


CLEARANCE SLIP
 FOR THE COST SHARING (FINANCING) AGREEMENT CONTRIBUTION AGREEMENT
 BETWEEN
 EC / ENABEL (THE "DONOR")
 AND
 THE UNITED NATIONS DEVELOPMENT PROGRAMME ("UNDP")



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Resilient nations.

Agreement/Trust Fund title:	Delegation Agreements: PAGOda_Co / European Union Emergency Trust Fund for stability (EUTF for Africa)
Project No:	[105-EUTF-SAH-GN-XX-XX]
Project Title:	Intervention ENABEL-UNDP-UNCDF in the framework of the INTEGRA Program Support program for the socio-economic integration of youth in the Republic of Guinea – INTEGRA_ENABEL
Country Office/HQ Business unit:	UNDP - Guinea
Regional Bureau:	RBA
Donor:	European Union (EU) / Belgian Development Agency (ENABEL)
Total amount of the Agreement:	6.840.792 €
Document Received on	
Reviewed by	
Consulted	
Comments/Additional information	See Annexes "A" and "B"
Cleared by:	 Simon Hannaford Director, Legal Office (LO) (signed by Claudie Lema Pose/LO Legal Specialist on behalf of the LO Director)
Date of clearance:	18/6/18
Cleared with conditions:	

Commented [EK11]: The project number should be completed after signature schedule for June 15.

ANNEX "A1"

Claudio Lema-Pose

From: Marc Wajnszok
Sent: Monday, June 18, 2018 2:18 PM
To: Lionel Laurens; Claudio Lema-Pose
Cc: Anna Hysbergue
Subject: Re: EU-EC / ENABEL case // Guinea

Dear Claudio,

With regard to your questions:

"15.1. In the event of conflict between the terms of this Agreement and the Head Contract, the terms of the latter shall prevail.

Which is this "Head Contract"? I suppose it is the EU-EC main agreement. Is UNDP signatory party of that agreement? If Yes, has that agreement been cleared by UNDP Brussels?"

and as Anna confirmed to you the same day

"Yes, the Co-Delegation Agreement between EC and ENABEL/UNDP/UNCDF"

Yes, the document has been reviewed "in depth" by Anna in close relation with our office (Huge thanks to her for her patience...) these past weeks.

Regarding its signature, we are waiting on your green light with the Partnership Agreement.

Should you need any more info please copy me as well as I have been monitoring the process lately.

Many thanks for your support

Marc



<https://www.linkedin.com/in/marc-wajnszok-b8b2531/detail/recent-activity/posts/>

De : Lionel Laurens <lionel.laurens@undp.org>
Date : lundi 18 juin 2018 à 18:00
À : Marc Wajnsztok <marc.wajnsztok@undp.org>
Objet : TR: EU-EC / ENABEL case // Guinea

Cher Marc,
Je pensai que Anna avait répondu à ce courrier.
Merci de confirmer car Claudio semble en attente d'une réponse.
Bien à toi

Lionel Laurens
Tel: +224 624 980 007

De : Claudio Lema-Pose
Envoyé : lundi 18 juin 2018 17:47
À : Lionel Laurens <lionel.laurens@undp.org>
Cc : Anna Hysbergue <anna.hysbergue@undp.org>
Objet : RE: EU-EC / ENABEL case // Guinea

Dear Lionel,

Thank you.

I talked with Maria Perdomo and I have clarified the issue.

Coming to your case in Guinea:

15. Miscellaneous

15.1. In the event of conflict between the terms of this Agreement and the Head Contract, the terms of the latter shall prevail.

Which is this "Head Contract"? I suppose it is the EU-EC main agreement. Is UNDP signatory party of that agreement? If Yes, has that agreement been cleared by UNDP Brussels?

Regards,

Claudio

From: Claudio Lema-Pose
Sent: Friday, June 15, 2018 4:15 PM
To: Lionel Laurens <lionel.laurens@undp.org>
Cc: Claudio Lema-Pose <claudio.lema-pose@undp.org>
Subject: RE: EU-EC / ENABEL case // Guinea

Dear Lionel,

ANNEX '18

Claudio Lema-Pose

From: Anna Hysbergue
Sent: Tuesday, June 12, 2018 4:13 AM
To: Claudio Lema-Pose
Cc: Anna Hysbergue
Subject: RE: Advice on Financial Agreement with ENABEL in Senegal

Hi Claudio,

Thank you for sharing. I don't have any additional comment – that document you shared commensurate with what has been developed with ENABEL for the purpose of the agreement in Guinea.

With best wishes, Anna

From: Claudio Lema-Pose
Sent: 11 June 2018 23:16
To: Anna Hysbergue <anna.hysbergue@undp.org>
Subject: Fw: Advice on Financial Agreement with ENABEL in Senegal

Dear Anna,

fyi and any comment you may have. I will review it on Wednesday night/Thursday morning.

