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**TRIPARTITE AGREEMENT**

**BETWEEN**

**THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR),**

**WORLD FOOD PROGRAMME (WFP)**

**AND**

**[JOINTLY APPOINTED PARTNER]**

**ON THE**

**DELIVERY AND DISTRIBUTION OF   
FOOD ASSISTANCE**

**[date]**

**TRIPARTITE AGREEMENT ON THE**

**DELIVERY AND DISTRIBUTION OF FOOD ASSISTANCE**

**PARTIES:**

This Tripartite Agreement (the “**Agreement**”) is entered into by and between:

1. **The Office of the United Nations High Commissioner for Refugees**, a subsidiary organ of the United Nations, with Headquarters in Geneva, Switzerland, acting through its field office for [*country*] domiciled at [*insert full address of the field office*] (“**UNHCR**”);
2. **World Food Programme**, an autonomous joint subsidiary programme of the United Nations and the Food and Agriculture Organization of the United Nations, with Headquarters in Rome, Italy, acting through its country office for [*country*] domiciled at [*insert full address of the Country Office*] (“**WFP**”); and
3. **[*insert full name of the Partner*]**, a non-governmental, non-profit, non-political organization, with offices at [*insert full address of the Partner in the country of Operation*] (the “**Jointly Appointed Partner**”);

(each a “**Party**” and, jointly, the “**Parties**”).

**WHEREAS:**

1. UNHCR and WFP have entered into a Memorandum of Understanding (the “**2011 MOU**”) that sets out the objectives and scope of their partnership covering cooperation in, among other areas, the provision of food assistance to food-insecure refugees, asylum-seekers, returnees and, in specific situations, to other persons of concern to UNHCR;
2. In particular, on the delivery and distribution of food assistance, the 2011 MOU sets forth the division of responsibilities between WFP and UNHCR providing, *inter alia,* that: (i) the distribution modalities, and the Jointly Appointed Partner’s responsibilities for reporting on the distribution and use of food are laid down in a tripartite agreement among UNHCR, WFP and the Jointly Appointed Partner[[1]](#footnote-2) in a manner allowing effective programme management and meeting the responsibilities of WFP and UNHCR in reporting to donors; (ii) a tripartite agreement will be signed for every joint operation; and (iii) the tripartite agreement will require the Jointly Appointed Partner entrusted with the distribution of food assistance to report directly to both WFP and UNHCR on the distribution of the WFP food assistance;
3. Within the scope of the 2011 MOU and within the context of a UNHCR/WFP joint operation in [*detail region, location, refugee camp*] (the “**Joint Operation**”), UNHCR and WFP have agreed upon the modalities and mechanisms for the distribution and delivery of: (i) WFP food assistance, in the form of WFP supplied food and non-food commodities (the “**WFP Assistance**”) under [*insert reference to LOU with Government/EMOP/PRRO/Other, if applicable*]; and (ii) UNHCR food assistance in the form of supplied food and non-food commodities under [*insert reference to any covering agreement if applicable*] (the “**UNHCR Assistance**” and, together with the WFP Assistance, the “**Assistance**”), as further described in the “**Plan of Operations**” set out in Clause 3 below;
4. The Jointly Appointed Partner has entered into an agreement [*insert reference/number of relevant agreement between UNHCR and Partner*] with UNHCR (the “**UNHCR Project Partnership Agreement**”) for any of the following purposes: transport, storage, warehousing and/or distribution of food and non-food items in [*identify region/location/refugee camp*] under the project [*insert reference to UNHCR Project code/symbol*]; and
5. UNHCR and WFP have agreed to designate the Jointly Appointed Partner for the final distribution of the Assistance to beneficiaries as set out in the Plan of Operations subject to the terms of this Agreement.

**NOW THEREFORE,** in consideration of the mutual covenants and promises set forth herein, the Parties hereby agree as follows:

1. **PURPOSE**
   1. The purpose of the Agreement is to establish: (i) the modalities and mechanisms for the delivery and distribution of the Assistance in the context of the Joint Operation; (ii) the Jointly Appointed Partner’s responsibilities for reporting on the use of the distributed Assistance; and (iii) other rights and obligations of the Parties in relation to the delivery of the Assistance as provided herein.
   2. The Parties acknowledge and agree that: (i) exclusively between UNHCR and the Jointly Appointed Partner, the terms and conditions of this Agreement are applicable in conjunction with the terms and conditions of the UNHCR Project Partnership Agreement; (ii) WFP is not and shall not be considered a party to the UNHCR Project Partnership Agreement and any obligations, rights, or liability thereunder shall be exclusively between UNHCR and the Jointly Appointed Partner; and (iii) unless otherwise specifically set forth herein, all fees, costs and expenses incurred by the Jointly Appointed Partner related to or derived from the delivery and distribution of the Assistance shall be payable exclusively by UNHCR in accordance with the terms of the UNHCR Project Partnership Agreement with no responsibility of WFP in that regard whatsoever.
2. **TERM**
   1. This Agreement shall enter into force as of [ *insert date*] and remain valid until [*insert date*] (the “**Term**”) unless terminated earlier in accordance with Clause 13 of the General Conditions attached hereto as Annex 1. The Parties may agree to extend the Term by mutual written agreement.
   2. Notwithstanding the foregoing, this Agreement shall automatically terminate upon expiration or termination of either: (i) the [*reference to WFP LOU with Government/EMOP/PRRO/Other*]; or (ii) the UNHCR Project Partnership Agreement, provided all the Parties have been duly notified of any such circumstance.
3. **THE PLAN OF OPERATIONS**
4. **Modality of Assistance: [*commodities*]**
5. **The UNHCR Assistance: [*detail estimated UNHCR Assistance*]**
6. Subject to availability of resources, UNHCR shall make available to the Jointly Appointed Partner the UNHCR Assistance at the following final delivery points (FDPs): [detail] in accordance with the Project Description attached to the Project Partnership Agreement] [others].
7. UNHCR shall notify both WFP and the Jointly Appointed Partner of: (a) the estimated time of arrival of the UNHCR Assistance at the mutually agreed delivery points (including type and amount of commodities transported); and (b) any known or anticipated breaks in the pipeline supply chain and take appropriate steps to assist WFP and the Jointly Appointed Partner in minimizing risks resulting from such an event.
8. UNHCR shall mobilize the following complementary food items: [*detail*].
9. UNHCR shall arrange for the reception, storage, handling and transport of the WFP Assistance at mutually agreed delivery points and/or secondary transport to final distribution points as required for their final distribution to the beneficiaries.
10. Where transport has been provided by WFP, UNHCR shall certify or appoint the Jointly Appointed Partner to certify the receipt of the WFP Assistance into UNHCR’s custody by immediately completing and signing the relevant section of a waybill from WFP (or WFP appointed transporter), specifying the quantity (e.g.: number of packages, unit weight) and condition of the WFP Assistance received.
11. **The WFP Assistance: [*detail estimated WFP Assistance*]**
12. Subject to availability of resources, WFP shall make available to the Jointly Appointed Partner the WFP Assistance at the following agreed extended delivery points (EDPs): [*detail*].
13. WFP shall notify both UNHCR and the Jointly Appointed Partner of: (a) the estimated time of arrival of the WFP Assistance at the mutually agreed delivery points (including type and amount of commodities transported); and (b) any known or anticipated breaks in the pipeline supply chain, and take appropriate steps to assist UNHCR and the Jointly Appointed Partner in minimizing risks resulting from such an event.
14. WFP shall provide advice and guidance on storage and handling of the WFP Assistance.
15. **Target beneficiaries and criteria for the selection for the actual beneficiaries of the Assistance**

