



MEMORANDUM OF AGREEMENT

FOR

MANAGEMENT AND OTHER SUPPORT SERVICES

RELATED TO

THE SOMALIA UN MPTF'S NATIONAL STREAM

MEMORANDUM OF AGREEMENT
between
the Federal Government of Somalia
and
the United Nations Development Programme
for
Management and Other Support Services
Related to the Somalia Multi-Partner Trust Fund (MPTF) National Funding Stream

WHEREAS, the Federal Government of Somalia (hereinafter the “Government”) has developed the Somalia Development and Reconstruction Facility (hereinafter the “Facility”). The Facility brings together under a common governance framework several funds, including the Somalia UN MPTF, the World Bank Multi Partner Fund for Somalia, a Somalia Fund managed by the African Development Bank, and the Special Financing Facility (SFF);

WHEREAS, a Somalia Multi-Partner Trust Fund has been established to receive funding from donors to finance activities undertaken through two separate funding streams: the United Nations Multi-Partner Trust Fund for Somalia (the “Somalia UN MPTF”), established by the Participating UN Organizations to finance activities of Participating UN Organizations; and the Somalia Multi-Partner Trust Fund National Funding Stream (the “Somalia National Funding Stream”), established by the Government to finance activities of National Entities (as such terms are defined and used herein);

WHEREAS, the Somalia UN MPTF was developed by Participating United Nations Organizations , starting on 1 September 2013 and ending on 31 December 2024, as part of their respective development cooperation with the Federal Government of Somalia, as more fully described in the Terms of Reference of the Somalia UN MPTF dated 19 March 2014, (hereinafter referred to as the “TOR”, a copy of which is attached hereto as ANNEX A, and have agreed to adopt the Facility’s coordination mechanism (hereinafter referred to as the “Steering Committee”) to facilitate the effective and efficient collaboration between the Participating UN Organizations and the Federal Government of Somalia for the implementation of the Fund. The terms of the Somalia UN MPTF are set out in a Memorandum of Understanding entered into between the Participating UN Organizations and UNDP’s Multi-Partner Trust Fund Office (MPTF Office), as the administrative agent of the Somalia UN MPTF;

WHEREAS, the Government has now requested the UNDP MPTF Office to serve as the Administrative Agent of the Somalia National Funding Stream and provide fund administration, management and other support services related to management of the Somalia National Funding Stream for funding activities undertaken by the National Entities, as more fully described in the Somalia MPTF National Funding Stream Terms of Reference, dated 19 March 2014 (hereinafter referred to as the “Somalia MPTF National Funding Stream TOR” or “TOR”), a copy of which is attached hereto as ANNEX B;

WHEREAS, UNDP agrees to serve as the Administrative Agent and provide the fund administration, through its MPTF Office (hereinafter “Administrative Agent-Somalia National Funding Stream”), as well as management and other support services for the Somalia National Funding Stream, pursuant to its Financial Regulations and Rules, and the terms and conditions set out in the Terms of Reference of the Somalia National Funding Stream;

WHEREAS, the Government has designated the Ministry of Finance (MOF) to coordinate the development and implementation of the Somalia National Funding Stream activities on behalf of the Government and assume full financial and programmatic accountability for the funds disbursed by the Administrative Agent to the government entities through MOF National Account, that shall implement the activities funded by the Somalia National Funding Stream (hereinafter the “National Entities”) , and shall have such other responsibilities as set forth herein;

WHEREAS, UNDP as the Administrative Agent-Somalia National Funding Stream on behalf of the Government will conclude with the Contributors the Standard Administrative Arrangements for the Somalia National Funding Stream (hereinafter “SAA for Somalia National Funding Stream”), a template of which is annexed hereto as ANNEX C;

WHEREAS, this Memorandum of Agreement governs the relationship between UNDP and the Government, including MOF, as well as the related Agreements with the Contributors (ANNEX 3);

NOW, THEREFORE, the Government and the Administrative Agent (hereinafter “the Parties “) agree as follows:

Article 1

Establishment of the Somalia UN MPTF’s National Stream

1. The signature of this Memorandum of Agreement (hereinafter the “MOA”) marks the commencement of the Somalia National Funding Stream. The establishment of the Somalia National Funding Stream shall facilitate the effective and efficient collaboration between the Government, Contributors, the Administrative Agent, and other stakeholders for the implementation of the Somalia National Funding Stream, as set out in the TOR. All terms defined in the TOR are used in this MOA in the same manner as though set out and defined in full herein.

