**INSTRUCTIONS FOR THE USE OF THE NON-REIMBURSABLE LOAN AGREEMENT**

**FOR PRIVATE SECTOR DONORS**

This instruction page is for the Business Unit’s guidance and should be deleted before the Non-Reimbursable Loan Agreement (NRLA) is sent to the private sector partner donor for review and signature.

**How to use this Template**

1. This template is for the loan of specialist personnel by a private-sector-partner donor to UNDP to provide services at no cost to UNDP (the “template”).
2. This template is to be used only where the donor is a commercial private sector entity as defined in the [Private Sector Non-Reimbursable Loan Policy](https://popp.undp.org/document/private-sector-non-reimbursable-loan-policy).
3. Where the donor is a Civil Society Organization (CSO), the NRLA template for NGO/CSO must be used. Similarly, where the donor is a government, the NRLA template for government donors must be used. Government consists of national governments, regional governments, local governments, aid agencies, state-owned entities, and public universities.
4. All questions about this template should be addressed to the Bureau for Management Services, Office of Human Resources (BMS/OHR).
5. When developing an NRLA with a private-sector-partner donor from this template, (an “Agreement”), review this template and complete all the blank spaces in the Agreement with correct information.
6. An Agreement can only be concluded for, and by, a UNDP Central or Regional Bureau for the benefit of Business Units throughout UNDP.
7. With respect to Article 1.2, please note that the Assignment may not exceed two years in total

duration.

1. Before signing the Agreement, all requirements of the Private-Sector Partner-Donor policy must be

fulfilled. Among other things, a Private-Sector Partner Donor shall be subject to the due diligence verification requirements set forth in the policies and procedures of UNDP.

1. When using this template, do not introduce any changes or additions without prior clearance by the Bureau for Management Services, Office of Legal Services (BMS/OLS).
2. Where an Agreement is not signed electronically, ensure that a minimum of two (2) originals are signed. After signature, UNDP should keep and store one original and provide the private-sector-partner donor with the other original.

Non-Reimbursable Loan Agreement

**Between**

**The [Insert name of PRIVATE-SECTOR-PARTNER DONOR]**

**and**

**The United Nations Development Programme**

# For the provision of A [Insert nature of services] SPECIALIst To the [Insert name of Office receiving the Specialist]

**Whereas:**

(A) The United Nations Development Programme (hereinafter “UNDP”) may accept the loan of gratis personnel to assist in the execution of activities of a technical nature and/or knowledge sharing activities;

(B) The [insert name of Office]of UNDP requires assistance in the area(s) of [insert nature of assistance];

(C) The [insert name of Private-Sector-Partner Donor] (hereinafter the “Donor”), a commercial entity organized under the laws of [insert name of the country/jurisdiction] having its principal office at [insert address of the Private-Sector-Partner Donor] has offered to make available to UNDP the services of [insert name of Specialist] (the “Specialist”). UNDP accepts those services in accordance with the terms of this Agreement;

(D) UNDP and the Donor (hereinafter collectively referred to as the “Parties” and each as a “Party”) enter into this Agreement in a spirit of friendly cooperation and on the basis of mutual understanding;

Now therefore, the Partiesagree as follows:

1. **THE ASSIGNMENT**

1.1 The Donor has agreed to provide to UNDP a specialist in the area of [insert area] ­­­­­­­­­on non-reimbursable loan to undertake the tasks and services described in Annex I hereto (the “Assignment”).

1.2 The duration of the Assignment shall be from [insert starting date] to [insert ending date,] (the “Term”).

1.3 The Specialist shall undertake the Assignment [at UNDP’s office in insert name of the relevant country] [on a home-based basis].

1. **OBLIGATIONS OF THE DONOR**

2.1 The Donor undertakes to pay all costs and expenses in connection with the Specialist with respect to the Assignment for the duration of the Term, including salary or remuneration, allowances, medical, dental and life insurance, and any other benefits to which the Specialist is entitled as an employee of the Donor, as well as all taxes and overhead administrative charges relating to the foregoing and this Agreement or the Assignment, travel costs to and from [insert location] at the beginning and end of the Assignment and any allowances or other benefits to which the Specialist is entitled from the Donor, except as otherwise provided in Article 3.2 (*Obligations of UNDP*) of this Agreement.