[*add beneficiary numbers, disaggregated data and criteria for targeting*]

1. **Assistance Distribution, transfer modalities and delivery mechanisms**

[*add ration scales or amounts and frequency thereof, and distribution modalities*]

1. **Indicators of progress/achievements**

[*identify agreed indicators in this clause or in separate annex*]

1. **Responsibilities of the Jointly Appointed Partner concerning distribution of the Assistance:**

Without prejudice to any other provision of this Agreement, the Jointly Appointed Partner shall:

1. when entrusted with handling, transport and/or storage of WFP and UNHCR Assistance, ensure that the commodities under its custody are appropriately insured.
2. distribute: (a) the WFP Assistance subject to receipt of the appropriate release order from WFP; and (b) the UNHCR Assistance subject to receipt of the appropriate release order from UNHCR, which will normally be based on a monthly allocation unless otherwise agreed between the Parties hereunder.
3. implement and use an appropriate commodity tracking system for the purpose of monitoring the activities associated with the receipt, storage, handling, transport and distribution of the Assistance. In the absence of suitable IT solutions, such system may be paper based.
4. retain all empty packaging, bags and containers related to the WFP assistance or, as required, distribute or sell such items as jointly agreed with WFP in consultation with UNHCR. Such empty packaging, bags and containers shall remain at any time the property of WFP and shall not be sold or donated without WFP’s consent.
5. **Monitoring: [*add* *detail*]**
6. the Jointly Appointed Partner shall facilitate both UNHCR and WFP in their monitoring of all activities under this Agreement, as well as full and easy access to all relevant records at all stages of the distribution process by the responsible government officials and UNHCR and WFP staff, or any person duly authorized by UNHCR or WFP.
7. [*as relevant, add detail on Post Distribution Monitoring (PDM) and/or Food Basket/On-site Monitoring (FBM), including frequency and reporting*]
8. **Reporting Obligations**
9. In line with its reporting obligations under the UNHCR Project Partnership Agreement, the Jointly Appointed Partner shall provide to both UNHCR and WFP periodical reports on quantitative data relating to the distribution of Assistance under this Agreement, including food stocks, physical inventory count, losses, and distribution figures within the timelines outlined in the Plan of Operations. These should include Assistance distributed to beneficiaries broken down by gender (specifying the relevant group of persons of concern), by activity and by location, in accordance with the reporting format attached hereto as Annex 2-A. Unless otherwise specified, these reports shall be provided on a monthly basis and shall be submitted to both UNHCR and WFP within thirty (30) calendar days of the end of each month of implementation of the activities under this Agreement.
10. The Jointly Appointed Partner shall also provide to both UNHCR and WFP quarterly progress reports in accordance with the reporting format attached hereto as Annex 2-B, including both narrative and quantitative information. Narrative information shall include delivery and distribution arrangements, operational difficulties encountered and measures taken to overcome them, steps taken to prevent or reduce losses, acceptability of the Assistance, information on complementary inputs from other sources, comments on results achieved for the direct benefit of the targeted people, expected developments and additional programmes proposed. Wherever possible, information on beneficiaries shall include persons of concern and gender-disaggregated data such as percentage share of resources allocated to women/men, composition (by gender) of local food management and distribution committees specifying positions held by women, and share of benefits by category of activities.
11. In addition to the aforementioned periodical reporting, the Jointly Appointed Partner shall, in accordance with the UNHCR Project Partnership Agreement, but not later than ninety (90) calendar days from the date of termination of this Agreement, provide both UNHCR and WFP with a final report consolidating information covering all activities carried out under this Agreement.
12. The Jointly Appointed Partner shall provide accurate and timely reports under this Section i) (Reporting Obligations) directly to both UNHCR and WFP in the format provided in Annex 2 of this Agreement.
13. **Preventive Measures**
14. The Jointly Appointed Partner shall take all necessary measures to preserve the Assistance, preventing its deterioration and mitigate any loss. In the event of food assistance, such measures may include separation, cleaning, reconditioning, disposal, fumigation and any other mitigation measures. In case of doubts concerning the condition of any food assistance and their eventual fitness for consumption, the Jointly Appointed Partner will request instructions from WFP or UNHCR, as the case may be, on the future use of respectively, the WFP Assistance and the UNHCR Assistance, after consultation with the other agency, as required. The Jointly Appointed Partner shall immediately inform and consult with UNHCR and WFP, where the condition of any Assistance is in doubt, or there is a perceived risk of contamination of existing stock arising from acceptance of the Assistance at the delivery point.
15. Coherent beneficiary feedback and complaints mechanisms shall be established to ensure transparency, strengthen oversight and allow for adjustments in programme delivery. The design and management of these mechanisms shall be determined jointly by UNHCR, WFP and the Jointly Appointed Partner in consultation with beneficiaries and shall be subject to, respectively, applicable UNHCR and WFP guidelines on complaints and feedback mechanisms.
16. **MODIFICATIONS TO DELIVERY AND DISTRIBUTION MODALITIES MECHANISMS**
    1. At the request of a Party or the Government but, in any event, subject to the prior written consent of both UNHCR and WFP, the modalities and mechanisms for the delivery and distribution of the Assistance or the frequency thereof may be modified. Until the Jointly Appointed Partner is notified in writing of any such modification, the distribution shall proceed as agreed hereunder.
    2. If the distribution of Assistance in accordance with ration scales or agreed amounts set out in the Plan of Operations should prove to be impossible at any given time, for any reason whatsoever, the Jointly Appointed Partner will promptly inform and consult with, respectively, UNHCR and WFP, as the case may require**,** to advise on temporary, revised ration scales or amounts, or other corrective measures that may be necessary to implement given the circumstances.
17. **FOCAL POINTS**