Kind regards,

Claudio

From: Krisanhty Supangkat
Sent: Monday, June 11, 2018 8:50 PM
To: Claudio Lema-Pose
Cc: Maria Perdomo
Subject: Advice on Financial Agreement with ENABEL in Senegal

Dear Claudio,

I would be grateful for your usual support on the attached template agreement from ENABEL in Senegal. We had messaged to them that certain elements would need to be revised. To underscore that point my colleague Maria had shared with them the partnership agreement in Guinea under EU PAGoDA (which Anna Hysbergue had shared with you some months ago) so they have a better idea. While we await ENABEL's response could you also provide us with your feedback?

Thank you in advance,

Kris

ANNEX "B"

Claudio Lema-Pose

From: Lionel Laurens
Sent: Thursday, June 14, 2018 12:07 PM
To: Claudio Lema-Pose; Krisanhty Supangkat; Maria Perdomo
Cc: Anna Hysbergue; Eloi Kouadio IV; Marc Wajnsztok
Subject: RE: Last review partnership agreement from LO prior to signature
Attachments: PARTNERSHIP AGREEMENT INTEGRA V20180530_finali_PNUD_UNCDF.DOCX

Dear Claudio,

I thank you very much for your kind assistance.

I understand your confusion and frustration if you have you work on several versions.

On my side, I represent UNDP Guinea only.

Therefore, I cannot answer in the name of UNCDF for which I am not responsible. In addition, I have not been privy to their correspondence with you nor to the document they have shared nor the consultation /advisory process they followed to reach their version.

On UNDP's side, Anna Hysbergue (in copy) has been our main advisory anchor.

I surmise that it is likely that UNCDF has not seen the document we have shared with you either.

Hence, I have attached to this message our version for UNCDF team's benefit so that they can share theirs and we can compare whether we are actually talking about one and the same document.

I thank you for your patience and convey to you our sincere appreciation of your kind support.

Best wishes,



*Au service
des peuples
et des nations*

Lionel Laurens
Directeur Pays / Country Director
PNUD en Guinée / UNDP Guinea
Maison Commune du Système des Nations Unies
BP : 222 Conakry, Guinée
Cell Phone: + 224 624980007 & +224 660000077
Skype: lionel_laurens

Email : lionel.laurens@undp.org
Web : www.gn.undp.org

Follow us:   
<http://www.gn.undp.org>

Please consider the environment before printing this email.

De : Claudio Lema-Pose

Envoyé : jeudi 14 juin 2018 02:54

À : Lionel Laurens <lionel.laurens@undp.org>; Krisanhty Supangkat <krisanhty.supangkat@uncdf.org>; Maria Perdomo

<maria.perdomo@uncdf.org>

Objet : Re: Last review partnership agreement from LO prior to signature

Dear all,

I would kindly ask UNCDF that you do not duplicate requests. Please do not send me twice the same document for review.

I received this document on Monday, I asked a query and I will revert tomorrow.

I was in Nigeria on an assignment and I have just arrived this evening to New York.

Which is the document to be reviewed? The one from Lionel today or the one from Krisanthy on Monday?

Kind regards,

Claudio

From: Lionel Laurens

Sent: Wednesday, June 13, 2018 9:08:43 PM

To: Claudio Lema-Pose

Cc: Anna Hysbergue; Eloi Kouadio IV; Marc Wajnsztok; Titus Osundina

Subject: TR: Last review partnership agreement from LO prior to signature

Dear Claudio,

With regard to the EU-funded INTEGRA project in Guinea,

I am writing to request you to kindly review the attached partnership agreement and confirm your official clearance.

The signature date of the contract is expected to be no later than 15th June.

I thank you very much in advance for your kind assistance and remain available should you wish you discuss further or require additional information.

Best wishes,



Au service
des peuples
et des nations

Lionel Laurens
Directeur Pays / Country Director
PNUD en Guinée / UNDP Guinea
Maison Commune du Système des Nations Unies
BP : 222 Conakry, Guinée
Cell Phone: + 224 624980007 & +224 660000077
Skype: lionel_laurens

Email : lionel.laurens@undp.org
Web : www.gn.undp.org

Follow us:   

<http://www.gn.undp.org>

Please consider the environment before printing this email.

