

**Memorandum of Understanding
between
the Participating UN Organizations
and
the United Nations Development Programme**

regarding the Operational Aspects of the United Nations Peace Fund for Nepal

WHEREAS, the UN Organizations who have signed this Memorandum of Understanding (hereinafter referred to collectively as the “Participating UN Organizations”) have agreed to support the Nepal peace process within the framework of a priority programme of activities developed in consultation with the Government of Nepal and the Communist Party of Nepal, or CPN(M);

WHEREAS the Participating UN Organizations have agreed that they should make it possible for donors to fund the projects involved (hereinafter referred to as the “Projects”) through a single channel provided by the United Nations Peace Fund for Nepal (hereinafter referred to as the “Fund”);

WHEREAS, the Participating UN Organisations have agreed that the Projects and the operations of the Fund would be designed and carried out in accordance with the Fund’s Terms of Reference attached hereto as Annex I (hereinafter “Terms of Reference” or “TOR”), in coordination with the Steering Committee of the Nepal Peace Trust Fund (hereinafter referred to as the “Steering Committee”), and under the authority of an Executive Committee (hereinafter referred to as the “Executive Committee”);

WHEREAS, the Participating UN Organizations have further agreed that UNDP, which is also a Participating UN Organization in connection with the Fund, should be asked to serve as their administrative interface with donors for these purposes and UNDP has agreed to do so in accordance with this Memorandum of Understanding.

NOW, THEREFORE, UNDP and the Participating UN Organizations (hereinafter referred to collectively as the “Parties”) hereby agree as follows:

Article I

Appointment of Administrative Agent; its Status, Duties and Fee

1. The Participating UN Organizations hereby appoint UNDP (hereinafter referred to as the “Administrative Agent” or the “AA”) to serve as their Administrative Agent in connection with the Fund, in accordance with the terms and conditions set out in this Memorandum of Understanding. The Administrative Agent accepts this appointment on the understanding that the Participating UN Organizations assume full programmatic and financial accountability for the funds disbursed to them by the Administrative Agent. This appointment shall continue until it terminates, or is terminated, in accordance with Article VII below.

2. On behalf of the Participating UN Organizations, the Administrative Agent shall:
- (a) Receive contributions from donors that wish to provide financial resources to the Fund through the Administrative Agent;
 - (b) Administer such funds received, in accordance with this Memorandum of Understanding including the provisions relating to winding up the Fund Account and related matters;
 - (c) Subject to availability of funds, disburse such funds to each of the Participating UN Organizations in accordance with instructions from the Executive Committee;
 - (d) Compile the financial reports produced by each of the Participating UN Organizations into consolidated financial reports in accordance with Article IV below, and distribute such consolidated financial reports together with consolidated programme reports produced by the United Nations Mission in Nepal (UNMIN) and the United Nations Country Team (UNCT), to the Executive Committee for onward circulation to donors;
 - (e) Provide final reporting, including notification that the Projects have been operationally completed, in accordance with Article IV below;
 - (f) At the request of the Executive Committee, provide staffing support to the Committee that will assist in the review and appraisal of Project proposals;
 - (g) Perform such other activities as the Participating UN Organizations and the Administrative Agent may agree in writing.

3. The Administrative Agent shall enter into a letter of agreement in the form attached hereto as Annex II (hereinafter referred to as a "Letter of Agreement"), with each donor that wishes to provide financial resources to the Fund. The Administrative Agent shall not amend the terms of Annex II without prior written agreement of the Participating UN Organizations. The Administrative Agent shall make available to the Participating UN Organizations the Letters of Agreements it enters into.

4. None of the Participating UN Organizations shall be liable for the acts or omissions of the Administrative Agent or its personnel, or of persons performing services on its behalf, except in regard to any contributory acts or omissions of other Participating UN Organizations. With respect to such contributory acts or omissions of the Participating UN Organizations, the resulting liability shall be apportioned among them or any one of them to the extent of such contributory acts or omissions, or as may otherwise be agreed.