Each Party shall appoint a focal point for the implementation of the present Agreement. Any communication in this regard shall be delivered to the focal point of the Party concerned at the addresses shown below:

(i) If to UNHCR

[*insert address, attn., email, fax number*]

(ii) if to WFP

[*insert address, attn., email, fax number*]

(iii) if to the Jointly Appointed Partner

[*insert address, attn., email, fax number*]

1. **ENTIRE AGREEMENT**
   1. This Agreement comprises the following documents, which constitute the entire agreement between the Parties and supersedes all previous agreements between the Parties relating to its subject matter:
2. This document;
3. Annex 1 - General Conditions;
4. Annex 2-A (Monthly Report Format) and Annex 2-B- (Quarterly Report Format)
5. [*insert any other relevant annex*]-

The aforementioned documents are intended to be complementary to each other but, in the case of ambiguities, discrepancies or inconsistencies between them, their order of priority shall be the same order in which they are listed above.

* 1. Exclusively in the relationship between UNHCR and the Jointly Appointed Partner, in case of conflict between the provisions of the present Agreement and the UNHCR Project Partnership Agreement, the latter shall prevail. Notwithstanding the foregoing, if the conflict relates to the Jointly Appointed Partner’s obligations vis-à-vis WPF in relation to WFP Assistance under this Agreement, the provisions of this Agreement shall prevail.
  2. The implementation of the activities under this Agreement by UNHCR and WFP will be the responsibility of, respectively, UNHCR and WFP and will be carried out in accordance with their own applicable regulations, policies and procedures.

**IN WITNESSES WHEREOF,** the Parties have executed this Agreement on the date noted below.

THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

Witnessed by:

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

WORLD FOOD PROGRAMME

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

Witnessed by:

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

[JOINTLY APPOINTED PARTNER]

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

Witnessed by:

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

**ANNEX 1**

**GENERAL CONDITIONS**

1. **GENERAL OBLIGATIONS OF THE JOINTLY APPOINTED PARTNER**

Without prejudice to any other provision of this Agreement, the Jointly Appointed Partner shall:

1. carry out the activities and take on the responsibilities as detailed in the Plan of Operations within the timelines indicated therein with the necessary care and diligence, and in a professional manner;
2. ensure that: (a) the Assistance hereunder is provided to the beneficiaries free of charge with full consideration for their safety and dignity; (b) the beneficiary targeting criteria specified in the Plan of Operations are observed; and (c) the Jointly Appointed Partner, its personnel, approved agents, contractors and subcontractors always act in accordance with the highest ethical standards;
3. ensure, based on context analysis, that the assistance hereunder is placed directly in the hands of the most suitable recipients, that women receive prominent consideration in beneficiary selection and targeting, and that they take a lead role in the management of such assistance, in accordance with the WFP Gender Policy (2015−2020) (WFP/EB.A/2015/5-A) and other relevant UNHCR policies and guidelines, as may be revised from time to time. The empowerment of women and gender equality shall be a priority throughout the execution of this Agreement, on the condition that women are not exposed to risks of abuse or violence in any form as a result thereof;
4. observe the distribution principles stated in the UNHCR Commodity Distribution Guidelines (1997) and the WFP Humanitarian Protection Policy (WFP/EB.1/2012/5-B/Rev.1) as well as respective codes of conduct of each agency, as may be revised from time to time. In emergency operations, the Jointly Appointed Partner shall be guided by the SPHERE Humanitarian Charter and Minimum Standards (recognizing that compliance depends in part on the quantity, quality and type of assistance supplied by either UNHCR and WFP), and by the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*;*
5. in consultation with UNHCR and WFP, establish procedures, criteria and financial controls for the Assistance in accordance with WFP and UNHCR applicable policies, as relevant;
6. where appropriate and feasible, actively engage in the formation of community groups/committees that shall participate in the identification of the beneficiaries, their registration and the distribution of the Assistance hereunder. Regular meetings between the Parties and with local community groups/committees, as required, shall be organized so as to ratify beneficiary targets and brief stakeholders on the implementation progress;
7. implement the activities and provide the Assistance hereunder to all the beneficiaries with complete impartiality regardless of race, religion, nationality, political opinion or gender (save for the preference noted in paragraph (iii) above), and acknowledge that projects supported by UNHCR and WFP do not include any activities intended to promote a specific religious or political faith or persuasion;
8. cooperate with (a) the relevant governmental entities, in accordance with arrangements between the UNHCR, WFP and the Government concerned, and (b) the other Parties for the most efficient handling, storage, transport and distribution of the Assistance and allow UNHCR and WFP personnel unobstructed access to facilities containing the Assistance;
9. carry out its obligations under the UNHCR Project Partnership Agreement as supplemented herein and comply with all laws and regulations, either in its country of residence or operation, if different, and assume all liabilities or obligations imposed by any law or regulation with respect to its performance under this Agreement; and
10. immediately provide written notice to both UNHCR and WFP of any circumstance that may prevent the Jointly Appointed Partner from carrying out its obligations under this Agreement. UNHCR and WFP shall, in consultation with the Jointly Appointed Partner, decide what arrangements, if any, shall be made to further implement or curtail the food assistance hereunder.
11. **GENERAL OBLIGATIONS OF UNHCR AND WFP**
    1. Unless otherwise specifically set forth in the Plan of Operations, and without prejudice of the provisions of Clause 4 below, UNHCR shall assume full legal responsibility vis-à-vis WFP for the receipt, handling, storage, transport, and final distribution of the WFP Assistance, and for any damage and losses to the WFP Assistance, following their delivery by WFP to UNHCR at the agreed delivery point. The Jointly Appointed Partner shall take all reasonable measures to ensure that food distribution reach the intended beneficiaries in good conditions and with a minimum of loss. The Jointly Appointed Partner shall have the obligation to report any damage and losses regarding the WFP Assistance to both UNHCR and WFP which shall have the right to undertake the joint or separate investigations they shall deem appropriate subject to their internal rules and regulations. The Jointly Appointed Partner shall cooperate with UNHCR and WFP to this effect, providing full access to personnel, facilities, stocks documentation and information as required.
    2. UNHCR shall ensure, in collaboration with WFP, that appropriate guidance is provided to the beneficiaries on their entitlements, distribution schedules, and delivery mechanism and how to prepare food in a manner that minimizes cooking time and safeguards the food's nutritional content.
    3. Both UNHCR and WFP seek to ensure that their respective Assistance is fit for human consumption. The Parties shall provide full cooperation at all times in addressing any food safety incidents and mutually agree on the appropriate operational measures to resolve the situation. Any costs approved by either UNHCR and/or WFP in writing for sampling, analyses, storage, separation, reconditioning, disposal, or fumigation shall be borne by UNHCR and/or WFP, as the case may be.
12. **ACCOUNTING - AUDIT**