2. The Somalia National Funding Stream shall be governed by the **Steering Committee** that will set the criteria and scope for approving programmes/projects, and determine the overarching priorities for the Somalia National Funding Stream. The Steering Committee will carry out the functions stated in the TOR, including prioritizing the programmes approved by the PSG Working Groups, making fund allocation decisions, and overseeing the effective

monitoring and evaluation of the Somalia National Funding Stream's financed activities.

3. The same Steering Committee will serve as the primary coordination and governance mechanism for the SDRF, as described in the SDRF Steering Committee TOR and the Somalia UN MPTF TOR.

4. A **National Stream Secretariat** will be set up within the Aid Coordination Unit to support the proper functioning of the Steering Committee and the High Level Partnership Forum. The Somalia National Funding Stream will designate dedicated staff to work on the Somalia National Funding Stream. The Secretariat will facilitate the preparation and conduct of the Steering Committee meetings, organize the vetting process of programmes submitted to funding decisions, and undertake Somalia National Funding Stream-level monitoring, reporting and evaluation.

5. Somalia National Funding Stream-financed activities undertaken by the National Entities shall be carried out on the basis of the applicable national laws, regulations and procedures (hereinafter referred to as the "National Regulatory Framework"), provided they do not contravene the principles set out in UNDP's regulations and rules.

6. The Government and UNDP shall consult closely with respect to the management and other support services provided under this MOA. The Government shall ensure that all necessary support is given by the relevant Somali authorities to UNDP to facilitate the activities to be carried out by UNDP under the Somalia National Funding Stream. The Steering Committee will approve the Operational Manual to detail its rules of procedure, processes, and templates, consistent with the TOR.

7. Resources from the Somalia National Funding Stream, including interest accrued to the National Stream Account, will be utilized for the purpose of meeting the direct and indirect costs of programmes undertaken by the National Entities, as well as meet the direct costs related to its administration, technical review tasks of the Secretariat and required Somalia National Funding Stream-wide evaluations. Details of such proposals, including respective budgets and description of the National Entities will be set out in the relevant programme documents and/or proposals, approved by the Steering Committee.

Article 2

The Administrative Agent

8. The Government hereby engages UNDP, through its MPTF Office, to administer the Somalia National Funding Stream on its behalf, in accordance with the TOR. UNDP shall use its multi-donor trust fund management mechanism adapted for the management support services arrangements described herein.

9. Upon signature of this MOA, UNDP will conclude on behalf of the Government an SAA for the Somalia National Funding Stream with the Contributors for the receipt of funds.

10. UNDP as Administrative Agent - Somalia National Funding Stream, through its MPTF Office, will carry out the following functions for the Somalia National Funding Stream:

- (a) Receive financial contributions from Contributors and deposit those in the Somalia National Funding Stream Account;
- (b) Administer the funds received, in accordance with UNDP regulations, rules, policies and procedures and the TOR;
- (c) In accordance with the decisions of the Steering Committee, and subject to availability of funds disburse the funds to National Entities through MOF upon instruction the Steering Committee, taking into account the budget set out in the approved programmatic document¹, as amended in writing from time to time by the Steering Committee;
- (d) Consolidate statements and reports, based on submissions provided to the Administrative Agent by MOF, based on the submissions of each National Entity, as set forth in Article 5, and provide these to MOF, the Steering Committee and Contributors through the Secretariat;
- (e) As applicable, provide final reporting; and
- (f) Disburse funds to MOF and to any National Entity, through MOF, for any additional costs of the non-fund administration tasks that the Steering Committee may decide to allocate to any of the aforementioned in accordance with the TOR.

11. The Administrative Agent - Somalia National Funding Stream will conclude the SAA for the Somalia National Funding Stream with each Contributor that wishes to provide financial support to the Somalia National Funding Stream for activities undertaken by the National Entities. The Administrative Agent will not agree with the Contributor to amend the terms of ANNEX 3 without prior written agreement of MOF. The Administrative Agent- Somalia National Funding Stream and MOF will ensure the posting of a copy of the SAA - Somalia National Funding Stream, as well as information on contributions, on the website of the Administrative Agent - Somalia National Funding Stream (<http://mptf.undp.org>), as well as the website of the SDRF embedded in the New Deal for Somalia website (<http://www.newdeal.so>), as appropriate.

