**FRAMEWORK AGREEMENT FOR PARTICIPATION OF NON-UNITED NATIONS ORGANIZATIONS**

**in the**

**[NAME OF THE FUND]**

**Framework Agreement for Participation of Non-United Nations Organizations**

**between**

**the United Nations Development Programme in its capacity as Administrative Agent for the [NAME OF THE FUND]**

**and**

**[insert name of Recipient NUNO] as the Recipient Non-United Nations Organization**

This is the Framework Agreement for Participation of Non-United Nations Organizations (“NUNO Framework Agreement”) to allow Non-United Nations Organizations (“NUNO”) to access and receive funding from a multi-partner trust fund (“Fund”). NUNOs that are eligible to receive direct access to the Fund under this NUNO Framework Agreement consist of international cooperation agencies, civil society organizations, and non-governmental organizations.

NUNOs may be eligible to receive direct access to the Fund, in circumstances where all of the following conditions have been satisfied:

1. The Fund’s Terms of Reference and the Fund MOU provides for access by NUNOs to the Fund;
2. The donors have permitted NUNOs to receive funding from their funds under their contribution agreements (SAA), ie. donors that have not opted out of giving access to NUNOs from their funding;
3. The Fund Secretariat has assessed the Recipient NUNO under the HACT process and has concluded that the Recipient NUNO has passed the assessment and is low risk, and following this, the Executive Board has declared the Recipient NUNO eligible to access the Fund.

Once the above conditions have been met, the Recipient NUNO shall enter into this NUNO Framework Agreement with the Administrative Agent, to grant the Recipient NUNO access to the Fund. This NUNO Framework Agreement sets out the financial and programmatic obligations and responsibilities of the Recipient NUNO in receiving funds from the Fund to undertake programmatic activities under project(s) it has developed.

This Framework Agreement is not in itself a financing agreement for NUNO projects, but rather a framework agreement through whose terms the Recipient NUNO project(s) that have been approved by the Fund’s Executive Board or Steering Committee, will be funded. To this end, project(s) developed by the Recipient NUNO must receive written consent by the programme government(s) and approval of the Executive Board or Steering Committee of the Fund. Once written consent and approval have been given, the Recipient NUNO shall enter into a separate agreement for each individual approved project, in the format of the Non-United Nations Organizations Financing Agreement (“NUNO Financing Agreement”), attached to this NUNO Framework Agreement. The Recipient NUNO may only receive funding from the Fund once it has entered into such NUNO Financing Agreement with the Administrative Agent for each of its approved projects.

**WHEREAS,** certain United Nations funds, programmes, specialized agencies and other entities (hereinafter referred to collectively as the “Participating UN Organizations” or “PUNOs”) have signed a Memorandum of Understanding on [10 September 2015] to establish and develop the [NAME OF THE FUND] (hereinafter referred to as the “Fund”) which sets out the operational aspects of the Fund, starting on [7 September 2015] and ending on [31 December 2027], (hereinafter referred to as the “Fund MOU”), a copy of which is attached hereto as **ANNEX A**;[[1]](#footnote-2)

**WHEREAS**, the PUNOs have agreed to adopt a coordinated approach with donors who wish to contribute to and support the implementation of the Fund and have developed a Terms of Reference of the Fund dated [7 September 2015], to use as a basis for mobilizing resources for the Fund (hereinafter the “TORs”), which forms an integral part of this Framework Agreement for Participation of Non-United Nations Organizations and is attached hereto as **ANNEX B**;

**WHEREAS,** under the Fund MOU, the PUNOs have asked the United Nations Development Programme, a subsidiary organ of the United Nations established by the General Assembly of the United Nations (hereinafter “UNDP”), [which is also a PUNO in connection with the Fund,] to serve as the administrative interface between the donors and the PUNOs for the Fund (hereinafter “Administrative Agent” or “AA”) through its Multi-Partner Trust Fund Office (hereinafter “MPTF-O”), and UNDP has agreed to do so;

**WHEREAS**, as set forth in the Fund MOU and reflected in the TORs attached thereto, the PUNOs have further agreed that international cooperation agencies, civil society organizations, non-United Nations Inter-Governmental Organizations and Non-Governmental Organizations (collectively referred as the Non-United Nations Organizations or “NUNOs”), may receive funding from the Fund by the Administrative Agent to support the programme government’s(s’) development activities and objectives further to and under the Fund;

**WHEREAS,** the donors of the Fund have agreed to allow access of NUNOs to their funding under the Fund, as set forth in their respective Standard Administrative Arrangements entered into between the donors and the Administrative Agent;

**WHEREAS,** [name of Recipient NUNO] (the “Recipient NUNO”) has requested to be considered for direct access to the Fund as a Non-UN Organization, on the basis of the TORs;

**WHEREAS,** based on the Fund MOU, the TORs and the donors’ Standard Administrative Arrangements for their contributions to the Fund, (i) [name of entity], as the Fund Secretariat, has completed an assessment of the Recipient NUNO’s financial regulations and rules, and accounting and financial practices, under the Harmonized Approach to Cash Transfer (“HACT”) process, the Recipient NUNO is considered “low risk”, and (ii) the Recipient NUNO has undergone an SEAH assessment with satisfactory results; and as a result, the [Executive Board] has declared the Recipient NUNO eligible for direct access to the Fund;