De : Marc Wajnszok

Envoyé : mercredi 13 juin 2018 19:58

À : Lionel Laurens <lionel.laurens@undp.org>

Cc : Claudio Lema-Pose <claudio.lema-pose@undp.org>; Anna Hysbergue <anna.hysbergue@undp.org>; Eloi Kouadio IV <eloi.kouadio.iv@undp.org>

Objet : Last review partnership agreement from LO prior to signature

Importance : Haute

Dear Lionel,

Further Anna's recommendation in her mail dated 5th of June : *"Regarding the clearance of the UNDP-ENABEL **Partnership** Agreement" – I'd like to recall that this is between the Country Office and the Legal Office i.e. to be routed directly to Claudio Lema Pose (as per the attached email)."*

Please find attached the Partnership Agreement. It hasn't been modified since **Claudio** received a copy, we still need to mention the signature date of the contract, perhaps on the 15th of June but that falls on next Friday that will be holyday.

Let me know what date would best suit you so I can manage with Enabel.

Meanwhile I believe you may now send it to our Legal Office to Claudio for a last review. I also attached the clearance slip form, but we don't know yet the Project Number.

Thank You

Marc



<https://www.linkedin.com/in/marc-wajnszok-b8b2531/detail/recent-activity/posts/>

De : Claudio Lema-Pose <claudio.lema-pose@undp.org>

Date : jeudi 5 avril 2018 à 13:34

À : Marc Wajnszok <marc.wajnszok@undp.org>

Objet : RE: Integra - Partnership Agreement

Hi,

No problem.

Greetings,

Claudio

From: Marc Wajnszok

Sent: Thursday, April 05, 2018 6:08 AM

To: Anna Hysbergue <anna.hysbergue@undp.org>; Claudio Lema-Pose <claudio.lema-pose@undp.org>

Cc: Lionel Laurens <lionel.laurens@undp.org>; Eloi Kouadio IV <eloi.kouadio.iv@undp.org>; Gedeon Behiguim <gedeon.behiguim@undp.org>

Subject: Re: Integra - Partnership Agreement

Importance: High

Dear **Claudio**

Nice to read you again, I believe we've worked together, back in 2014/15 on UNDP/World Bank agreement for payments to Ebola workers...

Many thanks for reacting so promptly and happy to see that thanks to **Anna** we are align witj LO.

UNDP Guinea office will revert to you as soon as we receive the last version of the PAGODA related to INTEGRA project with Enabel.

Merci et une bonne journée à NY.

Marc



<https://www.linkedin.com/in/marc-wajnszok-b8b2531/detail/recent-activity/posts/>

De : Anna Hysbergue <anna.hysbergue@undp.org>

Date : jeudi 5 avril 2018 à 09:03

À : Claudio Lema-Pose <claudio.lema-pose@undp.org>

Cc : Marc Wajnszok <marc.wajnszok@undp.org>, Anna Hysbergue <anna.hysbergue@undp.org>

Objet : RE: Integra - Partnership Agreement

Super. Many thanks for the speedy processing.

Marc/Guinea will be in touch once it's confirmed we have the final version.

From: Claudio Lema-Pose

Sent: 04 April 2018 18:27

To: Anna Hysbergue <anna.hysbergue@undp.org>

Subject: RE: Integra - Partnership Agreement

Dear Anna,

Hi.

No comments from my side.

In order to have it cleared, we need the clearance slip being completed by the focal point (but provided that this version of the document is the final, no other changes).

Kind regards,

Claudio

From: Anna Hysbergue
Sent: Wednesday, April 04, 2018 12:26 AM
To: Claudio Lema-Pose <claudio.lemma-pose@undp.org>
Subject: Re: Integra - Partnership Agreement

Hi Claudio - yes, it is.
Best wishes, Anna

Sent from a phone. Pls excuse brevity/typos

On 3 Apr 2018, at 23:19, Claudio Lema-Pose <claudio.lemma-pose@undp.org> wrote:

Dear Anna,

Hi.

The agreement is then between UNDP, UNCDF and ENABEL (Belgian Development Agency)?

Greetings,

Claudio

From: Anna Hysbergue
Sent: Tuesday, April 03, 2018 10:09 AM
To: Claudio Lema-Pose <claudio.lemma-pose@undp.org>
Cc: Marc Wajnszok <marc.wajnszok@undp.org>; Krisanhty Supangkat <krisanhty.supangkat@uncdf.org>; Carlos ESCRIVA GIL <carlos.escriva.gil@uncdf.org>; Irene Salvi <irene.salvi@uncdf.org>; Anna Hysbergue <anna.hysbergue@undp.org>
Subject: FW: Integra - Partnership Agreement
Importance: High

Dear Claudio,

Greetings from Brussels, I hope this finds you well.

I wanted to bring to your attention the attached draft **Partnership Agreement** which UNDP Guinea & UNCDF will conclude with ENABEL (acting as the "lead" for the Co-Delegation Agreement which EBANEL, UNDP and UNCDF will conclude with the EU).