12. The Administrative Agent - Somalia National Funding Stream will be entitled to allocate an administrative fee of one percent (1%) of the amount contributed by each Contributor signing a SAA for the Somalia National Funding Stream to meet its costs of performing the functions described in this Memorandum of Agreement.

¹ As used in this document, an approved programmatic document refers to projects or programmes which are approved by the Steering Committee for fund allocation purposes.

Article 3
Financial Matters

The Administrative Agent - Somalia National Funding Stream

13. UNDP, as the Administrative Agent - Somalia National Funding Stream, will establish a separate ledger account (hereinafter, the “Somalia National Funding Stream Account”) under its financial regulations and rules for the receipt and administration of the funds received pursuant to a SAA for the Somalia National Funding Stream. The Somalia National Funding Stream Account will be administered by the UNDP, in accordance with the UNDP’s applicable regulations, rules, policies and procedures, including those relating to interest. The Somalia National Funding Stream Account will be subject exclusively to the internal and external auditing procedures laid down in the applicable UNDP financial regulations, rules, policies and procedures.

14. The Administrative Agent will not absorb gains or losses on currency exchanges which will increase or decrease the funds available for disbursements to MOF, and the National Entities.

15. Subject to the availability of funds, the Administrative Agent will make disbursements from the Somalia National Funding Stream Account based on decisions from the Steering Committee, in line with the budget set forth in the programmatic document, as amended from time to time by the Steering Committee.

16. The Administrative Agent - Somalia National Funding Stream will normally make each disbursement to the MOF within three (3) to five (5) business days after receipt of the relevant approved programmatic document and instruction from the Steering Committee and in line with the Somalia National Funding Stream TOR, along with a copy of the relevant approved programmatic document. The Administrative Agent - Somalia National Funding Stream will transfer funds through wire transfer. MOF will advise the Administrative Agent - Somalia National Funding Stream in writing of the bank account for transfers pursuant to this MOA. When making a transfer, the Administrative Agent - Somalia National Funding Stream will notify MOF, of the following: (a) the amount transferred, (b) the value date of the transfer, and (c) that the transfer is from the UNDP in respect of the Somalia National Funding Stream pursuant to this MOA.

17. Where the balance in the Somalia National Funding Stream Account on the date of a scheduled disbursement is insufficient to make that disbursement, the Administrative Agent - Somalia National Funding Stream will consult with the Steering Committee and make a disbursement, if any, in accordance with the Steering Committee’s instructions.

Ministry of Finance (MOF)

18. The Government has designated MOF to serve as the primary interlocutor on all aspects of the Somalia National Funding Stream including with respect to the Administrative Agent - Somalia National Funding Stream. MOF assumes full programmatic and financial accountability for the funds disbursed to the MOF by the Administrative Agent - Somalia National Funding Stream.

19. In order to carry out activities financed by the Somalia National Funding Stream, National Entities shall be proposed by MOF, in consultation with relevant ministries, and approved by the Steering Committee, following assessments of financial, managerial and technical capacity by the Secretariat. The Steering Committee, chaired by MOF, shall review and approve the proposals recommended for funding. It is understood that National Entities will receive funds and carry out activities on the basis of the National Regulatory Framework, in accordance with Article 1, Paragraph 5.

20. MOF will establish a separate ledger account under its financial regulations and rules for the receipt and administration of the funds disbursed to it by the Administrative Agent - Somalia National Funding Stream from the Somalia National Funding Stream Account.

21. The National Entities, receiving funds directly from the Somalia National Funding Stream Account based on their respective agreements (hereinafter "NE Agreement") with the MOF, will establish a separate ledger account under their respective financial regulations and rules for the receipt and administration of the funds disbursed to them from the Somalia National Funding Stream Account. The Government Coordinating Entity assumes full programmatic and financial accountability for the funds disbursed to the National Entities by the Administrative Agent - Somalia National Funding Stream. That separate ledger account will be (i) administered by the National Entities in accordance with the "National Regulatory Framework", provided the laws, regulations and procedures under such frameworks do not contravene the principles set out in UNDP's regulations and rules, policies and procedures, and (ii) subject to reviews, and internal and external auditing requirements as set forth in the TOR.