In addition to complying with its obligations under the provisions on Maintenance of Project Records[[2]](#footnote-3), Inspection, Monitoring and Audit[[3]](#footnote-4), and Investigation and Ethical Considerations[[4]](#footnote-5) of the UNHCR Project Partnership Agreement, the Jointly Appointed Partner:

1. will maintain separate records and accounts of all the WFP Assistance and other resources provided by WFP under this Agreement, unless specific written instructions are received from WFP stating otherwise;
2. may be subject to an internal or external audit by WFP or by authorized and qualified agents of WFP for any issue in connection with the WFP Assistance provided hereunder. Such audit shall be conducted in accordance with the auditing procedures provided in the internal rules and regulations of WFP, as the case may be. The Jointly Appointed Partner shall provide WFP unimpeded access to all records, accounts and other documentation relating to the activities implemented under this Agreement for inspection and audit purposes; and
3. shall ensure that all records and documentation are retained for a period of five (5) years following the termination of this Agreement.
4. **INDEPENDENT PARTIES - LIABILITY**
   1. Nothing contained in or relating to this Agreement shall be construed as establishing or creating any principal/agent relationship, partnership in law or joint venture among the Parties or any other person. The Jointly Appointed Partner shall not, under any circumstances, represent that it is an agent of either UNHCR or WFP, and shall take all reasonable precautions to avoid any perception that such relationship exists.
   2. The officials, representatives, employees or subcontractors of each of the Parties shall not be considered in any respect as being employees, staff members or agents of the other Parties, and each Party shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities. WFP shall not accept liability for compensation for the death, disability or the effects of other hazards which may be suffered by the officials, representatives, employees, or subcontractors of the other Parties as a result of their employment on work which is the subject matter of the Agreement.
   3. Each Party shall assume full legal responsibility and shall compensate the other for the direct losses and costs arising from negligent or intentional acts of its personnel, agents and subcontractors.
5. **ASSIGNMENT AND SUB-CONTRACTING**

In the event the Jointly Appointed Partner requires: (i) to assign or otherwise transfer its interest in this Agreement or (ii) the services of another operational partner, sub-contractor or supplier to perform any obligations under the present Agreement, it shall obtain the prior written approval of UNHCR, in accordance with the UNHCR Project Partnership Agreement, and of WFP. The Jointly Appointed Partner shall be fully responsible for all work and services performed by these operational partners, sub-contractors and suppliers, and for all acts and omissions committed by them or their employees. The terms of any arrangement with another operational partner, sub-contractor or supplier shall be subject to and conform to the provisions of this Agreement. In no case will any contractual relationship be created thereby between UNHCR or WFP and any other entity not party to this Agreement.

