

# THIRD-PARTY COST-SHARING AGREEMENT

BETWEEN



THE UNITED NATIONS DEVELOPMENT  
PROGRAMME

AND



**BANK OF INDUSTRY**  
*...transforming Nigeria's industrial sector.*

**THIRD-PARTY COST-SHARING AGREEMENT BETWEEN  
THE UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)  
AND BANK OF INDUSTRY LIMITED (THE BANK OF INDUSTRY LIMITED)**

WHEREAS Bank of Industry Limited hereby agrees to contribute funds to UNDP on a cost-sharing basis (hereinafter referred to as "the Contribution") for the implementation of Solar Energy Programme (hereinafter referred to as "the Programme"), as described in the Project document Project no. 00097077 / Solar Energy Programme, in Nigeria, and submitted to the Bank of Industry Limited for information.

The project will focus on deployment of low-cost, off-grid Solar Energy Solutions for rural communities, either as a stand-alone (i.e. Solar Home System) or micro-grid system. This project is essentially aimed at addressing the power supply challenges in Nigeria, especially for the most vulnerable rural communities, thereby engendering poverty alleviation and reduction in rural-urban migration with a view to fostering rural economic development.

WHEREAS UNDP is prepared to receive and administer the contribution for the implementation of the programme/project,

WHEREAS the Government of Nigeria has been duly informed of the contribution of the Bank of Industry Limited to the programme/project,

WHEREAS UNDP shall designate an Implementing Partner for the implementation of the programme/project (hereinafter referred to as the "Implementing Partner"),

NOW THEREFORE, UNDP and the Bank of Industry Limited hereby agree as follows:

**Article I. The Contribution**

1. (a) Bank of Industry Limited shall, in accordance with the schedule of payments set out below, contribute to UNDP the amount of (1,400,000USD). The Contribution shall be deposited in Nigerian Naira (NGN) based on prevailing UN Exchange rate at the time of payment to the [Standard Chartered Bank, United Nations Development Programme. Account Number 0000388438, Sort Code: 068080017<sup>1</sup>],

<u>Schedule of payments<sup>2</sup></u>	<u>Amount</u>
September 26, 2016	700,000 USD
October 24, 2016	700,000 USD

(b) Bank of Industry Limited will inform UNDP when the Contribution is paid via an e-mail message with remittance information to [contributions@undp.org](mailto:contributions@undp.org), providing the following

<sup>1</sup> USD rate is 315 NGN to 1 USD as at 31/08//2016

<sup>2</sup> Please note that the currency of the bank account should be the same as the currency of the contribution

<sup>3</sup> It is recommended that country offices negotiate the number of installments to ensure at least six months' anticipated disbursements are funded with each installment. This will make processing of contributions and reporting more efficient for the country offices.

information: Bank of Industry Limited 's name, UNDP country office, [Project no. 00097077 and Solar Energy Programme], Bank of Industry Limited reference (if available). This information should also be included in the bank remittance advice when funds are remitted to UNDP.

2. The value of the payment, if made in a currency other than United States dollars, shall be determined by applying the United Nations operational rate of exchange in effect on the date of payment. Should there be a change in the United Nations operational rate of exchange prior to the full utilization by UNDP of the payment, the value of the balance of funds still held at that time will be adjusted accordingly. If, in such a case, a loss in the value of the balance of funds is recorded, UNDP shall inform the Bank of Industry Limited with a view to determining whether any further financing could be provided by the Bank of Industry Limited. Should such further financing not be available, the assistance to be provided to the Solar Energy Programme may be reduced, suspended or terminated by UNDP.

3. The above schedule of payments takes into account the requirement that the payments shall be made in advance of the implementation of planned activities. It may be amended to be consistent with the progress of programme/project delivery.

4. UNDP shall receive and administer the payment in accordance with the regulations, rules, policies and procedures of UNDP.

5. All financial accounts and statements shall be expressed in United States dollars.

## **Article II. Utilization of the Contribution**

1. The execution / implementation of the responsibilities of UNDP and of the Implementing Partner pursuant to this Agreement and the programme/project document shall be dependent on receipt by UNDP of the contribution in accordance with the schedule of payment as set out in Article I, Paragraph 1, above.

2. If unforeseen increases in expenditures or commitments are expected or realized (whether owing to inflationary factors, fluctuation in exchange rates or unforeseen contingencies), UNDP shall submit to the Bank of Industry Limited on a timely basis a supplementary estimate showing the further financing that will be necessary. Bank of Industry Limited shall use its best endeavors to obtain the additional funds required.