**WHEREAS,** based on the foregoing,UNDP, in its capacity as Administrative Agent, and the Recipient NUNO, a [describe legal formation and status of the recipient NUNO] (hereinafter “the Recipient NUNO”) have entered into this Framework Agreement for Participation of Non-United Nations Organizations (hereinafter the “NUNOFramework Agreement” or “Agreement”), which allows the Recipient NUNO to receive financing from the Fund for its approved projects, as described herein, and which sets out the Recipient NUNO’s responsibilities and obligations in relation thereto;

**NOW, THEREFORE**, the Administrative Agent and the Recipient NUNO (hereinafter referred to collectively as the “Parties” and each as a “Party”) hereby agree as follows:

**Section I
Objectives and Preliminary Matters**

## The obligations and responsibilities of the Recipient NUNO under the Fund and to the Administrative Agent are similar to those of the PUNOs as set forth under the Fund MOU and to the Administrative Agent. This Agreement sets out the obligations and responsibilities of the Recipient NUNO in carrying out programmatic and financial activities under those projects approved by the [Executive Board] of the Fund, (such project/s hereinafter referred to as “approved Project(s)”), pursuant to the Fund.

## Following written consent of the programme government(s) and the [Executive Board’s] decision to approve a project presented by the Recipient NUNO for approval, i.e. an approved Project, funding shall be made available to the Recipient NUNO from the Fund further to the terms hereof, as shall be set forth in the NUNO Financing Agreement in the format attached hereto as **ANNEX C**, to be entered into between the Recipient NUNO and the Administrative Agent for each approved Project.

## The NUNO Financing Agreement shall annex the Project Document in relation to the respective approved Project for funding.

## Once a NUNO Financing Agreement has been concluded between the Recipient NUNO and the Administrative Agent for an approved Project and upon the Administrative Agent’s receipt of instructions from the [Executive Board] to make a certain amount of funds available from the Fund for the approved Project, the Administrative Agent shall transfer funds to the Recipient NUNO for the Recipient NUNO’s implementation of the approved Project further to the Recipient NUNO’s development cooperation with the programme government(s).

**Section II
Responsibilities of the Recipient NUNO**

## The Recipient NUNO shall (i) retain full programmatic accountability for achieving the results and outputs of the approved Projects, (ii) retain financial accountability for the use of the funding made available to it from the Fund (the “funding”), (iii) comply with this Agreement and the NUNO Financing Agreement for the approved Project, and (iv) adhere to any decision(s) of the [Executive Board] in its implementation of this Agreement and each approved Project.

## The Administrative Agent does not have any programmatic or financial accountability with respect to the funding disbursed to the Recipient NUNO and the latter’s use of the funding, nor for the Recipient NUNO’s programmatic activities with respect to and under approved Project(s).

**Section III**

**Financial Matters**

## Financial matters of the Administrative Agent

## With respect to each approved Project and following the conclusion of the NUNO Financing Agreement with respect to such approved Project, the Administrative Agent shall:

## subject to availability of funds in the account established and maintained by the Administrative Agent to which it receives funds for the Fund (“Fund Account”), disburse those funds for the financing of the Recipient NUNO’s approved Project in the amount instructed by and in accordance with the decision of the [Executive Board], taking into account the budget set out in the project document of the approved Project. The disbursements will consist of direct and indirect costs as set out in such budget;

## transfer the funding to the Recipient NUNO by wire transfer, within 15 working days after receipt of the fund transfer request approved by the [Executive Board]; and

## receive those funds returned by the Recipient NUNO, including unspent funding, and other funds recovered by the Recipient NUNO following actions taken further to Section VIII Article 8.5 of this Agreement.

## All payments of the funding further to the foregoing, shall be made by the Administrative Agent to the Recipient NUNO to the following bank account:

## Account Name:

## Account Title:

## Account Number:

## Bank Name:

## Bank Address:

## Bank SWIFT Code:

## Bank Code:

## Route instructions for disbursements:

## The Administrative Agent will not absorb gains or losses on currency exchanges which will increase or decrease the funds available for disbursements to the Recipient NUNO. The amounts of the funding shall not be subject to any adjustment or revision because of price or currency fluctuations, or the actual costs incurred by the Recipient NUNO in the implementation of the approved Project(s).

## Where the balance in the Fund Account on the date of a scheduled disbursement to the Recipient NUNO is insufficient to make that disbursement, the Administrative Agent will consult with the [Executive Board] and make a disbursement, if any, in accordance with the [Executive Board’s] decisions.

## The Administrative Agent will only be required to transfer to the Recipient NUNO an amount up to the funding in accordance with the terms of this Agreement and NUNO Financing Agreement. The Administrative Agent will not be liable to the Recipient NUNO or any third party for any amounts determined not to have been authorized under the approved Project(s) or that have been misused.

## Without limiting the generality of the foregoing, the Recipient NUNO shall not be eligible, entitled to or compensated for any expenses, fees, tolls, or any other costs not expressly provided for in the budget in the project document of the approved Project(s).

## Financial matters of the Recipient NUNO

## The Recipient NUNO 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 from the Fund Account. That separate ledger account will be administered by the Recipient NUNO in accordance with its own regulations, rules, policies and procedures, including those relating to interest.

## The Recipient NUNO will use the funds disbursed to it by the Administrative Agent from the Fund Account, as well as any accrued interest thereon, to carry out the activities for which it is responsible as set out in the project document for the approved Project, as well as for its indirect costs. The Recipient NUNO will commence and continue to conduct operations and/or activities financed by the Fund only upon receipt of disbursements made by the Administrative Agent. The Recipient NUNO will not make any commitments above the amount disbursed against the project document for the approved Project. If there is a need to exceed the amount disbursed, the Recipient NUNO will submit a supplementary budget request to the [Executive Board] showing that further financing will be necessary. If no such further financing is available, the activities to be carried out under the project document for the approved Project may be reduced or, if necessary, terminated by the Recipient NUNO.