1. **CONFIDENTIALITY**
   1. The confidentiality of any information pertaining to any individual or group of beneficiaries of the assistance and other activities under this Agreement shall be respected. The Parties agree that the obligations of the Jointly Appointed Partner concerning confidentiality set out in relevant provisions of the UNHCR Project Partnership Agreement[[5]](#footnote-6) are applicable *mutatis mutandis* to all information shared by WFP with the Jointly Appointed Partner, including all maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Jointly Appointed Partner under this Agreement
   2. Subject to, respectively, existing or future UNHCR and WFP guidelines on data protection and confidentiality, UNHCR and WFP may provide both the Government and their donors with information relating to this Agreement, its content and implementation.
   3. In all other cases, the Parties shall communicate each other’s role to the general public as agreed in each case by the Parties. This may include, without limitation, the display by the Jointly Appointed Partner at the operation locations of UNHCR and WFP visibility and/or communication material as requested, respectively, by UNHCR and WFP from time to time.
2. **PERSONAL DATA PROTECTION**
   1. The Parties agree that the obligations of the Jointly Appointed Partner concerning the collection, processing and protection of personal data of the UNHCR Project Partnership Agreement are applicable *mutatis mutandis* to all personal data collected or processed by the Jointly Appointed Partner under this Agreement.
   2. Notwithstanding the foregoing, the Jointly Appointed Partner warrants and undertakes on a continuing basis when collecting personal data, to inform beneficiaries of the following: (i) their right to refuse (including any implications this may have on the assistance they receive), (ii) the specific purpose for processing the data, (iii) whether the data will be shared with third parties, (iv) where to address complaints or questions regarding the processing of their personal data; and (v) the fact that the Jointly Appointed Partner acts in partnership with UNHCR and WFP, and that such data will be accessed by, or transferred to both UNHCR and WFP.
3. **PREVENTION OF SEXUAL EXPLOITATION AND ABUSE**
   1. The United Nations, UNHCR and WFP are committed to the protection of vulnerable populations in humanitarian crisis, including from sexual exploitation and abuse. By entering into the Agreement, the Jointly Appointed Partner undertakes, in addition to its obligations regarding the Standards of Managing Misconduct as set out in Appendix 2 of UNHCR Project Partnership Agreement, to adhere to: (i) the standards set out in the Secretary-General’s Bulletin on Special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13); (ii) any minimum operating standards adopted as a result of the Statement of Commitment on Eliminating Sexual Abuse and Abuse by UN and Non-UN Personnel of 4 December 2006; and (iii) any other Protection from Sexual Exploitation and Abuse (PSEA) policy or guideline as may be adopted by UNHCR and/or WFP, as notified to the Jointly Appointed Partner by UNHCR or WFP from time to time.
   2. Any failure by the Jointly Appointed Partner to take preventive measures against sexual exploitation or abuse, to investigate thereof or to take corrective action, shall constitute grounds for termination of the Agreement.
4. **FORCE MAJEURE AND OTHER CHANGES IN CONDITION**

The Parties agree that the provisions on force majeure set out in UNHCR Project Partnership Agreement[[6]](#footnote-7) are applicable *mutatis mutandis* to the Jointly Appointed Partner in its relationship with WFP under the present Agreement.

1. **NOTICES**

Unless otherwise agreed, any correspondence, notification or communication between the Parties shall be made in writing and may be served by personal delivery or registered post, or by fax or email, at the address of recipient Party’s Focal Point stated in the Plan of Operations. Any notice sent by registered post shall be deemed to have been served five (5) working days after the time of dispatch. Any notice sent by facsimile shall be deemed to have been served twelve (12) hours after the time it was sent and any notice sent by email shall be deemed to have been served upon reply thereto and/or confirmation of receipt sent by the email account of the recipient Party.