The Partnership Agreements has been based on the recently concluded same type of agreement concerning Bosnia & Herzegovina where UNDP partnered with GIZ, the latter assuming the 'lead'. For the ease of review, I have attached also the Guinean PA in comparison

with the B&H case (cf. track changes). As LO & Brussels Office also support UNCDF, I've copied Kris from UNCDF HQ as well as Carlos & Irene from UNCDF's Brussels Office.

We've had a very productive meeting this morning with ENABEL and as such there is no issue per se. What I would appreciate however is your kind review and guidance as regards the administrative procedures which Guinea CO and UNCDF might need to conclude with the regards the partnership agreement (from my end I will handle the same for the Co-Delegation Agreement).

Many thanks as always and best regards, Anna

From: SALIEZ, Jean-yves [<mailto:jean-yves.saliez@enabel.be>]
Sent: 03 April 2018 15:18
To: Anna Hysbergue <anna.hysbergue@undp.org>; DE BUEGER, Cédric <cedric.debueger@enabel.be>; JANSSENS, Inge <inge.janssens@enabel.be>; Marc Wajnszok <marc.wajnszok@undp.org>; Maria Perdomo <maria.perdomo@uncdf.org>; Sophie De Coninck <sophie.de.coninck@uncdf.org>; carlos.escriva@uncdf.org; Irene Salvi <irene.salvi@uncdf.org>
Cc: LEGRAND, Benoit <benoit.legrand@enabel.be>; CHANOINE, Olivier <olivier.chanoine@enabel.be>; Fabien Locht <fabien.locht@gmail.com>
Subject: Integra - Partnership Agreement

Bonjour à tous,

Ci-joint la version finalisée ce matin, avec la bonne collaboration de chacun.

Merci à Anna de bien vouloir refaire une lecture attentive et d'enlever les toutes dernières coquilles et précisions pour UNDP et UNCDF, le cas échéant. Enabel de son côté doit résoudre 2 commentaires qui sont encore dans le texte.

Bien cordialement,

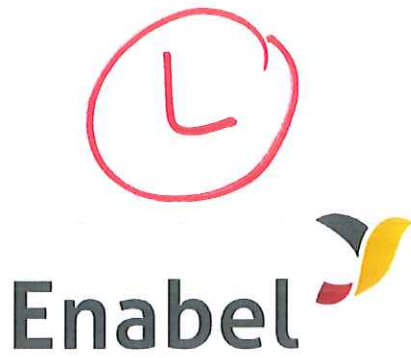
JYS

<image001.png>

Jean-Yves Saliez

Global Partnerships Coordinator

Belgian development agency
Rue Haute 147 - 1000 Brussels
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Jean-yves.saliez@enabel.be



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PARTNERSHIP AGREEMENT

relative to the Action :

« Intervention ENABEL-PNUD-UNCDF dans le cadre du Programme INTEGRA
Programme d'appui à l'intégration socio-économique des jeunes en République de
Guinée-INTEGRA ENABEL
République de Guinée
Ref. UE - TF05-EUTF-SAH-GN-01
Enabel : GIN 17 009 1T »

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This Partnership Agreement, hereinafter “the Agreement” is made between:

Enabel s.a., rue Haute 147, established at 1000 Bruxelles, hereinafter “the Organisation”,

and

United Nations Development Program (UNDP), established at One UN Plaza New York, NY 10017), United States of America, hereinafter a “Co-Delegatee”,

and

United Nations Capital Development (UNCDF), established at Two UN Plaza, 26th floor, New York, NY, 10017, United States of America, hereinafter a “Co-Delegatee”,

Individually the “Party” or the “Delegatee” and collectively the “Parties” or the “Delegatees”,

Which have agreed to the following:

Whereas, the Delegatees have agreed to cooperate in order to implement the Action called “Intervention ENABEL-PNUD-UNCDF dans le cadre du Programme INTEGRA; Développement socio-économique et création d’emplois sur l’axe Conakry – Labé.” (hereinafter the “Action”).

Whereas, the Delegatees have therefore signed a Co-Delegation Agreement TF05-EUTF-SAH-GN-01 on **[.....of June 2018]** (hereinafter “the Head Contract”) with the European Union represented by the European Commission (hereinafter “the Contracting Authority”);

Whereas, the PAGO2 contractual framework (including its templates, annexes and any amendments hereto) stipulates the undertaking of the Action, this Partnership Agreement governs the Organisation and Co-Delegatees’ collaboration in relation to the Action.

NOW THEREFORE, the Parties hereto enter into the following Partnership Agreement:

1. Definitions

Any word(s) or expression(s) appearing in this Agreement shall have the meaning ascribed to them herein, unless such word(s) or expression(s) are defined in the Head Contract, in which case they shall be interpreted in accordance with the definition of such word(s) or expression(s) included within the Head Contract. Any definition repeated in this Clause 1 has been so repeated for ease of reference only.