## The Recipient NUNO accepts and recognizes that each of the donors who provide financial support to the Fund by signing a Standard Administrative Arrangement with the Administrative Agent (“Administrative Arrangement”), may have reserved the right to discontinue future deposits of their contribution if there is: (i) failure to fulfil any obligations under the Standard Administrative Arrangement including those related to Section IX of the Fund MOU as integrated herein by reference and through Section IX of this Agreement; (ii) if there are substantial revisions of the TOR; or (iii) if there are credible allegations of improper use of the funds in accordance with Section VIII of the Fund MOU, as integrated herein by reference and through Section VIII of this Agreement; provided however that before doing so, the Administrative Agent, the [Executive Board] and the respective donor(s) will consult with a view to promptly resolving the matter.

## Indirect costs of the Recipient NUNO recovered through programme support costs will be seven percent (7%). All other costs incurred by the Recipient NUNO, in carrying out the activities for which it is responsible under the Fund will be recovered as direct costs.

**Section IV**

**Activities of the Recipient NUNO**

## Implementation of approved Projects

## The implementation of the programmatic activities under the project document for each approved Project will be the responsibility of the Recipient NUNO and will be carried out by the Recipient NUNO in accordance with its own applicable regulations, rules, policies and procedures. Notwithstanding the foregoing, procurement activities shall be conducted by the Recipient NUNO in accordance with the principles of best value for money, transparency, economy and efficiency and such procurement will be based on the assessment of competitive quotations, bids or other proposals.

## Ownership of equipment and supplies procured, and intellectual property rights associated with works produced, using funds transferred to the Recipient NUNO further this Agreement will be determined in accordance with the regulations, rules, policies and procedures applicable to the Recipient NUNO, including any agreement with the relevant programme government(s), if applicable.

## The Recipient NUNO will establish appropriate programmatic safeguard measures in the design and implementation of its approved programmatic activities, promoting the values, norms and standards of the United Nations system. These measures may include, as applicable, the respect of international conventions on the environment, on children’s rights, and internationally agreed core labour standards.

## Any modifications to the scope of the project document for the approved Project, including as to its nature, content, sequencing or the duration thereof by the Recipient NUNO, will be subject to the approval of the [Executive Board]. The Recipient NUNO will promptly notify the Administrative Agent through the [Executive Board] of any change in the budget as set out in the project document of an approved Project.

## The Recipient NUNO shall notify the [Executive Board] about any expected budget variations resulting or relating to the modifications referred to in Article 4.4, above, as part of its request for approval. The Recipient NUNO shall be authorized to make variations not exceeding twenty (20) per cent on any one budget line item in the Work Plan, provided that the maximum amount allocated by the [Executive Board] is not exceeded. Any variations exceeding twenty (20) per cent on any one budget line item that may be necessary for the proper and successful implementation of activities under this Agreement shall be subject to prior consultations with, and written approval by the [Executive Board].

## Where the Recipient NUNO wishes to carry out its activities through or in collaboration with a third party, it will be responsible for discharging all commitments and obligations with such third parties, and neither the Participating UN Organizations, nor the Administrative Agent, will be responsible for doing so.

## In carrying out its activities, the Recipient NUNO shall not be considered an agent of the Administrative Agent, and thus, the personnel of the Recipient NUNO shall not be considered as staff members, personnel or agents of the Administrative Agent or the Participating UN Organizations.

## The Recipient NUNO shall ensure that programmatic activities are completed by the operational completion date specified in the project document for the approved Project. The Recipient NUNO will ensure the Administrative Agent is advised in writing when all activities for which it is responsible under such project document have been operationally completed. Financial closure must be completed within twelve (12) months after the end of the project as per the project document.

## The Recipient NUNO shall return all unspent funds and income (including interest) to the Administrative Agent within ten (10) months after the end of the calendar year in which an approved Project has been operationally completed or termination of this Agreement or the relevant NUNO Financing Agreement for the approved Project in question, whichever is earlier.

## Special Provisions regarding Financing of Terrorism

## Consistent with UN Security Council Resolutions relating to terrorism, including UN Security Council Resolution 1373 (2001) and 1267 (1999) and related resolutions, the Recipient NUNO affirms that it is firmly committed to the international fight against terrorism, and in particular, against the financing of terrorism. Similarly, the Recipient NUNO recognizes its obligation to comply with any applicable sanctions imposed by the UN Security Council. The Recipient NUNO will use all reasonable efforts to ensure that the funds transferred to it in accordance with this Agreement and any NUNO Financing Agreement are not used to provide support or assistance to individuals or entities associated with terrorism as designated by any UN Security Council sanctions regime. If, during the term of this Agreement and any NUNO Financing Agreement, the Recipient NUNO determines that there are credible allegations that funds transferred to it in accordance with this Agreement and any NUNO Financing Agreement have been used to provide support or assistance to individuals or entities associated with terrorism as designated by any UN Security Council sanctions regime, it will as soon as it becomes aware of it inform the [Executive Board], the Administrative Agent and the donor(s) and, in consultation with the donors as appropriate, determine an appropriate response.

**Section V**

**Reporting**

## General

## The Recipient NUNO shall provide financial and narrative progress reporting to the Administrative Agent in accordance with this Agreement.