22. MOF will use, and have the National Entities, use, the funds disbursed from the Administrative Agent - Somalia National Funding Stream to carry out the activities for which they are responsible as set out in the approved programmatic document. MOF, and through it the National Entities, will commence and continue to conduct operations for the programmatic activities only upon receipt of disbursements as instructed by the Steering Committee. MOF, and through it the National Entities, will not make any commitments above the approved budget in the approved programmatic document, as amended from time to time by the Steering Committee. If there is a need to exceed the budgeted amount, MOF will submit a supplementary budget request to the Steering Committee.

Contributors

23. The Contributors will make their contributions in accordance with the provisions of the SAA for the Somalia National Funding Stream.

Article 4
Activities of the National Stream

The Role of MOF

24. Before the Administrative Agent will disburse funds to a National Entity through Somalia National Funding Stream Account, MOF will reach an agreement with each concerned National Entity setting out the terms and conditions regarding receipt of funds from the National Stream, consistent with this MOA and the TOR. MOF will ensure that each National Entity is responsible for the activities specified in its proposal, in accordance with the decisions of the Steering Committee and the National Regulatory Framework.

25. After approval by the Steering Committee of a National Entity's proposal, MOF will instruct the Administrative Agent - Somalia National Funding Stream to disburse the approved amount to the National Stream Account within MOF.

26. MOF through the Steering Committee will take the necessary steps to ensure that National Entities have the required capacities to accomplish their commitments in accordance the National Regulatory Framework.

27. Any modifications to the scope of the approved programmatic document, including as to its nature, content, sequencing or the duration thereof will be subject to mutual agreement in writing between MOF, the relevant National Entity and the Steering Committee. MOF will promptly notify the Administrative Agent of any change in the budget approved by the Steering Committee, as set out in the programmatic document of any National Entity. For Somalia National Funding Stream-financed activities undertaken by the National Entities, on the termination or expiration of this MOA, the ownership of equipment, supplies and other property financed from the Somalia National Funding Stream shall vest in the Government.

28. MOF will ensure that where a National Entity wishes to carry out its activities through or in collaboration with third parties, it will be responsible for discharging all commitments and obligations with such third parties, and the Administrative Agent - Somalia National Funding Stream will not be responsible for doing so.

29. In carrying out their activities, neither MOF nor the National Entity will be considered as an agent of the Administrative Agent - Somalia National Funding Stream, nor will the personnel of one be considered as staff members, personnel or agents of the other. Without restricting the generality of the preceding sentence, the Administrative Agent - Somalia National Funding Stream will not be liable for the acts or omissions of MOF, the National Entities, or their personnel, or of persons performing services on their behalf.

30. MOF will advise the Administrative Agent - Somalia National Funding Stream in writing when all activities for which the National Entities are responsible under the respective approved programmatic document have been completed.

31. MOF recognizes that the Contributors reserve the right to discontinue future contributions if reporting obligations are not met as set forth in the SAA for the Somalia National Funding Stream or if there are substantial deviations from agreed plans and budgets. If it is agreed among the Steering Committee, MOF, Contributors and the Administrative Agent - Somalia National Funding Stream that there is evidence of improper use of funds by National Entities, MOF will repay an amount equivalent to the amount of the funds found to have been misused, into the Fund's Account from its own resources. Should repayment to the Fund Account not occur within a reasonable period of time as shall be established by the Steering Committee, the Contributors may elect to terminate any further fund transfer to the programmatic activity in question.

32. In cases of serious or wide-spread fraud that are judged to be harmful to the reputation of the Fund, the Contributors in consultation with the Steering Committee will suspend all further fund transfers until adequate remedial measures have been taken. Once actions have been taken, the case will be presented to and discussed with the Steering Committee. In cases where the Government, Contributors and Administrative Agent are unable to reach consensus on a corrective course of action, final decision-making in relation to the future disbursement will lie with the donors, and final decision-making in relation to sanctioning individuals under Somali law will lie with the Government and will be based on the National Regulatory Framework.

The Contributors

33. The Contributors will participate in the Somalia National Funding Stream in accordance with the Somalia National Funding Stream TOR.