5. The Administrative Agent and the Participating UN Organizations shall be entitled to deduct their indirect costs from contributions received in accordance with the following formula:

- a. The Administrative Agent's administrative fee will be 1 percent (1%). The fee will be deducted from each contribution to the Fund received by the Administrative Agent at the time it is.
 - b. Upon securing approval from the Executive Committee, the Administrative Agent may also deduct from the Fund and transfer to itself the actual costs of the staffing support that it may be requested to provide to the Executive Committee pursuant to Article I, paragraph 2(f) above.
 - c. Indirect costs of the Participating UN Organizations will be based on the applicable regulations and rules of the Participating UN Organizations. It is expected that such costs will be in the range of 5 to 9 per cent, with an average of approximately 7 per cent.
6. In the event of any inconsistency between this MoU and Annex I, this MoU shall prevail.

Article II **Financial Matters**

The Administrative Agent

1. The Administrative Agent shall establish a separate ledger account under its financial regulations and rules for the receipt and administration of the funds received pursuant to Letters of Agreements (hereinafter, the "Fund Account"). The Fund Account shall be administered by the Administrative Agent in accordance with the regulations, rules, directives and procedures applicable to it, including those relating to interest. The Fund Account shall be subject exclusively to the internal and external auditing procedures laid down in the financial regulations, rules, directives and procedures applicable to the Administrative Agent.
2. The Administrative Agent will not absorb gains or losses on currency exchanges. Such amounts will increase or decrease the funds available for disbursements to Participating UN Organizations
3. The Administrative Agent shall make disbursements from the Fund Account based on instructions from the Executive Committee, in line with the relevant Project budgets set out in the specific Project proposals submitted by the concerned Participating UN Organization and approved by the Executive Committee. The disbursements shall consist of direct and indirect costs as set out in the Project budgets.
4. Subject to the availability of funds, the Administrative Agent shall normally make each disbursement within three (3) to four (4) business days after having received instructions from the Executive Committee along with the relevant Project documents signed by all parties concerned. The Administrative Agent shall transfer funds to each Participating UN Organization through wire transfer in US dollars. Each Participating UN Organization shall advise the Administrative Agent in writing of the bank account for transfers pursuant to this Memorandum of Understanding. When making a transfer to a Participating UN Organization, the Administrative Agent will notify that Participating UN

Organization of the following: (a) the amount transferred, (b) the value date of the transfer; (c) the Project approved by the Executive Committee for which the transfer is made; and (d) that the transfer is from UNDP as Administrative Agent in respect of the Fund pursuant to this Memorandum of Understanding.

5. Where the balance in the Fund Account on the date of a scheduled disbursement is insufficient to make that disbursement, the Administrative Agent shall consult with the Executive Committee and make a disbursement, if any, in accordance with the Executive Committee's instructions.

The Participating UN Organizations

6. Each Participating UN Organization shall 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 from the Fund Account. That separate ledger account shall be administered by each Participating UN Organization in accordance with its own regulations, rules, directives and procedures, including those relating to interest. That separate ledger account shall be subject exclusively to the internal and external auditing procedures laid down in the financial regulations, rules, directives and procedures applicable to the Participating UN Organization concerned.

7. Each Participating UN Organization shall use the funds disbursed to it by the Administrative Agent from the Fund Account to carry out the activities for which it is responsible as well as for its indirect costs as set out in the relevant Project budgets approved by the Executive Committee. The Participating UN Organizations shall commence and continue to conduct operations only upon receipt of disbursements as instructed by the Executive Committee. The Participating UN Organizations shall not make any commitments above the approved Project budgets. If there is a need to exceed the budgeted amount, the Participating UN Organization concerned shall submit a supplementary budget request to the Executive Committee.

8. In exceptional cases, in particular during the start-up phase of the Fund, Participating UN Organizations may, subject to conformity with their respective financial regulations and rules, choose to start implementation of priority Projects in advance of receiving transfers from the Fund Account, by using their own resources. Such pre-financing shall be undertaken in agreement with the Executive Committee on the basis of funds it has allocated or approved for implementation by the particular Participating UN Organization following receipt by the Administrative Agent of an official commitment form or signature of the Letter of Agreement by donors contributing to the Fund. Participating UN Organizations shall be solely responsible for decisions to initiate such advance activities or other activities outside the parameters set forth.