## Financial Reports

## The financial statements and reports of the Recipient NUNO shall be prepared in accordance with the reporting procedures as set forth in this Agreement, including a preferably an inrnal final audit report of the each approved Project, according to International Standards of Auditing.

## The Recipient NUNO will provide the Administrative Agent with the following financial statements and reports with respect to each approved Project:

1. Annual financial report as of 31 December with respect to the funds disbursed to it from the Fund Account, to be provided by 28 February (see item (b)iv.

1. Quarterly financial reports to be provided in accordance with the following time frames:
	1. 30 April, report 1st quarter expenses (January to March);
	2. 31 July, report 2nd quarter expenses (January to June);
	3. 31 October, report 3rd quarter expenses (January to September); and
	4. 28 February, report 4th quarter expenses (January to December of the previous calendar year).
2. Certified final financial statements after the completion of the activities in the project document of each approved Project, including the final year of the activities in the project document of each approved Project, to be provided no later than five (5) months (31 May) after the end of the calendar year in which the financial closure of the activities in the project document of each approved Project occurs, or according to the time period specified in the financial regulations and rules of the Recipient NUNO, whichever is earlier.

In the event of termination of this Agreement further to Section XI, the Recipient NUNO shall submit the Certified Final Financial Statement within one hundred twenty (120) days after the notice of termination. The foregoing shall apply in the event of termination of any Financing Agreement to the approved Project financed thereunder.

## Narrative Reports

## The Recipient NUNO will provide the Administrative Agent with the following narrative reports prepared in accordance with the reporting procedures with respect to each approved Project:

1. Annual narrative progress reports, to be provided no later than three (3) months (31 March) after the end of the calendar year; and
2. Final narrative reports, after the completion of the activities in the project document of each approved Project, including the final year of the activities in the project document of each approved Project, to be provided no later than four months (30 April) after the end of the project as defined in the calendar year in which the operational closure of the activities in the project document of each approved Project occurs.

In the event of termination of this Agreement further to Section XI, the Recipient NUNO shall submit the final narrative report(s) for all approved Project(s) within ninety (90) days after the notice of termination. The foregoing shall apply in the event of termination of any Financing Agreement to the approved Project financed thereunder.

**Section VI**

**Monitoring and Evaluation**

## Monitoring

## The Recipient NUNO may be invited by the [Executive Board] to participate in the consultations held to review the status of the Fund. In addition, the Recipient NUNO shall participate in any discussions to which it may be invited to by the [Executive Board] with respect to possible substantive revisions to the Fund, and shall inform the Administrative Agent and the [Executive Board] about any significant circumstances and major risks, including those related to Section IX, which interfere or threaten to interfere with the successful achievement of the outcomes outlined in the TOR, financed in full or in part through contributions from the donor(s).

## Evaluation

## Evaluation of the Fund including, as necessary and appropriate, joint evaluation by the Administrative Agent, the PUNOs, the programme government(s) (if applicable) and other partners will be undertaken in accordance with the TOR. The Recipient NUNO may be invited by the [Executive Board] to participate in such evaluation.

## For the information of the Recipient NUNO only, if the [Executive Board] and/or PUNOs recommend a joint evaluation of the Fund, the joint evaluation report will be posted on the website of the Administrative Agent [http://mptf.undp.org].

## In addition to the review that the donor(s) may undertake further to Section VI, Article 4 of the Fund MOU, which applies equally to this NUNO Framework Agreement, the Recipient NUNO recognizes that the donor(s) may, separately or jointly with other partners, review the access of the Recipient NUNO to the Fund further to this Agreement, with a view, *inter alia*, to determining whether results are being or have been achieved and whether contributions have been used for their intended purposes. The Recipient NUNO will be informed about such initiatives, will be consulted on the scope and conduct of such evaluations or reviews and will be invited to join. All costs will be borne by the respective donor, unless otherwise agreed. It is understood by the Recipient NUNO that such evaluation or review will not constitute a financial, compliance or other audit of the Fund including any programmes, projects or activities funded under this Agreement.

## In addition to a review of the Fund by the donor(s) as described in the foregoing, the donor(s) may initiate a review or evaluation of an approved Project, in which case the Recipient NUNO shall submit all relevant information requested by the donors, as further described in Article 8.7 on direct recourse.

**Section VII**

**Audit**

## External and Internal Audit

1. 7.1 The activities of the Recipient NUNO in relation to the Fund will be audited by its internal auditors in accordance with its own financial regulations and rules. Furthermore, an external audit of the final financial report for all approved Projects will be carried out and the respective audit report will be provided by the Recipient NUNO to the Executive Board. Furthermore, an external audit of activities for all approved Projects will be carried out by the Fund at the request of the Executive Board.

## The Recipient NUNO shall cooperate and comply with any requests made by donor(s) and/or the Administrative Agent further to their right to demand that an external audit or investigation be conducted of the use of funding and control systems of the Recipient NUNO. The donor(s) and/or Administrative Agent shall be given access to the Recipient NUNO’s auditor and the auditor’s assessments of all information pertaining to the approved Project(s).

## Cost of External Audits

## The total costs of external audit activities in relation to the Fund will be borne by the Fund.

## Audits of Implementing Partners

## The part of the contribution transferred by the Recipient NUNO to its implementing partners for activities related to the implementation of the activities under any approved Project will be audited as provided under the Recipient NUNO’s financial regulations and rules, as well as its policies and procedures. The corresponding audit reports will be provided by the Recipient NUNO to the [Executive Board].