3. If the payments referred to in Article I, paragraph 1, above are not received in accordance with the payment schedule, or if the additional financing required in accordance with Paragraph 2 above is not forthcoming from the Bank of Industry Limited or other sources, the assistance to be provided to the programme/project under this Agreement may be reduced, suspended or terminated by UNDP.

4. Any interest revenue attributable to the Contribution shall be credited to UNDP Account, retained by UNDP and shall be utilized in accordance with established UNDP procedures.

### **Article III. Administration and Reporting**

1. Solar Energy Programme management and expenditures shall be governed by the rules, regulations, policies and procedures of UNDP and, where applicable, the rules, regulations, policies and procedures of the Implementing Partner.

2. UNDP shall provide to Bank of Industry Limited the following reports in accordance with UNDP accounting and reporting procedures.

From the country office (or relevant unit at Headquarters in the case of regional and global projects) within six months after the date of completion or termination of the Agreement, a final report summarizing programme/project activities and impact of activities as well as provisional financial data;

(a) From UNDP Bureau of Management/Office of Finance and Administration, an annual certified financial statement as of 31 December to be submitted no later than 30 June of the following year;

(b) From UNDP Bureau of Management/Office of Finance and Administration, on completion of the programme/project, a certified financial statement to be submitted no later than 30 June of the year following the financial closing of the project.

3. If special circumstances so warrant, UNDP may provide more frequent reporting at the expense of the Bank of Industry Limited. The specific nature and frequency of this reporting shall be specified in an annex of the Agreement.

### **Article IV. Administrative and Support Services**

1. In accordance with the decisions, policies and procedures of UNDP's Executive Board reflected in its Policy on Cost Recovery from Other Resources, the Contribution shall be subject to cost recovery for indirect costs incurred by UNDP headquarters and country office structures in providing General Management Support (GMS) services. To cover these GMS costs, the Contribution shall be charged a fee equal to 8%. Furthermore, as long as they are unequivocally linked to the Project, all direct costs of implementation, including the costs of Implementing Partner, will be identified in the Solar Energy Programme budget against a relevant budget line and borne by the Solar Energy Programme accordingly.

2. The aggregate of the amounts budgeted for the programme/project, together with the estimated costs of reimbursement of related support services, shall not exceed the total resources available to the programme/project under this Agreement as well as funds which may be available to the programme/project for programme/project costs and for support costs under other sources of financing.

### **Article V. Evaluation**

All UNDP Programmes and Projects are evaluated in accordance with UNDP Evaluation Policy. UNDP and the Government of Nigeria in consultation with other stakeholders will jointly agree on the purpose, use, timing, financing mechanisms and terms of reference for evaluating a Project including an evaluation of its Contribution to an outcome which is listed in the Evaluation Plan. UNDP shall commission the evaluation, and the evaluation exercise shall be carried out by external independent evaluators.

## **Article VI. Equipment**

Ownership of equipment, supplies and other properties financed from the contribution shall vest in UNDP. Matters relating to the transfer of ownership by UNDP shall be determined in accordance with the relevant policies and procedures of UNDP.

## **Article VII. Auditing**

The Contribution shall be subject exclusively to the internal and external auditing procedures provided for in the financial regulations, rules, policies and procedures of UNDP. Should the annual Audit Report of the UN Board of Auditors to its governing body contain observations relevant to the Contribution, such information shall be made available to the Bank of Industry Limited by the country office.

## **Article VIII. Advertisement of the contribution**

1. Bank of Industry Limited shall not use the UNDP name or emblem, or any abbreviation thereof, in connection with its business or otherwise without the express prior written approval of UNDP in each case. In no event will authorization be granted for commercial purposes, or for use in any manner that suggests an endorsement by UNDP of, its products or services and vice versa.
2. Bank of Industry Limited acknowledges that it is familiar with UNDP's ideals and objectives and recognizes that its name and emblem may not be associated with any political or sectarian cause or otherwise used in a manner inconsistent with the status, reputation and neutrality of UNDP.
3. Bank of Industry Limited may make representations to its shareholders and internal budget officials as required about the fact of the contribution to UNDP. Any other use of the UNDP name or emblem, and any other form of recognition or acknowledgement of the contribution of the Bank of Industry Limited are subject to consultations between the Parties, and the prior written agreement of UNDP.
4. UNDP will report on the contribution to its Executive Board in accordance with its regular procedures regarding contributions from private Bank of Industry Limited s. Other forms of recognition and acknowledgement of the contribution are subject to consultations between the Parties, but the manner of such recognition and acknowledgement shall be determined at the sole discretion of UNDP.