- **Action Intellectual Property Rights** – means all Intellectual Property Rights that arise or are obtained or developed by either Delegatee, or by a contractor on behalf of either Delegatee, in respect of the Materials in the course of or in connection with the Action.
- **Activities** – means all activities which each Delegatee is required to implement pursuant to the present Agreement and as set out in Annex I of the Head Contract and/or (to be determinate) in the division of Labour as defined in appendix B of this Agreement
- **Background IPR** – means any Intellectual Property Rights (other than Action IPR) belonging to either Delegatee before the date of this Agreement or not created in the course of or in connection with the Action (and for the purposes of this Agreement, Background IPR excludes each of the Delegates' Marks).
- **Confidential Information** means any information which has been clearly marked as confidential by any Delegatee.
- **Marks** – means each aspect or element (such as colour, design, picture, symbol, typeface) of a brand that cannot be expressed in words.
- **Materials** – refers to all inventions, designs, information, know-how, specifications, formulae, data, processes, methods, techniques, materials and content, including any improvements in the same, in connection with the Action (as defined below).

- **Partnership Body(ies)** – means a/any governance body/bodies for the implementation of the Action as described in Clause 5 (Governance) of this Agreement.
- **Representative** - means the person chosen by a Delegatee to represent it.
- **Tasks** - means administrative and financial obligations of the Delegatees as set out in the Head Contract and this Agreement
- **Third Party IPR** – means any Intellectual Property Rights not belonging to a party to this Agreement but used by a third party in the creation of the Project materials and/or in the course of or in connection with the Project.

2. Purpose

Without prejudice to the provision of the Head Contract, the purpose of this Agreement is to set out the respective roles and responsibilities of each Delegatee in the implementation of the Action and the modalities of cooperation (including the division of tasks and sharing of the financial resources among Delegatees).

3. Entry into force and duration

3.1. This Agreement shall enter into force on the date when the last party has signed it.

3.2. This Agreement shall continue (unless terminated in accordance with this Agreement and the Head Contract) at least until the End Date as referenced in Article 1 of the Head Contract and until the last payment transfer between the Organisation and the Co-Delegatees has been made (whichever comes last and without prejudice to any litigation or otherwise unsettled matter which may require use or access to any documents or information relating to the Action, and of which the organisation shall inform each Co-Delegatee).

4. Roles and responsibilities of the Delegates

4.1 General principle of cooperation

In carrying out their respective part of the common Action as set forth in the Head Contract, the Delegates will work together in the spirit of trust, loyalty and fairness, albeit acknowledging the specific circumstances, environment and modalities for implementation of the Action.

The Delegates will act as reliable partners both towards the Contracting Authority and amongst each other, being dedicated to the common goal of successfully implementing the Action together.

4.2 General obligation of the Delegates

4.2.1. The Delegates undertake to implement the Action as agreed and set out in the Head Contract and in a proper and timely manner so as not to affect the obligations of the other Delegates in accordance with the provisions stated in the Head Contract and in this Agreement. In relation to the recovery actions mentioned in Article 6 of Annex II A (Provisions applicable only to Co-Delegation Agreements) and Articles 13.2 and 15 of Annex II (General Conditions for PA Grant or Delegation Agreements), the Delegates/Co-Delegates shall only reimburse those amounts effectively recovered and not full amounts.

4.2.2. Each Delegate warrants to the others that:

- all information, data and materials provided by it to the others pursuant to this Agreement will be, to the best of its knowledge, accurate and complete in all material respects, and it is entitled to provide the same to each of the Delegates without recourse to any third party;
- it will comply with all relevant applicable laws and regulations in relation to corruption and fraud, child protection, and equality, diversity and inclusion;
- except as expressly provided in this Agreement, there are no conditions, warranties or other terms binding on the parties with respect to the clauses contemplated by this Agreement. Any condition, warranty or other term in this

regard which might otherwise be implied or incorporated into this Agreement, whether by statute, common law or otherwise, is, insofar as it is lawful to do so, hereby excluded.

4.3. Specific obligations of the Co-Delegates

4.3.1. The Co-Delegates shall perform all tasks assigned to them respectively as described in the Head Contract, in particular Article 3 of Annex II.a of the Head Contract, and in this Agreement.

4.3.2. Each Co-Delegatee shall:

- adhere to the governance structure set out hereinafter to ensure that activities are delivered and actions taken as required;
- act in a timely manner in order to fulfil the contractual obligations under this Agreement and the Head Contract and respond to reasonable requests from the other Delegates within a reasonable period;
- ensure sufficient and appropriately qualified resources are available and authorised to fulfil its responsibilities set out in this Agreement and the Head Contract;
- not cause, by its actions, inactions or delay, any other Party to breach the terms of the Head Contract.