Article III **Activities of the Participating UN Organizations**

1. Each of the Participating UN Organizations shall carry out its Project activities in accordance with the regulations, rules, directives and procedures applicable to it. Accordingly, personnel shall be engaged and administered, equipment, supplies and services purchased, and contracts entered into in accordance with the provisions of such

regulations, rules, directives and procedures. On the termination or expiration of this Agreement, the matter of ownership shall be determined in accordance with the regulations, rules, directives and procedures applicable to such Participating UN Organizations, including, where applicable, its basic agreement with the Government of Nepal.

2. Any modifications to the Project activities as approved by the Executive Committee, including as to their nature, content, sequencing or the duration thereof, shall be subject to mutual agreement in writing between the relevant Participating UN Organization and the Executive Committee. The Participating UN Organization shall promptly notify the Administrative Agent through the Executive Committee of any change in the Project budgets approved by the Executive Committee.

3. Where a Participating UN Organization wishes to carry out its Project activities through or in collaboration with a third party, it shall be responsible for discharging all commitments and obligations with such third parties, and no other Participating UN Organization, nor the Administrative Agent, shall be responsible for doing so.

4. In carrying out their Project activities, none of the Participating UN Organizations shall be considered as an agent of any of the others and, thus, the personnel of one shall not be considered as staff members, personnel or agents of any of the others. Without restricting the generality of the preceding sentence, none of the Participating UN Organizations shall be liable for the acts or omissions of the others or their personnel, or of persons performing services on their behalf.

5. Each Participating UN Organization shall advise the Administrative Agent in writing when all activities for which it is responsible under a Project have been completed.

Article IV **Reporting**

1. For each Project approved for funding from the Fund, each Participating UN Organization shall provide the Executive Committee and the Administrative Agent with the following statements and reports prepared in accordance with the accounting and reporting procedures applicable to the Participating UN Organization concerned:

- (a) Narrative progress reports for each twelve-month period, to be provided no later than one month after the end of the applicable reporting period;
- (b) Annual financial reports as of 31 December each year with respect to the funds disbursed from the Fund, to be provided no later than four months after the end of the applicable reporting period;
- (c) A final narrative report and financial report, after the completion of all Project activities financed from the Fund, to be provided no later than 30 April of the year following the financial closing of Project activities;
- (d) A final certified financial statement, to be provided no later than 30 June of the year following the financial closing of Project activities.

2. The Administrative Agent shall prepare consolidated narrative progress and financial reports consisting of the reports referred to in paragraph 1 (a) to (d) above submitted by each Participating UN Organization, and, through the Executive Committee, shall provide those consolidated reports to each donor that has contributed to the Fund, in accordance with the timetable established in the Letter of Agreement, and to the Executive Committee.

3. The Administrative Agent shall also provide a financial report and a final certified financial statement to Donors and Participating UN Organizations, on its activities as Administrative Agent, to be provided no later than 30 June of the year following the financial closing of the Fund.

Article V
Monitoring and Evaluation

1. Monitoring and evaluation (M&E) shall be undertaken in accordance with the provisions contained in each Project proposal approved by the Executive Committee, which are consistent with the respective regulations, rules and procedures of the Participating UN Organizations.

2. In case the duration of the Fund should exceed 12 months, the Executive Committee and the Participating UN Organisations may commission an independent lessons-learned and review exercise(s) relating to the operations of the Fund, the details of which shall be subject to prior approval by the UNDG Management Group.

Article VI
Joint Communication

Each Participating UN Organization shall take appropriate measures to publicize the activities undertaken under the Fund. Information given to the press, to the beneficiaries of the Projects, all related publicity material, official notices, reports and publications, shall acknowledge the role of the host Government, the donors, the Participating UN Organizations, the Administrative Agent and any other relevant parties. In particular, the Administrative Agent will include and ensure due recognition of the role of each Participating UN Organization and national partners in all external communications relating to the Fund.

Article VII
Expiration, modification and termination of the Agreement

1. This Memorandum of Understanding shall expire upon completion of all Project activities and termination of the Fund, subject to the continuance in force of paragraph 5 below for the purposes therein stated.

2. This Memorandum of Understanding may be modified only by written agreement between the Parties.

3. Any of the Participating UN Organizations may withdraw from this Memorandum of Understanding upon giving thirty (30) days' written notice to all other parties to this Memorandum of Understanding stating that it has given notice of its withdrawal from this Memorandum of Understanding, subject to the continuance in force of paragraph 5 below for the purpose therein stated.