## **Article IX. Completion of the Agreement**

1. UNDP shall notify the Bank of Industry Limited when all activities relating to the Solar Energy Programme have been completed in accordance with the Project Document.
2. Notwithstanding the completion of the Solar Energy Programme, UNDP shall continue to hold unutilized funds from the Contribution until all commitments and liabilities incurred in implementation of the Solar Energy Programme have been satisfied and Solar Energy Programme activities brought to an orderly conclusion.

3. If the unutilized funds prove insufficient to meet such commitments and liabilities, UNDP shall notify the Bank of Industry Limited and consult with the Bank of Industry Limited on the manner in which such commitments and liabilities may be satisfied.
4. In cases where the Project is completed in accordance with the project document any funds below 5,000 USD (five thousand US Dollars) that remain unexpended after all commitments and liabilities have been satisfied shall be automatically reallocated by UNDP.
5. Any funds above 5,000 USD (five thousand US Dollars) that remain unexpended after all commitments and liabilities have been satisfied shall be reallocated by UNDP after consultation with Bank of Industry Limited.

#### **Article X. Termination of the Agreement**

1. This Agreement may be terminated by UNDP or by the Bank of Industry Limited after consultations between the Bank of Industry Limited, UNDP and the programme country Government, and provided that the funds from the Contribution already received are, together with other funds available to the Solar Energy Programme, sufficient to meet all commitments and liabilities incurred in the implementation of the Solar Energy Programme. This Agreement shall cease to be in force 30 (thirty) days after either of the Parties have given notice in writing to the other Party of its decision to terminate this Agreement.
2. Notwithstanding termination of all or part of this Agreement, UNDP shall continue to hold unutilized funds until all commitments and liabilities incurred in the implementation of all or the part of the Solar Energy Programme have been satisfied and Solar Energy Programme activities brought to an orderly conclusion.
3. In cases where this agreement is terminated before Project completion any funds below 5,000 USD (five thousand US Dollars) that remain unexpended after all commitments and liabilities have been satisfied shall be automatically reallocated by UNDP.
4. Any funds above 5,000 USD (five thousand US Dollars) that remain unexpended after all commitments and liabilities have been satisfied shall be reallocated by UNDP after consultation with the Bank of Industry Limited .

#### **Article XI: Notice**

Any notice or correspondence between UNDP and the Bank of Industry Limited will be addressed as follows:

(a) To the Bank of Industry Limited: The Managing Director/ CEO Bank of Industry Limited

Address: BOI/UNDP Solar Energy Programme.  
23, Marina Lagos  
Nigeria

(b) Upon receipt of funds, UNDP shall send an electronic receipt to the Bank of Industry Limited email address provided below as confirmation that the remitted funds have been received by UNDP

Bank of Industry Limited email address: [wolagunju@boi.ng](mailto:wolagunju@boi.ng)

Attention: Waheed Olagunju

(c) To UNDP: Pa Lamin-Beyai  
UNDP Country Director

Address: Nations Development Programme  
Anambra House,  
Plot 19 TY Danjuma,  
Asokoro, Abuja FCT, Nigeria

#### **Article XII. Amendment of the Agreement**

This Agreement may be amended through an exchange of letters between the Bank of Industry Limited and UNDP. The letters exchanged to this effect shall become an integral part of this Agreement.

#### **Article XIII. Settlement of Disputes**

1. The parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to 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 UNCITRAL Conciliation Rules then obtaining, or according to such procedure as may be agreed between the parties.

2. 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.

**Article XIV- Privileges and Immunities**

Nothing in this agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including UNDP.

**Article XV. Entry Into Force**

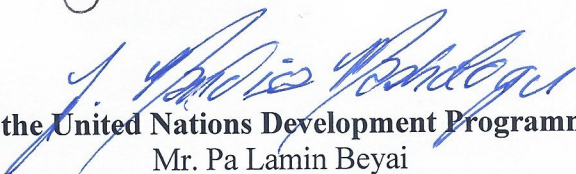
This Agreement shall enter into force upon the signature of this Agreement by the parties hereto, on the date of the last signature.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement in the English language in two copies.

**THE COMMON SEAL** of the within named  
**BANK OF INDUSTRY LIMITED** was hereunto affixed.

  
\_\_\_\_\_  
**DIRECTOR**

  
\_\_\_\_\_  
**SECRETARY**

  
**For the United Nations Development Programme:**  
Mr. Pa Lamin Beyai  
UNDP Country Director.,  
Date