Article 5 **Reporting**

34. The National Entities through MOF, will provide the Administrative Agent - Somalia National Funding Stream with the following statements and reports for funds received from the Somalia National Funding Stream Account, as set forth in the Somalia National Funding Stream TOR:

- (a) Annual narrative progress reports, to be provided no later than three months (31 March) after the end of the calendar year;
- (b) Annual financial statements and reports as of 31 December with respect to the funds disbursed to it from the Somalia National Funding Stream Account, to be provided no later than four months (30 April) after the end of the calendar year;

- (c) Final narrative reports, after the completion of the activities in the approved programmatic document and including the final year of the activities in the approved programmatic document, to be provided no later than four months (30 April) of the year following the financial closing of the funded programme. The final report will give a summary of results and achievements compared to the goals and objectives of the programme;
- (d) Mid-year progress updates that will allow the Government and the Steering Committee to assess project implementation progress on an on-going basis; and
- (e) Certified final financial statements and final financial reports after the completion of the activities in the approved programmatic document and including the final year of the activities in the approved programmatic document, to be provided no later than six months (30 June) of the year following the financial closing of the programme.

35. The Administrative Agent - Somalia National Funding Stream will prepare consolidated narrative and financial reports, based on the reports referred to in Paragraph 33 (a) to (e) above, and will provide those consolidated reports to MOF, the Steering Committee, and each Contributor to the Somalia National Funding Stream Account, through the Secretariat, by 31 May of each year.

36. The Administrative Agent - Somalia National Funding Stream will also provide MOF, Steering Committee and Contributors through the Secretariat with the following statements on its activities:

- (a) Certified annual financial statement (“Source and Use of Funds”) to be provided no later than five months (31 May) after the end of the calendar year; and
- (b) As applicable, certified final financial statement (“Source and Use of Funds”) to be provided no later than seven months (31 July) of the year following the financial closing of the National Stream.

37. Consolidated reports and related documents will be posted on the websites of the Government (<http://www.newdeal.so>) and the Administrative Agent - Somalia National Funding Stream (<http://mptf.undp.org>).

Article 6 **Monitoring and Evaluation**

38. Monitoring and evaluation of the Somalia National Funding Stream including, as necessary and appropriate, joint evaluation by the Government, MOF, the Contributors, the Administrative Agent - Somalia National Funding Stream, and other partners, will be undertaken in accordance with the provisions contained in the Somalia National Funding Stream TOR.

39. MOF, the Secretariat, the National Entities, Contributors, and the Administrative Agent - Somalia National Funding Stream, through the Steering Committee, will hold annual consultations, as appropriate, to review the status of the Somalia National Funding Stream.

Article 7 **Audit**

40. The National Entities will be audited through the Ministry of Finance, in accordance with the Somalia national audit framework, and subject to external auditing requirements as set in their respective NE agreement. The Administrative Agent - Somalia National Funding Stream will be audited in accordance with its own Financial Regulations and Rules.

Article 8 **Joint Communication**

41. MOF will take appropriate measures to publicize the Somalia National Funding Stream and to give due credit to the other stakeholders. Information given to the press, to the beneficiaries of the Somalia National Funding Stream, all related publicity material, official notices, reports and publications, will acknowledge the leading role of the Government, the Contributors, MOF, the Administrative Agent - Somalia National Funding Stream and any other relevant entities. In particular, the Administrative Agent - Somalia National Funding Stream will include and ensure due recognition of the role of the Government, MOF, national partners, National Entities, and Contributors in all external communications relating to the Somalia National Funding Stream.

42. The Administrative Agent - Somalia National Funding Stream in consultation with MOF will ensure that decisions regarding the review and approval of the National Stream's projects, periodic reports on the progress of Fund-financed activities and associated external evaluation are posted, where appropriate, for public information on the websites of the Somalia National Funding Stream (<http://www.newdeal.so>) and the Administrative Agent - Somalia National Funding Stream (<http://mptf.undp.org>). Such reports and documents may include Steering Committee approved programmes and programmes awaiting approval, Somalia National Funding Stream--level annual financial and progress reports and external evaluations, as appropriate.

Article 9 **Entry into Force, Expiration, Modification**

43. This MOA will come into effect upon signature by authorized representatives of the Parties and will continue in full force and effect until it is terminated.