**Section VIII**

**Fraud, Corruption and Unethical Behaviour**

## The Recipient NUNO shall practice zero tolerance against corruption and other financial irregularities within and related to the approved Project(s). The zero-tolerance policy applies to all employees, staff members, consultants and other non-staff personnel and to cooperating partners and beneficiaries of the approved Project(s).

## The Recipient NUNO shall take all necessary precautions to avoid and address all forms of financial irregularities, including but not limited to things such as, corrupt, fraudulent, collusive, coercive, unethical, or obstructive practices. The Recipient NUNO recognizes that it is important that all of its employees, staff, individual contractors, implementing partners, vendors and any third parties which are involved in programmatic activities (such individuals and entities being hereinafter referred to, together, as the “Individuals/Entities”, and individually as the “Individual/Entity”) must adhere to the highest standard of integrity, in line with, but not less than those of the PUNOs. To this end, the Recipient NUNO shall maintain standards of conduct that govern the performance of the Individuals/Entities, to prohibit practices which are contrary to this highest standard in any activity related to the Fund. The Individuals/Entities must not engage in corrupt, fraudulent, collusive, coercive, unethical, or obstructive practices, as defined below.

## In this Agreement,

1. “Corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another individual or entity;
2. “Fraudulent practice” means any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, an individual or an entity to obtain a financial or other benefit, or to avoid an obligation;
3. “Collusive practice” means an arrangement between two or more individuals and/or entities designed to achieve an improper purpose, including influencing improperly the actions of another individual or entity;
4. “Coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any individual or entity or the property of the individual or entity to influence improperly the actions of an individual or entity;
5. “Unethical practice” means the conduct of behavior that is contrary to staff or supplier codes of conduct such as those relating to conflict of interest, gifts and hospitality, and post-employment provisions; and
6. “Obstructive practice” means acts or omissions intended to materially impede the exercise of contractual rights of audit, investigation and access to information, including destruction, falsification, alteration or concealment of evidence material to an investigation into allegations of fraud and corruption.

## Investigations

* 1. Investigations of allegations of wrongdoing by Individuals/Entities involved in the approved Project(s) which are contracted by the Recipient NUNO will be carried out by the investigation service of the Recipient NUNO with which the potential subject of investigation is contracted, in accordance with the Recipient NUNO’s internal policies and procedures.
	2. In the event that the investigation service of the Recipient NUNO determines that an allegation in relation to the implementation of activities for which the Recipient NUNO is accountable is credible enough to warrant an investigation, it will promptly notify the [Executive Board] and the Administrative Agent of the Fund.
	3. In the case of such notification, it is the responsibility of the [Executive Board] and the Administrative Agent to communicate promptly with the relevant anti-fraud offices (or equivalent) of the donor(s).
	4. In case of a credible allegation, the Recipient NUNO will take timely and appropriate action in accordance with its regulations, rules, policies and procedures, which may include withholding further disbursements to the Individual(s)/Entity(ies) allegedly involved in the corrupt, fraudulent, collusive, coercive, unethical or obstructive practices as defined above.
1. The Recipient NUNO’s investigation service reviewing the credibility of an allegation or conducting the investigation will share information as appropriate with the counterpart investigative services of the PUNOs/other NUNOs receiving funding from the Fund under a NUNO Framework Agreement/the Administrative Agent (“Counterpart Party or Counterpart Parties”) to determine the best path towards resolution of the investigation and whether the alleged wrongdoing is limited to the Recipient NUNO or whether at least one Counterpart Party may also be affected. If the relevant investigation services determine that the Recipient NUNO and at least one Counterpart Party could be affected by the alleged wrongdoing, they will follow the procedure described below in clause (ii).
2. Where a potential subject of an investigation is contracted by the Recipient NUNO and at least one Counterpart Party, the investigation services of the Recipient NUNO and the Counterpart Party(ies) concerned may consider conducting joint or coordinated investigations, determining which investigation framework to use, subject to appropriate arrangements being put in place, such as a Memorandum of Understanding addressing matters such as confidentiality. Any such arrangements to conduct joint or coordinated investigations referred to herein shall be without prejudice to the respective privileges and immunities of the Counterpart Party(ies), which are specifically reserved and which may be invoked at any time.
	1. Upon completion of the internal reporting on its investigation by the Recipient NUNO as established in its respective internal policies and procedures, the Recipient NUNO will provide information on the results of its investigation(s) to the Administrative Agent and the [Executive Board]. Following such receipt of information on the results of the investigation(s), it is the responsibility of the [Executive Board] and the Administrative Agent to communicate promptly with the relevant anti-fraud offices (or equivalent) of the donor(s).
	2. The Recipient NUNO will determine what disciplinary and/or administrative measures, including referral to national authorities, may be taken as a result of its investigation, according to its internal policies and procedures on disciplinary and/or administrative measures, including its vendor sanction mechanism, as appropriate. The Recipient NUNO concerned will share information on measures taken as a result of the investigation(s) with the Administrative Agent and the [Executive Board] of the Fund. Following such receipt of information on measures taken as a result of the investigation(s), it is the responsibility of the [Executive Board] and the Administrative Agent to communicate promptly with the relevant anti-fraud offices (or equivalent) of the donor(s).

## Recovery of Funds

## If there is evidence of improper use of funds as determined after an investigation, or by the external audit report or an investigation fails to show that the funds have been used as intended, the Fund shall be entitled to a refund from the Recipient NUNO for any amounts not shown by audits and investigations to have been used in accordance with the terms and conditions of this Agreement. The donor(s) may request that such funds be returned to them in proportion to their contribution to the Fund, in which case the Recipient NUNO would credit that portion of the funds so recovered to the Fund Account and the Administrative Agent would return that portion of such funds to the donor(s).

