 2.1.8 the headings in this Agreement are for ease of reference only and will not affect the interpretation or construction of this Agreement; and
- 2.1.9 “sterling” and “£” denote the lawful currency of the United Kingdom.

### **END OF DEFINITIONS**



**Annex 1:**  
**International Development Act 2002**  
**Summary of Terms**

**THE TROPICAL HEALTH AND EDUCATION TRUST**  
**THE INTERNATIONAL DEVELOPMENT ACT 2002**

**1 BACKGROUND:**

- 1.1 Section 9 of the International Development Act 2002 (IDA) confers on certain public bodies (listed in Schedule 1 of the Act) the right to engage in overseas development activities. Specifically, the Act says that they may;

*“Enter into and carry out agreements for the purpose of—*

- (a) furthering sustainable development in one or more countries outside the United Kingdom,*
- (b) improving the welfare of the population of one or more such countries, or*
- (c) alleviating the effects of a natural or man-made disaster or other emergency on the population of one or more such countries.”*

- 1.2 The Act requires those public bodies to obtain the authorisation of the Secretary of State when they engage in an agreement to carry out overseas development activity.

The Act also makes it clear that financial assistance for overseas development activities may not be given by those public bodies from Treasury funds.

The list of relevant public bodies is set out in Schedule 1 to the Act, which has been amended from time to time by subsequent legislation and Statutory Instruments, and reads now as follows:

- British Tourist Authority
- An integrated care board
- the National Health Service Commissioning Board a clinical commissioning group
- A Health Board
- A Local Health Board
- An NHS foundation trust
- A National Health Service trust established under the National Health Service Act 2006, the National Health Service (Wales) Act 2006, or the National Health Service (Scotland) Act 1978
- An NHS foundation trust
- The National Institute for Health and Care Excellence.
- A Special Health Authority
- A Special Health Board
- The National Assembly for Wales



## **2 THE INTERNATIONAL DEVELOPMENT ACT 2002 IN THE CONTEXT OF THE GLOBAL HEALTH WORKFORCE PROGRAMME:**

- 2.1 Two elements of the International Development Act potentially affect organisations awarded grants under GHWP;
- If the grant-holder is a listed public body as defined by Schedule 1 to the Act, it is necessary for the Grant Agreement between GHP and the grant-holder to be approved by the Secretary of State, and
  - the public body has to undertake that it will not provide financial assistance to overseas bodies from its own (i.e. non-grant) sources. Paragraph 1.7 (Purpose of Grant) of the Grant Agreement refers.
- 2.2 Lead Partners need take no action in respect of seeking the consent of the Secretary of State. This will be obtained through a mechanism agreed between DHSC and GHP. The process will not normally delay grant implementation.

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## Annex 2:

### Grant payment and key reporting schedule

Grant ID and Lead name: [●]

**Note:** The table below provides an overview of the timings of the key reports to be delivered by the Lead Partner to GHP under the Agreement.

Period	Month	Payment (at month end)	Reporting
N/A	Upon receipt of Agreement between GHP and the Lead Partner signed by both parties.	[●]	
N/A	By one month from start of Grant Period	N/A	Lead Partner to provide GHP with a finalised project monitoring and evaluation plan in accordance with paragraph 6.1 (Monitoring and Reporting) and budget
N/A	By three months from start of Grant Period	N/A	Lead Partner to provide GHP with a Funding Flow in accordance with paragraph 6.3.2 (Monitoring and Reporting)
April – June 2025	15 <sup>th</sup> July 2025	[●]	The Lead Partner shall, in accordance with paragraphs 5.4 (Accounts, Records, Assets Inventory and Audit) and 6.3 (Monitoring and Reporting), provide GHP with a 3 monthly: <ul style="list-style-type: none"> <li>• Financial Report; and</li> <li>• Narrative Operational Report.</li> </ul> <p><i>Ongoing payment conditional upon submission of above documentation, satisfactory completion of any questions for clarifications, and spot check of receipts (in each case in GHP's sole discretion).</i></p>
July – September 2025	15 <sup>th</sup> October 2025	[●]	As above
October – December 2025	15 <sup>th</sup> January 2026	[●]	As above



January 2026	February 2026	[•]	The Lead Partner must submit to GHP: <ul style="list-style-type: none"><li>• final Narrative Operational Report;</li><li>• final Financial Report;</li><li>• Asset Register and Disposal Letter</li><li>• Learning Paper</li></ul> in each case in a form satisfactory to GHP.
	Total	£[•]	

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### Annex 3:

#### Lead Partner bank details for grant payments

Grant ID and Lead Partner name: [●]

Bank name & address	[●]
Account name	[●]
Account number	[●]
IBAN	[●]
Sort code/SWIFT Code	[●]
Contact for remittance advice (name & address)	[●]
Grant ID (found at the top of your contract, this will be the payment reference going forward)	[●]
Total Grant Amount	£ [●]

**Note:** You may find it useful to share your payment schedule and grant ID, which will appear as the payment reference, with your accounting department in order for them to allocate the funds correctly when payments are made.





**Annex 4:**  
**Funding Agreement**



ODA Grant  
Agreement THET Exte

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