1. **ANTI-TERRORISM MEASURES**
   1. Consistent with numerous United Nations Security Council resolutions relating to terrorism and in particular, the financing of terrorism, WFP, UNHCR and the Jointly Appointed Partner will seek to ensure that resources received under this Agreement are not used, directly or indirectly, to provide support to terrorist entities or individuals.
   2. In accordance with this policy and the relevant provisions of UNHCR Project Partnership Agreement, the Jointly Appointed Partner agrees to employ all reasonable efforts to ensure that such resources: (a) are not knowingly transferred directly or indirectly or otherwise used to provide support to any individual or entity associated with terrorism as designated on the list maintained by the Security Council Committee established pursuant to Security Council Resolution 1267 (1999) and 1989 (2011) (available at <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>) or on any other similar lists that may be established by the United Nations Security Council, including the list of individuals and entities maintained by the Security Council Committee established pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea; and/or (b) are not used in any other manner that is prohibited by a resolution of the United Nations Security Council adopted under Chapter VII of the Charter of the United Nations.
   3. A provision analogous to Clause 11.2 above shall be included in all sub-contracts or sub-agreements entered into by the Jointly Appointed Partner under this Agreement.
2. **ANTI-FRAUD AND ANTI-CORRUPTION PROVISIONS** 
   1. In addition to its obligations under the relevant provisions on Inspection, Audit, Investigation and Ethical Considerations of the UNHCR Project Agreement and its Appendix 2 –Standards of Managing Misconduct, the Jointly Appointed Partner acknowledges and agrees that WFP (in accordance with WFP’s Anti-Fraud and Anti-Corruption Policy (WFP/EB.A/2015/5-E/1) (the “**Policy**”), and UNHCR (in accordance with its relevant policies as reflected in the UNHCR Project Partnership Agreement) have zero tolerance for Fraudulent, Corrupt, Collusive, Coercive and/or Obstructive Practices (as such terms are defined below).
   2. In particular, and without limitation, the Jointly Appointed Partner represents and warrants to WFP that it has not, and it shall not, at any time:
3. perform any act or omit to perform any act, including any misrepresentation, in order to knowingly mislead, or attempt to knowingly mislead, WFP and/or any other party to obtain a financial or other advantage or to avoid any obligation to benefit the perpetrator or a related party (“**Fraudulent Practice**”);
4. offer, give, receive or solicit, directly or indirectly, or attempt to offer, give, receive or solicit, directly or indirectly, anything of value to improperly influence the actions of WFP and/or any other party (“**Corrupt Practice**”);
5. enter into any arrangements with any other party or parties that are designed to achieve an improper purpose, including but not limited to improperly influencing the actions of WFP and/or any other party;
6. impair or harm, or threaten to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party (“**Coercive Practice**”);
7. deliberately destroy, falsify, alter or conceal evidence material to the investigation or making false statements to investigators in order to materially impede a duly authorized investigation into allegations of corrupt, fraudulent, coercive or collusive practice; and/or threaten, harass or intimidate any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or engage into any act intended to materially impede the exercise of the Purchaser’s contractual rights of access to information (“**Obstructive Practice**”, and together with Fraudulent, Corrupt, Collusive and Coercive practices, “**Prohibited Practices**”)
   1. The Jointly Appointed Partner shall communicate the Policy to its officers, employees, contractors, subcontractors and agents and shall take all reasonable measures to ensure that such persons do not engage in Prohibited Practices. The Jointly Appointed Partner shall include a provision analogous to Clause 12.2 above in all sub-contracts or sub-agreements entered into by the Jointly Appointed Partner under this Agreement.
   2. The Jointly Appointed Partner shall immediately disclose to WFP any actual, apparent, potential or attempted Prohibited Practice that the Jointly Appointed Partner becomes aware of. To that end, the Jointly Appointed Partner shall fully cooperate, and shall take all reasonable steps to ensure that its officers, employees, contractors, subcontractors and agents fully cooperate, with any investigation or review of Prohibited Practices by WFP, including by allowing WFP to access and inspect its premises as well as any records, document and any other relevant information, including financial, electronic and IT records, relevant to its contractual relationship with WFP, including allowing WFP to take copies of any such records, documents or information.
   3. The Parties expressly acknowledge and agree that any breach of this Clause by the Jointly Appointed Partner or by any of its officers, employees, contractors, subcontractors or agents, constitutes a material breach of this Agreement, which entitles WFP and UNHCR to immediately terminate this Agreement without incurring any liability to the Jointly Appointed Partner or the other Party; and
   4. Furthermore, in the event that WFP were to determine through an investigation or otherwise that a Prohibited Practice occurred, WFP shall have, in addition to its right to immediately terminate the Agreement, the rights to: (i) apply and enforce the relevant sanctions in accordance with WFP internal regulations, rules, procedures, practices, policies and guidelines, including referral of the matter to national authorities when appropriate; and (ii) recover all losses, financial or otherwise, suffered by WFP in connection with such Prohibited Practices.
   5. Exclusively between UNHCR and WFP, both UNHCR and WFP will maintain standards of conduct that govern the performance of their staff, including the prohibition of Prohibited Practices in connection with the activities under this Agreement, as set forth in their Staff Regulations and Rules and Financial Regulations and Rules. In the event that either UNHCR or WFP determines that an allegation in relation to the implementation of the activities hereunder– including that Prohibited Practices may have taken place - is credible enough to warrant an investigation, it will promptly notify the other to the extent that such notification does not jeopardize the conduct of the investigation. The allegation will be dealt with in accordance with the accountability and oversight framework of either UNHCR or WFP, as the case may be, and by the relevant organization’s unit in charge of investigations. Upon completion of the investigation, UNHCR or WFP will inform the other about its results.
8. **TERMINATION - AMENDMENTS**
   1. This Agreement may be terminated by either UNHCR or WFP upon giving thirty (30) calendar days prior written notice to the other Parties.
   2. The Parties agree that the provisions on termination set out in UNHCR Project Partnership Agreement[[7]](#footnote-8) are applicable *mutatis mutandis* to the Jointly Appointed Partner in its relationship with WFP under the present Agreement.
   3. Upon the expiration or termination of this Agreement, the Parties shall use reasonable efforts and good faith to bring the activities hereunder to a prompt and orderly conclusion. Unless otherwise agreed by the Parties in writing, UNHCR and the Jointly Appointed Partner shall return to WFP or the third parties delegated by WFP any WFP Assistance still under their physical control, custody or possession. Furthermore, each Party shall immediately cease the use of the other Party’s name, emblem, logo or trademarks (to the extent that consent for such use had been granted during the term of this Agreement) and shall not otherwise communicate with third parties in a manner that would imply any present association between the Parties hereunder.
   4. Any provision of this Agreement which contemplates performance or observance subsequent to any termination, suspension or expiration of this Agreement, including, without limitation, Clauses 2, 3, 4, 6, 7, 8, 14 and 16 shall survive any termination, suspension or expiration of this Agreement and shall continue in full force and effect.
   5. This Agreement may be extended, supplemented or otherwise amended by the written agreement of duly authorised representatives of the Parties.
9. **SETTLEMENT OF DISPUTES**
   1. Any dispute, controversy or claim arising out of this Agreement exclusively between UNHCR and WFP shall be settled in accordance with the provisions of Article 10.3 of the 2011 MOU.
   2. Any dispute, controversy or claim arising out of this Agreement or the breach, termination or invalidity thereof, other than those described in Clause 14.1 above shall be settled in accordance with the provisions on amicable settlement and arbitration set forth in the UNHCR Project Partnership Agreement which shall apply mutatis mutandis to this Agreement[[8]](#footnote-9).
10. **OTHER PROVISIONS**
    1. Where activities other than food assistance distribution and monitoring (including but not limited to surveys, vulnerability analyses and evaluations) shall be involved, agreement on responsibility for costs shall be established in advance.
    2. The Jointly Appointed Partner understands and acknowledges that itself, its employees, partners and/or subcontractors may be subject to legal restrictions or requirements imposed in one or more legal systems affecting their operations in certain countries including but not limited to those of the country in which they are respectively organized. It is incumbent upon the Jointly Appointed Partner to determine the nature of these restrictions and requirements and to ensure compliance with the same, including but not limited to obtainment of any necessary licenses and submission of reports to regulatory bodies. The Jointly Appointed Partner shall bear the sole responsibility for any failure to comply with any such restrictions and requirements.
    3. In cases where WFP provides or makes available to the Jointly Appointed Partner any non-expendable property or assets in furtherance of this Agreement, a separate agreement governing the use and disposal of such property/assets shall be concluded between WFP and the Jointly Appointed Partner, as the case may require.
11. **PRIVILEGES AND IMMUNITIES**

Nothing in this Agreement, its Annex or any document entered into in connection thereof shall be deemed a waiver, express or implied of any privileges or immunities enjoyed by UNHCR, WFP, the United Nations or the Food and Agriculture Organization of the United Nations.