## Direct recourse of donors

## Each of the donors whose contributions to the Fund were received by the Administrative Agent at the time of approval of the approved Project(s), in a manner that allows the use of such contributions for the financing of the approved Project(s), shall have direct recourse against the Recipient NUNO for the Recipient NUNO’s failure to comply with any terms and conditions of this Agreement and any funding provided for hereunder. The Recipient NUNO accepts and agrees to such direct recourse and obligation to comply with demands of the donors made further thereto, as further described in Article 12.4 and 12.5 below. The Administrative Agent shall have no responsibility or liability therefore, nor involvement therein. The Administrative Agent will not pursue any claim against the Recipient NUNO which is in conflict with donors’ right to direct recourse, unless all donors give the Administrative Agent its permission to do so in writing. Parties agree that this Article may not be amended without the written consent of the donors.

## Further to Article 6.5, direct resource of the donors shall include unrestricted access to any premises, personnel, records, goods and documents of the Recipient NUNO, as requested by the donor(s) in a review or evaluation of the approved Project(s). The rights and obligations of this Article shall remain in force for five (5) years following expiry or termination of this Agreement, whichever occurs later.

## The Recipient NUNO will apply the provisions of Section VIII in accordance with its respective accountability and oversight framework as well as relevant regulations, rules, policies and procedures.

**Section IX**

**Sexual Exploitation and/or Sexual Abuse, and/or Sexual Harassment**

## The Recipient NUNO has zero tolerance for and is firmly committed to take all necessary measures to prevent and address instances of sexual exploitation and sexual abuse in programming activities, and sexual harassment. The Recipient NUNO recognizes that it is important that all Individuals and Entities will adhere to the highest standards of integrity and conduct in line with, but not less than those of the PUNOs. The Individuals/Entities will not engage in Sexual Exploitation, Sexual Abuse and Sexual Harassment, as defined below.

## Definitions:

1. “Sexual Exploitation” means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;
2. “Sexual Abuse” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions; and
3. “Sexual Harassment” means any unwelcome conduct of a sexual nature, that might reasonably be expected or be perceived to cause offense or humiliation, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment may occur in the workplace or in connection with work. While typically involving a pattern of conduct, sexual harassment may take the form of a single incident. In assessing the reasonableness of expectations or perceptions, the perspective of the person who is the target of the conduct shall be considered.

## Investigation and reporting:

1. Investigation:
2. Investigations of allegations of Sexual Exploitation and/or Sexual Abuse arising in programmatic activities in approved Projects funded by the Fund, will, where appropriate, be carried out by the investigation service of the Recipient NUNO in accordance with its rules, regulations, policies and procedures. In cases where the Recipient NUNO is not conducting the investigation itself, the Recipient NUNO will require that the implementing partner of that funded programmatic activity and its responsible parties, sub-recipients and other entities engaged to provide services in relation to programmatic activities, investigate allegations of Sexual Exploitation and Sexual Abuse credible enough to warrant an investigation.
3. Investigations of allegations of Sexual Harassment by the Recipient NUNO’s staff and personnel involved in the Fund and contracted by the Recipient NUNO will be carried out by the investigation service of the Recipient NUNO in accordance with its rules, regulations, policies and procedures.
4. Reporting on allegations investigated by the Recipient NUNO and their implementing partners.
5. The [Executive Board], the Administrative Agent of the Fund and the donors will be promptly notified of allegations of Sexual Exploitation and/or Sexual Abuse received/under investigation by the Recipient NUNO, as well as of any allegations credible enough to warrant an investigation received from the Recipient NUNO’s implementing partners, through the Recipient NUNO’s normal method of reporting of such matters to their relevant governing bodies. The level of detail of information shared by the Recipient NUNO will be the no less than that contained in the Secretary-General’s reporting mechanism on Sexual Exploitation and Sexual Abuse (the “Report”)[[2]](#footnote-3).
6. Reporting on credible allegations and measures taken following an investigation
7. The [Executive Board], the Administrative Agent of the Fund and the donors will be promptly notified of credible allegations of Sexual Exploitation and/or Sexual Abuse investigated by the Recipient NUNO, as well as of any credible allegations that have been investigated by and received from the Recipient NUNO’s implementing partners, through the Recipient NUNO’s normal method of reporting of such matters to their relevant governing bodies.
8. In those cases where the Recipient NUNO determined that a case would have significant impact on a Recipient NUNO’s partnership with the Fund and/or with the donor(s), the Recipient NUNO will promptly provide information containing the level of detail as found in the Report, on the results of their investigation(s) or the investigations conducted by its implementing partnerss that they are aware of, with respect to the cases in the Report relating to the activities funded by the Fund, which resulted in a finding of Sexual Exploitation and/or Sexual Abuse, to the Administrative Agent and the [Executive Board]. Following such receipt of information on the results of the investigation(s), it is the responsibility of the Administrative Agent to communicate promptly with the relevant integrity / investigation offices (or equivalent) of the donor.
9. Following a determination of a credible allegation of Sexual Exploitation and/or Sexual Abuse, the Recipient NUNO will determine what contractual, disciplinary and/or administrative measures, including referral to national authorities, may be taken as a result of an investigation, according to its internal regulations, rules, policies and procedures on disciplinary and/or administrative measures, as appropriate. The Recipient NUNO will share information on measures taken as a result of the credible allegation of Sexual Exploitation and/or Sexual Abuse in its programmatic activities financed by the Fund with the Administrative Agent and the [Executive Board].
10. With respect to credible allegations of Sexual Harassment (regarding the Recipient NUNO’s internal activities) the Recipient NUNO will share information on measures taken with the Administrative Agent, the [Executive Board] and the donors of the Fund through their regular reporting to their relevant governing bodies.