44. The Somalia National Funding Stream has a termination date of **31 December 2024**.

45. This MOA will expire upon the winding up of the Somalia National Funding Stream or upon its termination by the Government, in accordance with paragraph 43 above, subject to the continuance in force of paragraph 46 below for the purposes therein stated. In addition, the MOA may be terminated upon 180 day notice, upon mutual agreement of the Parties, subject to the continuance in force of paragraph 46 below for the purposes therein stated.

46. This MOA may be modified only by written agreement between the Parties.

47. Commitments assumed by the Parties under this MOA will survive the expiration or termination of this MOA to the extent necessary to permit the orderly conclusion of the activities and the completion of final reports, the withdrawal of personnel, funds and property, the settlement of accounts between the Parties hereto and the settlement of contractual liabilities that are required in respect of any subcontractors, consultants or suppliers. Any balance remaining in the Somalia National Funding Stream Account, in MOF, or in individual National Entity's separate ledger accounts upon winding up of the Somalia National Funding Stream will be used for a purpose as decided by the Steering Committee and Contributors or returned to the Contributor(s) in proportion to their contribution to the Somalia National Funding Stream as decided upon by the Contributor and Steering Committee.

Article 10 **Notices**

48. Any action required or permitted to be taken under this MOA may be taken on behalf of the Government, by the Minister of Finance, or his designated representative, and on behalf of the Administrative Agent - Somalia National Funding Stream, by the Executive Coordinator of the UNDP MPTF Office, or his designated representative.

49. Any notice or request required or permitted to be given or made in this MOA will be in writing. Such notice or request will be deemed to be duly given or made when it will have been delivered by hand, mail or any other agreed means of communication to the party to which it is required to be given or made, at such party's address specified below or at such other address as the party will have specified in writing to the party giving such notice or making such request.

For the Government:

Name: Hussein Abdi Halane
Title: Minister, Ministry of Finance
Address: Mogadishu

Telephone:
Facsimile:
Electronic mail: hhalane55@gmail.com

For the Administrative Agent:

Name: Yannick Glemarec
Title: Executive Coordinator, MPTF Office, UNDP
Address: 730 Third Avenue, 20th Floor, New York, NY 10017, USA
Telephone: +1 212 906 6880
Facsimile: +1 212 906 6990
Electronic mail: yannick.glemarec@undp.org

Article 11
General Provisions

50. In the event of any controversy, claim or dispute between the Parties arising out of this MOA or the breach thereof, the Parties shall seek an amicable resolution thereof through good faith direct negotiations.

51. The Government agrees that the provisions of the Agreement between UNDP and the Government, relating to UNDP's assistance to the country signed on 16 May 1977 (SBAA) shall apply to UNDP and its personnel carrying out the management and other support services provided hereunder, except that the funds contributed shall be deemed resources of the Government.

52. In accordance with the SBAA, the Government shall bear all risks of operations arising under this Agreement and shall be responsible for dealing with claims which may be brought by third parties against UNDP, its officials or other persons performing services on its behalf, and shall hold them and UNDP harmless in respect of claims or liabilities arising from operations under this Agreement. The foregoing provision shall not apply where the Government and UNDP agree that claims or liabilities arise from the gross negligence or willful misconduct of the above-mentioned persons.

IN WITNESS WHEREOF, the undersigned, duly authorized representatives of the respective Parties, have signed this MOA in English, in three copies.

On behalf of the Government of Somalia:

On behalf of UNDP:

Signature: (signed)

Name: Hussein Abdi Halane

Title: Minister, Ministry of Finance

Place: Mogadishu

Date: 24 April 2014

Signature: (signed)

Name: Yannick Glemarec

Title: Executive Coordinator, MPTF Office

Place: New York

Date: 24 April 2014

This Memorandum of Agreement has been signed in the presence of:

Signature: (signed)

Name: Philippe Lazzarini

Title: DSRSG, UN Resident and Humanitarian Coordinator, Somalia

Place: Mogadishu

Date: 24 April 2014

ANNEX A – The Somalia UN MPTF Terms of Reference

ANNEX B – Somalia UN MPTF TOR and Annex 1: The Somalia UN MPTF's National Stream Terms of Reference – the Framework with Respect to the Government of Somalia Receiving the Funding Directly from the Somalia UN MPTF

ANNEX C – Standard Administrative Arrangement for the National Stream