2.2 The Donor shall act at all times so as to protect, and not be in conflict with, the interests of UNDP. The Donor shall respect the impartiality and independence of UNDP and the United Nations.

2.3 During the term of the Assignment, the Donor shall relieve the Specialist from all responsibilities and duties in relation to the work at and of the Donor. The Donor shall also ensure that the Specialist shall be dedicated and report exclusively to UNDP to undertake the Assignment under the terms of this Agreement, including the Terms of Reference (ToRs) and the Undertaking, while being on full pay and benefits from the Donor.

2.4 The Donor shall be responsible for the Assignment performed by the Specialist. To this end, the Donor shall ensure the Specialist respects the local customs and conforms to a high standard of moral and ethical conduct.

2.5 The Donor shall ensure that the Specialist submits prior to and as a condition of the Specialist’s deployment, a Statement of the Specialist’s good health and confirmation of immunizations issued by a duly certified physician.

2.6 The Donor shall ensure that, for the duration of the Term, the Specialist is covered by adequate medical and life insurance, as well as adequate insurance for service-incurred illness, disability or death.

2.7 In accordance with UNDP’s obligation to ensure full cost recovery on all in-kind contributions, promptly following execution of this Agreement the Donor shall pay [insert amount], which the Parties agree represents eight per cent (8 %) of the value of the Assignment to the following UNDP bank account:

Bank Name:

Bank Address:

Account Holder’s Name:

Account Number:

Bank ID/ABA Routing/SWIFT Code:

International Banking Account Number (IBAN):

1. **OBLIGATIONS OF UNDP**

3.1 If the Specialist undertakes the Assignment at UNDP’s office in [insert name of the relevant country], as indicated in Article 1.3 (*The Assignment*), UNDP will:

(a) facilitate the process of obtaining entry visas for the Specialist as required;

(b) include the Specialist in security arrangements in [insert name of the relevant country] as provided under the UN Security Management System; and

(c) provide the Specialist with adequate office space, support services, equipment and other resources necessary, at UNDP’s discretion, to carry out the Assignment.

3.2 UNDP may determine that the Specialist will have limited access to UNDP premises and/or systems. In such cases the Director (as defined in Article 4.1.5 below) will inform the Specialist [and the Donor] accordingly.

3.3 If official travel is required by UNDP in the discharge of the Assignment, the Specialist may receive a United Nations travel certificate at UNDP’s discretion. UNDP shall pay the cost of such travel on the same basis as it pays travel costs incurred by staff members, including payment of a daily or mission subsistence allowance, as applicable.

3.4 UNDP will provide performance reports to the Donor when requested. Notwithstanding the foregoing, the Donor may not request nor may the performance report disclose information that has not been made public, directly or indirectly known by or made known to, or incidentally acquired by, the Specialist by virtue of their Assignment with UNDP.

1. **OBLIGATIONS OF THE SPECIALIST**

4.1 The Donor agrees to the terms and obligations specified below and in the Undertaking (as defined in Article 4.3), and shall ensure that the Specialist:

4.1.1 Shall not commit, financially or otherwise, UNDP, nor shall the Specialist exercise supervisory functions;

4.1.2 Shall not be engaged in any project or activity for or on behalf of UNDP that involves or may involve directly or indirectly UNDP engaging with the Donor;

4.1.3 Shall promptly disclose to UNDP any situation that may constitute, or appear to constitute, a conflict of interest and shall recuse itself from any related decision-making unless otherwise authorized in writing by UNDP;

4.1.4 Shall not provide financial benefit to the Donor in relation to the activities conducted under the Assignment;

4.1.5 Performs their functions under the authority, and in full compliance with the instructions, of the Director of [insert name of Office] (the “Director”) and any person acting on the Director’s behalf;

4.1.6 Complies with the Standards of Conduct set forth in the Secretary General’s Bulletin ST/SGB/2002/9 of 18 June 2002, entitled “Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission”;

4.1.7 Respects the impartiality and independence of the United Nations and shall neither seek nor accept instructions regarding the Assignment from any government or from any public or private entity external to UNDP, including the Donor;

4.1.8 Refrains from any action or conduct that may adversely reflect on the United Nations and/or UNDP and shall not engage in any activity that is incompatible with the aims and objectives of the United Nations and UNDP or of the Assignment;