## Any information provided by the Recipient NUNO in accordance with the foregoing paragraphs, will be shared in accordance with their respective regulations, rules, policies and procedures and without prejudice to the safety, security, privacy and due process rights of concerned individuals.

**Section X**

**Communication and Transparency**

## Subject to the regulations, rules, policies and procedures of the PUNOs and the Administrative Agent and subject to their approval, the Recipient NUNO will take appropriate measures to publicize the Fund and to give due credit to the PUNOs and Administrative Agent. Information given to the press, to the beneficiaries of the Fund, all related publicity material, official notices, reports and publications, will highlight the results achieved and acknowledge the role of the programme government(s), the donors, the PUNOs, the Administrative Agent, the Recipient NUNO and any other relevant entities. In particular, the Administrative Agent will include and ensure due recognition of the role of each PUNO, the Recipient NUNO and national partner in all external communications relating to the Fund.

## For the information of the Recipient NUNO only, the Administrative Agent in consultation with the PUNOs will ensure that decisions regarding the review and approval of the Fund as well as periodic reports on the progress of implementation of the Fund are posted, where appropriate, for public information on the websites of the Administrative Agent. Such reports and documents may include [Executive Board] approved programmes and programmes awaiting approval, Fund level annual financial and progress reports and external evaluations, as appropriate.

## The Recipient NUNO is committed to principles of transparency with regard to its role in the implementation of the Fund, consistent with its regulations, rules, policies and procedures. The Recipient NUNO will consult with the PUNOs, Administrative Agent and the programme government(s), if applicable, prior to publication or release of information regarded as sensitive.

**Section XI**

**Modification and Termination**

1. **Modification**

11.1 The Administrative Agent may modify the NUNO Financing Agreement(s) for any approved Project(s):

a) upon a decision of the [Executive Board] or the PUNOs

b) where sufficient funds are not available in the Fund.

11.2 In addition, the NUNO may request modification of the Project Document, subject to the approval of the Executive Board.

1. ***Termination***

11.3 The Administrative Agent may terminate this Agreement upon sixty (60) days’ advance written notice to the Recipient NUNO in the following circumstances:

a) upon a decision by UNDP that UNDP may no longer act as the Administrative Agent for the Fund.

b) Notwithstanding anything in this Agreement to the contrary, the Administrative Agent on instruction from the [Executive Board] or the PUNOs, may terminate this Agreement at any time without having to provide any justification therefor.

11.4 The Recipient NUNO may terminate this Agreement upon sixty (60) days’ advance written notice to the Administrative Agent. Upon termination by the Recipient NUNO of this Agreement, each Financing Agreement approved hereunder shall terminate upon conclusion of the sixty (60) days’ notice period.

11.5 Upon receiving or providing a notice of termination of this Agreement, the Recipient NUNO shall take immediate steps to terminate programmatic activities under all approved Project(s), in a prompt and orderly manner, so as to minimize losses and further expenditures. The Recipient NUNO shall undertake no forward commitments and shall return to the Administrative Agent, within ninety (90) days of receiving or providing a notice of termination, all unspent funding made available to it under the Financing Agreement(s).

11.6 In the event of termination of this Agreement, all Financing Agreements concluded with the Recipient NUNO shall terminate upon the conclusion of the notice period for the termination of this Agreement.

11.7 The Administrative Agent upon instruction of the Executive Board or the PUNOs shall terminate a Financing Agreement.

11.8 In addition, the NUNO may terminate a Financing Agreement should it determine that the approved Project being financed thereunder cannot be successfully implemented in accordance with the Project Document.

**Section XII**

**Dispute Settlement**

## Dispute Settlement

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

## If such dispute, controversy or claim between the Parties is not settled amicably under the preceding paragraph within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement; it 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. If the Parties cannot agree in the appointment of the arbitrators, the Secretary-General of the Permanent Court of Arbitration at The Hague shall act as appointing authority.

## In addition, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate (“LIBOR”) or should LIBOR no longer be available, then the arbitral tribunal shall have no authority to award interest in excess of the Federal Reserve Bank of New York’s Secured Overnight Financing Rate, then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

Donors’ direct recourse and dispute settlement between Donors and the Recipient NUNO

## The Recipient NUNO accepts that if one of the donors acting on behalf of all donors represented in the [Executive Board] invokes the right to direct recourse against the Recipient NUNO based on Article 8.6, such dispute, controversy or claim, shall be settled by arbitration between the donor(s) and the Recipient NUNO, in accordance with the UNCITRAL Arbitration Rules then obtaining.

## The governing law for the dispute between the Recipient NUNO and the donors, including but not limited to, the interpretation of the Recipient NUNO’s obligations under this Agreement, shall be the law of the domicile country of the donor pursuing the recourse. The seat of arbitration shall be the capital of the domicile country of that donor. The procedural rules in the absence of any applicable rule in the UNCITRAL Arbitration Rules, and the applicable law for interpreting this Article 12.5 and Article 12.4 as well as the donors’ rights under Article 8.6, shall be the law of the domicile country of that donor.