4.3.3 Each Co-Delegatee is responsible for supplying without delay all documents and information in order for the Organisation to fulfil the obligations mentioned in Article 2 d) of Annex II.a of the Head Contract.

4.4. Specific obligations of the Organisation

The Organisation shall be the intermediary between the Co-Delegates and the Contracting Authority and shall perform all tasks assigned to it as described in the Head Contract, in particular Article 2 of Annex II.a of the Head Contract, and in this Agreement.

Notwithstanding Article 2 of Annex II.a of the Head Contract, the Organisation shall be responsible for:

- keeping available and updated an address list of Co-Delegates and other relevant contact persons;
- collecting reports, reviewing their coherence and submitting them, other deliverables (including financial statements and related certifications where so applicable) and specific requested documents to the Contracting Authority;
- transmitting documents and information connected with the Action to the relevant Parties concerned;
- administering the financial contribution of the Contracting Authority and fulfilling the financial tasks described in Clause 7;
- providing, upon request, the Co-Delegates with copies or originals of documents that are in the sole possession of the Organisation when such copies or originals are necessary for the Parties to present claims.

4.5. Involvement of third parties

4.5.1. A Delegatee that enters into a subcontract or otherwise involves third parties in the Action shall remain responsible for carrying out its relevant part of the Action and for such third party's delivery.

4.5.2. Each Delegatee shall ensure that the involvement of third parties does not affect the rights and obligations of the other Delegatees under this Agreement and the Head Contract.

5. Governance

5.1. General structure

The organisational structure is described in Annex 1 section 6.2 of the Head Contract. Moreover it shall comprise the following Partnership Bodies:

- the Governing Board; and
- the Managing Team (called in the DTA "cellule de gestion de projet").

5.2 Governing Board

5.2.1. The Governing Board shall be made up of the following representatives nominated by each of the Delegatees:

- Enabel : Resident Representative.

- UNCDF: Country Director or Deputy Executive Secretary
- UNDP: Country Director.

In the event that a representative is unable to attend any scheduled meetings of the Governing Board, the concerned Delegatee will nominate a replacement Representative if necessary.

5.2.2. The Governing Board shall be responsible for drafting and agreeing the strategies and decision making in relation to the overall management of the Action and the finding of amicable solutions for any unresolved disputes between the Delegatees relating to the execution of the Action.

5.2.3. The Governing Board shall undertake, and decide on, the following matters:

- reviewing the progress of the Action;
- deciding on principles for effective communication;
- agreeing reporting modalities, including proper timing;
- agreeing on adequate management procedures, quality standards and quality for the Action;
- proposing to the EU the entry of new Delegatees and departure of existing Delegatees;
- deciding in relation to the reassignment of a terminating Delegatee's allocated Activities;
- agreeing on the Action and/or a Delegatee termination;

5.2.4. The representative of the Organisation shall chair the Governing Board (the "Chairperson") and shall be responsible for the convening of meetings, preparation and distribution of the agenda and minutes for meetings of the Governing Board.

5.2.5. The Governing Board shall meet at the start of the Action and at least once a year thereafter. Meetings of the Governing Board will be convened with at least 14 days (unless in case of exceptional circumstances) written notice in advance by the Chairperson. Invitation to the meetings will be done in writing and transmitted by fax, by e-mail or by other electronic communication means. The invitation must include an agenda for the meeting.

5.2.6. Decisions are recorded in the minutes of the meeting. Decisions shall be taken by a consensus. If a consensus is not reached decisions shall be made by the majority of 2/3 of

the votes, each Delegatee having one vote. In case of a tie, the Organisation shall have the casting vote.

5.2.7. To be valid, meetings of the Governing Board require the presence of all Delegatees.

5.2.8. In duly justified and exceptional circumstances the Delegatees have the right to veto.

5.3. Managing Team

5.3.1. The Managing Team shall be made up of the following representatives:

- Enabel: program manager
- UNCDF: Christel Alvergne and Maria Perdomo
- UNDP: program manager
 - Deputy Country Director – Program
 - Team Leader, Economic Transformation and Sustainable Development - Cluster
 - Team Leader, Economic Governance and Development - Cluster

5.3.2. The Managing Team shall be responsible for the overall management of the Action. It will ensure the smooth implementation of the Action and that all reasonable efforts are focused towards the Action Objectives.

5.3.3. The Managing Team shall undertake the following matters:

- monitor progress against Action Objectives, as defined in Annex I, Annex III and Annex VI of the Head Contract, and this Agreement;
- ensure effective communication;
- recommend changes to allocated Activities for endorsement by the Governing Board (when required the Governing Board will then contact the Contracting Authority);
- consolidate the Action activity reports, periodic reports;

5.3.4. The representative of the Organisation shall chair and be responsible for the convening of meetings, preparation and distribution of the agenda and minutes for meetings of the Managing Team.