4. The Administrative Agent's appointment may be terminated by the Administrative Agent (on the one hand) or by the mutual agreement of all Participating UN Organizations (on the other hand) on thirty (30) days' written notice to the other party, subject to the continuance in force of paragraph 5 below for the purpose therein stated. In the event of such termination, the Parties shall agree on measures to bring all activities to an orderly and prompt conclusion so as to minimize costs and expense.

5. Obligations assumed by the withdrawing or terminating Parties under this Memorandum of Understanding shall survive the expiration or termination of this Memorandum of Understanding or the termination of the Administrative Agent or withdrawal of a Participating UN Organization to the extent necessary to permit the orderly conclusion of the Project 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 Fund Account or in the individual Participating UN Organizations' separate ledger accounts shall be used for a purpose mutually agreed upon by the Administrative Agent, the donors and the Participating UN Organizations.

Article VIII **Notices**

1. Any action required or permitted to be taken under this Memorandum of Understanding may be taken on behalf of the Administrative Agent by the Executive Coordinator of the MDTF Office, UNDP, or his or her designated representative, and on behalf of a Participating UN Organization by the head of office in Nepal, or his or her designated representative.

2. Any notice or request required or permitted to be given or made in this Memorandum of Understanding shall be in writing. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, mail, cable or telex to the party to which it is required to be given or made, at such party's address specified in Annex III or at such other address as the party shall have specified in writing to the party giving such notice or making such request.

Article IX **Entry into force**

This Memorandum of Understanding shall enter into force upon signature by authorized officials of the Parties and shall continue in full force and effect until it is expired or terminated.



Article X
Settlement of Disputes

The Parties shall use their best efforts to promptly settle through direct negotiations any dispute, controversy or claim arising out of or in connection with this Memorandum of Understanding or any breach thereof. Any such dispute, controversy or claim which is not settled within sixty (60) days from the date either party has notified the other party of the nature of the dispute, controversy or claim and of the measures which should be taken to rectify it, shall be resolved through consultation between the Executive Heads of each of the Participating UN organizations and of the Administrative Agent.

IN WITNESS WHEREOF, the undersigned, duly authorized representatives of the respective Participants, have signed this Memorandum of Understanding in the English in two copies.

For the Administrative Agent

Signature: (sign)
Name: Bisrat Aklilu
Title: Executive Coordinator, MDTF Office
Place: New York, USA
Date: 13 March 2007

For UNICEF

Signature: (sign)
Name:
Title: O.I.C
Place: Lalitpur, Nepal
Date: 13 March 2007

For WFP

Signature: (sign)
Name: Richard Regan
Title: Representative
Place:
Date: 17 March 2007

For ILO

Signature: (sign)
Name: Sheng Jie Li
Title: Director
Place: Lalitpur, Nepal
Date: 20 March 2007

For UNDP

Signature: (sign)
Name: Sean Deely
Title: OIC
Place: Lalitpur, Nepal
Date: 20 March 2007

For UNOPS

Signature: (sign)
Name: Karsten Bloch
Title: OIC
Place: Copenhagen, Denmark
Date: 23 March 2007

For UN-HABITAT

Signature: (sign)
Name: Toshi Noda
Title: Director / ROAp
Place: Fukuoka, Japan
Date: 6 April 2007

For WHO

Signature: (sign)
Name: Dr. Kan Tun
Title: Representative
Place: Kathmandu, Nepal
Date: 24 May 2007

For UNESCO

Signature: (sign)
Name: Bui Thi Lan
Title: Representative a.i.
Place: _____
Date: _____

For UNFPA

Signature: (sign)
Name: Junko Sasaki
Title: Representative
Place: Kathmandu, Nepal
Date: 5 April 2007

For UNIFEM

Signature: (sign)

Name: Sharu Joshi Shrestha

Title: Officer in Charge & Regional
Programme Manager for Migration

Place: Thapathali, Kathmandu

Date: 15 October 2008

Annex I: Terms of Reference of the United Nations Peace Fund for Nepal
Annex II: Standard Letter of Agreement between the Administrative Agent and donors
Annex III: Notices

ANNEX III: NOTICES

For the Administrative Agent

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For WFP

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For ILO

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For WHO

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For UNFPA

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