## The Recipient NUNO agrees and understands that the preceding Article 12.4 and Article 12.5 may not be amended without the written consent of the donors.

##  Articles 12.4 and 12.5 shall not apply to any disputes involving the Administrative Agent, for which dispute settlement is accordance with Article 12.1 to 12.3 above and for which full privileges and immunities are reserved in accordance with Section XVII.

**Section XIII**

**Assignment**

## The Recipient NUNO shall not assign, transfer, pledge or make other disposition of this Agreement or any part thereof, or any of the Recipient NUNO’s rights, claims or obligations under this Agreement.

**Section XIV**

**Representations and Warranties of the Recipient NUNO**

## The Recipient NUNO represents and warrants that:

1. It is a legal entity validly existing under the laws of the jurisdiction in which it was formed and it has all the necessary powers, authority and legal capacity to:
2. Own its assets;
3. Undertake programmatic activities;
4. Enter into this Agreement; and
5. This Agreement has been duly executed and delivered by the Recipient NUNO and is enforceable against it in accordance with its terms.

**Section XV**

**Indemnity**

15.1 The Recipient NUNO shall be fully responsible for any suits, claims, demands, and liability of any nature or kind, including their costs and expenses, on account of, based on or resulting from, arising out of (or which may be claimed to arise out of) or relating to its acts and omissions under any of its approved Project(s), including any suits, claims or demands brought by any third parties against the AA, the PUNOs and the Donors relating to the foregoing.

**Section XVI**

**Use of Name, Emblem and Official Seal of UNDP and the United Nations**

## The Recipient NUNO shall only use the name (including abbreviations), emblem or official seal of the United Nations, Administrative Agent or the PUNOs in direct connection with any approved Project(s) and upon receiving prior written consent of the United Nations, Administrative Agent or the PUNOs, as the case may be. Under no circumstances shall such consent be provided in connection with the use of the name (including abbreviations), emblem or official seal of the United Nations, Administrative Agent or the PUNOs for commercial purposes or goodwill.

## The Parties shall cooperate in any public relations or publicity exercises when the United Nations or Administrative Agent deem these appropriate or useful.

**Section XVII**

**Privileges and Immunities**

## Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, Administrative Agent and the participating donors (if relevant).

## Nothing herein shall be deemed to confer any privileges and immunities or other aspects relating to the status of a United Nations entity or the donors, on the Recipient NUNO.

**Section XVIII**

**Survival**

18.1 The provisions of this Agreement and any Financing Agreement approved hereunder shall survive the termination of this Agreement until all obligations of the Recipient NUNO under those agreements have been satisfied.

## 18.2 Without prejudice to the terms of 18.1, Article 8.6 (Third Party Beneficiary), Section XVII (Privileges and Immunities), and Section XII (Dispute Settlement), shall survive and remain in full force and effect regardless of the expiry of the approved Project(s) or the termination of this Agreement further to Section XI. In addition, Article 8.7 (Direct recourse of donors) shall survive and remain in full force and effect for five (5) years following expiry or termination of this Agreement, whichever occurs later.

**Section XIX**

**Notices**

## Any notice, request, document, report, or other communication submitted by either the Recipient NUNO or the Administrative Agent shall be in writing and sent to the other Party at the address information specified below, as appropriate:

|  |  |
| --- | --- |
| **Notices to NUNO** | **Notices to Administrative Agent (UNDP)** |
| **Name:** | **Name:** |
| **Address:** | **Address:** |
|  |  |
| **Tel:** | **Tel:** |
| **Fax:** | **Fax:** |
| **Email:** | **Email:** |

**Section XX**

**Effectiveness, Duration and Extension of this Agreement**

## This NUNO Framework Agreement shall enter into effect on the date of last signature of the Recipient NUNO and UNDP in its capacity as Administrative Agent, acting through their duly authorized representatives, and shall expire upon operational and financial closure of the Fund, unless terminated earlier in accordance with this NUNO Framework Agreement.

## Should it become evident to the Recipient NUNO during the implementation of any approved Project that an extension beyond the period set forth in the [Executive Board] approval of any Project is necessary, or in the event any other operational or financial issues arise related to the approved Project or further to the terms of this Agreement here, the Recipient NUNO shall inform the Administrative Agent, which will make the information known to the [Executive Board]; any decisions taken thereon by the [Executive Board] and communicated to the Administrative Agent shall be made known by the Administrative Agent to the Recipient NUNO.

## Failure by either Party to exercise any rights available to it, whether under this Agreement or otherwise, shall not be deemed for any purposes to constitute a waiver by the other Party of any such right or any remedy associated therewith, and shall not relieve the Parties of any of their obligations under the Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized thereof, have on behalf of the Parties hereto signed the present Agreement at the place and on the date below written:

*For the Administrative Agent* *For the Recipient NUNO*

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Place: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Place: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**List of Annexes constituting the entire Agreement of the Parties:**

ANNEX A:

Fund MOU

ANNEX B:

Fund Terms of Reference

ANNEX C:

NUNO Financing Agreement Template

1. This recital and other references to the relevant Fund’s structure will need to be amended if this is a Secretariat Fund. [↑](#footnote-ref-2)
2. The level of detail of information included in the Report at different stages of the investigation process can be seen [at https://www.un.org/preventing-sexual-exploitation-and-abuse/content/data-allegations-un-system-wide](https://www.un.org/preventing-sexual-exploitation-and-abuse/content/data-allegations-un-system-wide). [↑](#footnote-ref-3)