5.3.5. The Managing Team shall meet at least every 3 months, unless in case of exceptional circumstances. Meetings of the Managing Team will be convened with at least 7 days written notice in advance by the Chairperson. Invitation to the meetings will be done in

writing and transmitted by fax, by e-mail or by other electronic communication means. The invitation must include an agenda for the meeting.

6. Payments

6.1. Budget - Please refer to **Annex III of the Head Contract**.

6.2. Payments to Co-Delegates are the exclusive task of the Organisation.

6.3. The Organisation will receive payments from the Contracting Authority. It undertakes to transfer the appropriate sums to the respective Co-Delegates with minimum delay, but not later than thirty days from its receipt from the Contracting Authority.

6.4. The Organisation shall notify each of the Co-Delegates promptly of the date and amount transferred to its respective bank account and shall give the relevant references.

6.5. Bank account details of each Co-Delegate shall be provided to the Organisation within fifteen days of each Co-Delegate's signature of this Agreement.

6.6. For subsequent years, payments will be subject to the presentation of the justification which will consist of a financial and narrative progress report on implemented Activities, and a payment request using the template given in Appendix C. The Management Declaration and the Audit Opinion shall be provided in accordance with the Head Contract.

6.7. Indirect costs - Each Delegate shall be entitled to a flat rate remuneration of 7% on their eligible costs.

7. Implementation of the Action

7.1. Reporting, Monitoring, Evaluation and Audits

7.1.1. Financial and narrative report per activity will be provided by each Co-Delegate to the Organisation annually and upon request by the Organisation, without undue delay.

7.1.2. With reference to 5.2.3, the Governing Board will decide during its first meeting on

the reporting modalities, including proper timing.

7.1.3. All reports will follow a format developed and agreed upon by the Delegates.

7.1.4 Each Delegatee shall perform the monitoring and evaluation of its own activities. Where possible, under the guidance of the Governing Board, Delegates shall endeavour to produce a joint document analysing the progress of the Action. .

8. Communication – Branding – Visibility

Parties recognise the need for and commit to take all appropriate measures to publicise the fact that the Action has received funding from the European Union and from other sources as it may be. The Action's appropriate communication and visibility strategy is laid down in the Annex VI of the Head Contract which parties undertake to implement. Co-Delegatees shall report their visibility & communication activities and outputs to the Organisation and the latter shall compile all relevant information into its annual and final reports submitted to the Contracting Authority.

Where deemed appropriate, the Governing Board may agree on the common identity design of this action (incl. the set of logos).

9. Intellectual Property Rights

9.1. All Background IPR are and shall remain the exclusive property of the Delegatee owning it. The Co-Delegatee shall own the intellectual property on the deliverables to be made under the Agreement and identified as Action IPR.

9.2 Each Party warrants to the other Parties that its Background IPR does not, so far as it is aware, infringe the rights of any third party and none of its Background IPR is the subject of any actual or, so far as it is aware, threatened challenge, opposition or revocation proceedings.

9.3 Each Party hereby grants to the other Parties an irrevocable, royalty-free, non-exclusive, worldwide right and licence to use the Action IPR and the Party's Background IPR in, and to the extent necessary for, the performance of the Action.

9.4. Subject to those documents marked as confidential by the Parties and to the Parties 'regulations, rules and procedures, Delegates agree that the documents created, developed or used during the implementation of the Action shall be published and licensed to third parties under the terms of a Creative Commons Attribution 4.0 International Public License.

9.5. Each Delegatee is responsible for obtaining any licences, permissions or consents in connection with any Third Party IPR which that Delegatee introduces into the Action so that any Delegatee (including the Contracting Authority) can make use of any Action results (such licences, permissions or consents to be in writing, copies of which the relevant Delegatee shall provide to the other Delegatees on request).

9.6. Nothing in this Agreement shall prevent any Delegatee from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business, to the extent that it does not result in a disclosure of any other Delegatees' Confidential Information or an infringement of Intellectual Property Rights.

10. Data protection and confidentiality

10.1. The Parties shall ensure an appropriate protection of personal data in accordance with the applicable relevant laws and regulations.

10.2. Unless otherwise agreed and notwithstanding Article 6 of Annex II of the Head Contract, Delegatees may use Confidential Information only to implement this Agreement and the Action. No Confidential Information may be used by a Delegatee for any purpose other than the performance of obligations or exercise of rights under this Agreement. Each Delegatee shall ensure that all members of their teams or third parties are aware of its confidentiality obligations under this Agreement and are subject to similar obligations if are using the Confidential Information.