1. In this Agreement, the Jointly Appointed Partner is the non-governmental organization whose designation is jointly agreed by WFP and UNHCR for the delivery of food assistance. The Jointly Appointed Partner is referred to as “implementing partner” in the 2011 MOU. [↑](#footnote-ref-2)
2. The UNHCR Project Partnership Agreement provisions on Maintenance of Project Records are as follows:

   12.10 The Partner shall maintain a separate Project File containing this Agreement (together with its annexes and appendices) and all other essential records and documentation related to this Agreement for at least six years following the completion of the Project, including:

   a. financial accounts;

   b. statements and evidence of payments and transactions;

   c. budget management;

   d. contractual arrangements;

   e. procurement;

   f. Partner Personnel lists of names and functions;

   g. Goods and Property;

   h. audit reports;

   i. performance and monitoring reports;

   j. oversight and administrative management;

   k. correspondence with UNHCR; and

   l. bank statements. [↑](#footnote-ref-3)
3. The UNHCR Project Partnership Agreement provisions on Inspection, Monitoring, Audit are as follows:

   12.18 With proper coordination by UNHCR, the Partner shall facilitate unhindered access and full and timely cooperation for visits, inspection, monitoring, verification, audit and evaluation of the Project and related subjects by UNHCR staff, the UNHCR Internal Audit Division of the United Nations Office of Internal Oversight Services (OIOS), the UNHCR Inspector General’s Office, the United Nations Board of Auditors or any other person duly authorized by UNHCR. Such activities may take place during the Project period or up to six years following completion of the Project.

   12.19 All Projects funded by UNHCR are subject to audit and UNHCR reserves the right to undertake the audit of this Agreement. The cost of the audit shall be paid directly by UNHCR to the service provider unless otherwise expressly agreed to in advance by the Parties in writing.

   12.20 An audit may cover matters related to the use and management of funds, accounting and internal control systems, achievement of expected results of the Project, reports and other matters related to the Project implementation and compliance of the Partner with this Agreement.

   12.21 The outcome of audit shall be shared with the Partner within 15 days of issuance of the audit report to UNHCR. The Partner shall be provided the opportunity to comment on the results. The Parties shall agree and take an appropriate course of action to address audit observations. [↑](#footnote-ref-4)
4. The UNHCR Project Partnership Agreement provisions on Investigation and Ethical Considerations are as follows :

   12.22 The Parties commit to carry out all their activities with the highest ethical and professional standards, both within their respective organizations and externally, in conformity with their humanitarian nature. This includes efficient and cost-effective management and transparent reporting and communications, to maintain credibility, reputation and integrity and to attain the best results for the Population of Concern.

   12.23 The Parties shall commit to put in place policies to ensure that their personnel do not derive personal benefit as a result of their involvement in activities and work for the Partner and/or for UNHCR.

   12.24 The Parties shall undertake to inform their personnel to refrain from any conduct that could potentially be perceived as having an element of conflict of interest or adversely reflect on UNHCR and/or the United Nations and from any activity that is incompatible with the aim and objectives of the United Nations or the mandate of UNHCR.

   12.25 The Parties shall undertake all reasonable measures to prevent their personnel from exploiting and abusing refugees and other persons of concern and from engaging in any form of behavior that could amount to misconduct. The failure of the Partner to take effective measures to prevent such abuse or other misconduct, or the failure of the Partner to investigate allegations or to request UNHCR investigative support of the same and to take disciplinary and corrective actions when misconduct is found to have occurred, shall constitute grounds for termination of this Agreement.

   12.26 The Partner shall ensure close coordination with UNHCR regarding the planning and conduct of any investigation or administrative action in regard to allegations of such abuse and possible misconduct, and shall share with UNHCR the full investigation report, or a redacted summary thereof to safeguard confidentiality, if advised by legal counsel that sharing the full report could jeopardize the Partner’s attorney-client privilege in the context of any governmental or third party (i.e. not the United Nations or any of its subordinate or related offices or agencies) investigation or administrative action.

   12.27 When deemed necessary and appropriate by both Parties, UNHCR may conduct an investigation in coordination with the Partner and share the findings with the Partner. Alternatively, the Partner may request UNHCR support to conduct an investigation.

   12.28 Appendix 2 of this Agreement lists minimum standards and procedures in relation to managing misconduct that the Partner is expected to have in place. [↑](#footnote-ref-5)
5. The UNHCR Project Partnership Agreement provisions on Confidentiality are as follows:

   13.11 The Parties shall respect the confidentiality of all Information pertaining to the Project.

   13.12 Should the Partner wish to disclose Information produced in the exercise of this Agreement to a third party, it must seek UNHCR’s prior consent to such disclosure.

   13.13 Information that was in either Party’s possession prior to the performance of this Agreement or which came in either Party’s possession independently from the performance of this Agreement and which is delivered or disclosed by one Party (“Discloser”) to the other Party (“Recipient”) during the course of performance of this Agreement shall be held in confidence by the Recipient and shall disclosed only upon the consent of the other Party in writing. Furthermore, the Recipient shall use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser’s Information as it uses with its own similar Information that it does not wish to disclose, publish or disseminate, and use the Discloser’s Information solely for the purpose for which it was disclosed.

   13.14 The Partner acknowledges that UNHCR’s Information, including Personal Data, is subject to privileges and immunities accorded to UNHCR and that as a result any such Information is inviolable and cannot be disclosed, provided or otherwise made available to, or searched, confiscated or otherwise be interfered with by any person, unless such immunity is expressly waived in writing by UNHCR. To ensure compliance with the privileges and immunities of UNHCR, the Partner shall segregate Information provided by UNHCR or generated by the Partner under this Agreement to the fullest extent possible.

   13.15 UNHCR may disclose Information to the extent as required pursuant to the Charter of the United Nations, or pursuant to resolutions or regulations of the General Assembly or rules promulgated thereunder.

   13.16 The Recipient shall not be precluded from disclosing Information that is (i) obtained by the Recipient without restriction from a third party who is not in breach of any obligation as to confidentiality to the owner of such Information or any other person, or (ii) disclosed by the Discloser to a third party without any obligation of confidentiality, or (iii) previously known by the Recipient, or (iv) at any time is developed by the Recipient completely independently of any disclosures hereunder, or (v) Information that the Partner may be required by law to disclose, to the extent required by law and provided that, subject to and without any waiver of the privileges and immunities of UNHCR, the Partner shall give UNHCR sufficient prior notice of a request for the disclosure of Information in order to allow UNHCR to have reasonable opportunity to take protective measures or such other actions as may be appropriate before any such disclosure is made. [↑](#footnote-ref-6)
6. The UNHCR Project Partnership Agreement provisions on Force Majeure and Other Changes in Condition are as follows:

   13.34 If during the period covered by this Agreement, the Partner is prevented from carrying out its obligations under this Agreement, this fact shall be reported to UNHCR, whereupon the Parties shall agree what arrangements, if any, shall be made to further implement, curtail or terminate this Agreement.