11. Breach

11.1. Notwithstanding Clause 4.1 and Clause 5.3.2, in the event that the Governing Board identifies a breach by a Delegatee of its obligations under this Agreement, the Organisation

or, if the Organisation is in breach of its obligations, the Co-Delegatee appointed by the Governing Board, will give formal notice to such Delegatee requiring that such breach be remedied within 30 calendar days from the date of receipt of the written notice by the Delegatee.

11.2. If such breach is substantial and is not remedied within that period or is not possible to remedy, the Governing Board may decide to declare the Delegatee to be a defaulting Delegatee (hereafter the “Defaulting Delegatee”) and to decide on the consequences thereof which may include proposing to the Contracting Authority to terminate the participation of the Defaulting Delegatee in the Action and the Head Contract.

12. Liability

12.1. Each Delegatee shall be liable for the delivery of the part of the Action that is attributed to it in the Head Contract and in this Agreement.

12.2. Nothing in this Agreement shall exclude or restrict the liability of any Party to the other for death or personal injury resulting from negligence or for fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.

12.3. Subject to Clause 12.2, no Party shall be liable to the other whether in contract, tort, negligence, breach of statutory duty or otherwise for any indirect loss or damage, costs or expenses whatsoever or howsoever arising out of or in connection with this Agreement.

12.4.. Each Delegatee shall be liable for all direct losses, costs, and liabilities suffered or incurred by the one or more Delegatees as a result of the Delegatee:

- failing to perform its obligations under this Agreement and/or Head Contract; or
- causing, by its actions, inactions or substantial delays the other Delegatee(s) to breach the terms of this Agreement and/or Head Contract.

13. Termination

13.1. In case the Contracting Authority terminates or partly terminates the Head Contract

in accordance with Article 13 of the Head Contract General Conditions, the Organisation shall, on receipt of the notice of termination, provide each Delegatee with written notice to such effect for this Agreement.

13.2. The Delegatees may together, pursuant to decision by consensus reached by the Governing Board meeting, require this Agreement to be terminated. In such case, the Organisation shall provide notice to the Contracting Authority which shall include the justification for termination and the effective date of the termination, as per Article 13 of Annex II of the Head Contract.

The Organisation will also provide notice to each Co-Delegatee for the termination of this Agreement.

13.3. Notwithstanding clause 4.1 and without prejudice to any other provision of this Agreement, and with due regard to the principle of proportionality, the Governing Board may decide termination of the Agreement in respect to one of the Delegatees if:

- a) the performance of the Action by the Delegatee is delayed, hindered or prevented by a Force Majeure Event for a period in excess of 90 days
- b) commits any material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of notice being given requiring it to be remedied (and where such breach is not capable of remedy, the Agreement will be terminated with immediate effect);
- c) is guilty of misrepresentation or submits false or incomplete statements to obtain the payment or provides reports that do not reflect reality to obtain or keep the payment without cause;
- c) is bankrupt or being wound up, or is subject to any other similar proceedings;
- d) is guilty of grave professional misconduct proven by any justified means;
- e) has committed fraud, corruption or any other illegal activity;
- f) fails to comply with the reporting obligations in accordance with Article 3.15 from the Head Contract General Conditions.

13.4. If one Delegatee wants to withdraw from the Action, the Organisation will inform the Contracting Authority of the Delegatee's decision and will propose – in agreement with the other Co-delegatees – a reallocation of the tasks and responsibilities of the Co-Delegatee who wants to withdraw.

13.5 In case of termination, the Organisation may demand full repayment of any amounts

paid in excess of the final amount determined in accordance with Article 20 of the Head Contract General Conditions after allowing each Co-Delegatee to submit its observations. The Organisation will share the observations with the Contracting Authority which will decide upon the final amounts to be repaid.

13.6. Termination of this Agreement, however it arises, shall not affect or prejudice the accrued rights of the Parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

14. Applicable law and settlement of dispute

14.1. The Parties shall endeavour to amicably settle any dispute controversy or claim arising out of, or relating to this agreement or the breach; termination or invalidity thereof.

14.2. If no amicable solution can be found within the Governing Board, the dispute shall be submitted to the senior management of the respective Delegatees.

14.3. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with UNCITRAL Conciliation Rules then obtaining, or according to such procedure as may be agreed between the parties. Any dispute, controversy or claim between the Parties arising out of or relating to this agreement or the breach, termination or invalidity thereof, unless settled amicably under the preceding paragraph within (60) sixty days after receipt by one Party of the other Party's request for such amicable settlement, shall be referred by either party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The arbitral tribunal shall have no authority to award punitive damages. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute. Nothing in or relating to this Agreement shall be understood as a waiver of the immunities and privileges of UNDP and UNCDF as an integral part of the United Nations.

15. Miscellaneous

15.1. In the event of conflict between the terms of this Agreement and the Head Contract,