   13.35 Should the number of the Population of Concern, for whom assistance was foreseen under the Project, significantly change from the number originally envisaged, or if for any reason, changed circumstances reduce or increase the need for assistance as originally foreseen, UNHCR shall be immediately informed so that, after mutual consultation, UNHCR may adapt its participation in the Project to the new situation or discontinue it as the circumstances may warrant.

   13.36 In the event of any occurrence constituting force majeure, the Partner shall give notice and full particulars in writing to UNHCR as soon as possible, if the Partner is thereby rendered unable, wholly or in part, to perform its obligations under this Agreement. The Parties shall consult on the appropriate action to be taken, which may include termination of this Agreement, with either Party giving to the other at least seven days written notice of such Termination.

   13.37 Force majeure as used in this Agreement means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, provided that such acts arise from causes beyond the control and without the fault or negligence of the Partner and that such acts or unrest were not in existence at the time that the Project started or reasonably contemplated at the time that the Project was defined. The Parties acknowledge and agree that the existence of harsh conditions within areas from which the UN are disengaging from humanitarian operations or which are subject to civil unrest is not, in and of itself, force majeure. [↑](#footnote-ref-7)
7. The UNHCR Project Partnership Agreement provisions on Termination are as follows:

   13.42 Termination is the cessation of this Agreement prior to the end of the Project Implementation Period. Either Party may terminate this Agreement without cause at any time by giving ninety (90) days advance written notice to the other Party.

   13.43 In the event of termination, both Parties shall strive to ensure that there is no adverse impact on the Population of Concern. The Parties shall develop an action plan for proper winding down of the Agreement.

   13.44 UNHCR may terminate this Agreement with cause at any time with immediate effect by giving written notice to the Partner. For this purpose, cause is defined as:

   a. If the Partner or its personnel appear on a list maintained by the UN Security Council Sanctions Committee pursuant to Security Council resolutions targeting terrorism or if the Partner is found to be in violation of its obligations under Art. 11.8 through 11.10 (inclusive).

   b. Violation of laws, use of child labor, corruption and anti-personnel mine manufacture.

   c. Failure of the Partner to take appropriate measures to prevent abuse, misconduct of its personnel, or failure to investigate allegations of the same and to take disciplinary and corrective actions when misconduct is found to have occurred.

   d. Refusal or failure to execute any substantial work, or separable part thereof, or serious violation of this Agreement, including a violation that damages the credibility or reputation of UNHCR.

   e. A significant curtailment of UNHCR’s mandate, funds or activities that renders the continuation of this partnership no longer possible.

   13.45 UNHCR may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Agreement with cause at any time with immediate effect by giving written notice to the Partner if the Partner is adjudged bankrupt, or liquidated or become insolvent, or if the Partner makes an assignment for the benefit of its creditors, or if a Receiver is appointed on account of the insolvency of the Partner. The Partner shall immediately inform UNHCR of the occurrence of any of the above events.

   13.46 Upon written notice of termination of this Agreement pursuant to Art. 13.35, 13.36, 13.42 through 13.45 (inclusive), the Partner shall, except when otherwise directed by UNHCR, take immediate steps for the orderly conclusion of activities whilst reducing expenses to a minimum, refrain from undertaking any further or additional commitments under this Agreement, withdraw Partner Personnel, transfer to UNHCR all completed or partly completed works, settle or terminate all contractual liabilities, settle all financial obligations, and render a final financial and narrative report to UNHCR within the timeframe specified by UNHCR.

   13.47 In the event of termination, no payment shall be due from UNHCR to the Partner except for work and services satisfactorily performed in conformity with this Agreement prior to the date of termination. UNHCR shall not be liable for any expenditure or commitment in excess of remittances actually made, unless these were expressly authorized by UNHCR. Upon UNHCR settlement of the authorized payment, UNHCR shall be relieved from any further obligations under this Agreement or liability for compensation.

   13.48 In the event of termination pursuant to Art. 13.35, 13.36, 13.42 through 13.45 (inclusive), the Partner shall render to UNHCR reports meeting the requirements of the final reports otherwise due at the normal expiry of the term of this Agreement and shall transfer to UNHCR all unspent funds, revenues and other assets provided under this Agreement and any other amounts due to UNHCR pursuant to the terms hereof.

   13.49 In the event of termination pursuant to Art. 13.44 and 13.45, the Partner shall be bound to compensate UNHCR for all damages and costs, including, but not limited to, all costs incurred by UNHCR in any legal or non-legal proceedings even if the Partner is adjudged bankrupt, is granted a moratorium or stay, or is declared insolvent. [↑](#footnote-ref-8)
8. The UNHCR Project Partnership Agreement provisions on Amicable Settlement and Arbitration are as follows:

   13.38 The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Agreement or the breach, invalidity or termination thereof. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules of the United Nations Commission on International Trade Law (UNCITRAL) Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the Parties.

   13.39 Any dispute, controversy or claim between the Parties arising out of this Agreement or the breach, invalidity or termination thereof, unless settled amicably in accordance with Art. 13.38 above within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. The arbitral tribunal shall have no authority to award punitive damages. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute. The place of arbitration shall be Geneva. The proceedings shall be conducted in English.

   13.40 The arbitral tribunal shall be empowered to order the return or destruction of any property, whether tangible or intangible, or of any confidential information provided under the Agreement, order the termination of the Agreement, or order that any other protective measures be taken. In addition, unless otherwise expressly provided in this Agreement, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate (“LIBOR”) then prevailing, and any such interest shall be simple interest only.”

   13.41 Except as otherwise set forth in this Agreement, any arbitral proceedings in accordance with Art. 13.39, arising out of this Agreement must be commenced within three years after the cause of the action has occurred. [↑](#footnote-ref-9)