4.1.9 Complies with the standards of conduct set forth in the Secretary General’s bulletin ST/SGB/2003/13 of 9 October 2003, concerning “Special measures for protection from sexual exploitation and sexual abuse”. In particular, the Specialist shall not engage in any conduct that would constitute sexual exploitation or sexual abuse (“SEA”) as defined in that bulletin. Without limitation to the application of other regulations, rules, policies and procedures bearing upon the Assignment, the Specialist shall comply with the standards of conduct stated in UNDP’s policy on “Harassment, Sexual Harassment, Discrimination, and Abuse of Authority” set forth in the Programme and Operations Policies and Procedures. Further, the Donor shall ensure that (i) the Specialist has not engaged in any conduct that may constitute SEA or sexual harassment (“SH”) prior to the date of this Agreement, (ii) an allegation of SH or SEA has never been established against the Specialist, and (iii) the Specialist has not been advised that they may be placed, nor have they actually been placed, on an internal United Nations’ database which may affect the Specialist’s ability to work with or for the United Nations System. Without limitation to any other provisions of this Agreement, any breach of, or failure to disclose information relevant to any of these provisions shall give rise to grounds for immediate termination of this Agreement and the Assignment in accordance with Article 9.4.a (*Effectiveness, Duration and Termination*);

4.1.10 Understands that should sufficient information of prohibited conduct, including but not limited to SH and/or SEA, by the Specialist be brought to UNDP’s attention, UNDP may investigate the Specialist’s conduct in accordance with UNDP’s regulations, rules, policies and procedures. Should the allegations of SH and/or SEA be substantiated, UNDP may place the Specialist’s name on an internal United Nations’ database. This may affect the Specialist’s ability to work with and for the United Nations System in any capacity in the future. The provisions of this paragraph shall survive the expiration or any earlier termination of this Agreement;

4.1.11 Provides full and timely cooperation with any investigation carried out by UNDP;

4.1.12 Exercises the utmost discretion in all matters relating to the Assignment and in connection with their loan to UNDP. The Specialist shall not communicate, at any time, without the authorization of the Director to the media or to any institution, person, government or other authority external to UNDP, any information that has not been made public, and which has become known to the Specialist by reason of their association with UNDP. The Specialist shall not use any such information without the written authorization of the Director, and in any event, shall not use such information for personal gain. These obligations do not lapse upon expiration or any earlier termination of this Agreement;

4.1.13 Completes any training courses required by UNDP;

4.1.14 Complies with all regulations, rules, policies, procedures or directives issued by UNDP, which include all security requirements and instructions provided to the Specialist;

4.1.15 Cooperates with UNDP after the conclusion of the Assignment to the extent necessary to clarify or explain any report or recommendations made by the Specialist during the course of the Assignment.

4.2 The Donor shall further ensure that:

4.2.1 the Specialist’s name is not included on the United Nations Security Council Consolidated List and that they are not otherwise suspended, debarred, sanctioned or otherwise identified as ineligible by any UN entity, any member of the World Bank Group, or any other international organization; and that

4.2.2 at the time of signing the Undertaking, the Specialist will be and will remain in full compliance with all laws and regulations designed to fight money laundering and terrorism financing applicable to them.

4.3 Following signature of this Agreement but before the commencement of the Assignment, the Specialist shall sign and the Donor shall provide to UNDP an undertaking in the form attached to this Agreement in Annex II (the “Undertaking”).

1. **LEGAL STATUS OF THE SPECIALIST**

5.1 The Specialist shall not be considered in any respect as being an official, staff member or employee of UNDP.

5.2 While performing the Assignment, the Specialist may be considered as an “expert on mission” within the meaning of article VI, sections 22 and 23, of the Convention on the Privileges and Immunities of the United Nations, 1 U.N.T.S. 15 (1946) (the “General Convention”) in UNDP’s sole discretion.

5.3 The Specialist may be issued, at UNDP’s discretion, a United Nations identity card for the duration of the Assignment.

1. **LIABILITY**

The Donor shall be responsible for any liability associated with or arising from the performance of the Assignment and other activities of the Specialist while on assignment to UNDP.

6.1 **Third Party Claims**. UNDP shall be responsible for dealing with claims by third parties where the loss or damage was caused by the acts or omissions of the Specialist in the performance of the Assignment. However, the Donor shall reimburse to UNDP all amounts paid by UNDP to any third-party claimant/s and all costs incurred by UNDP in dealing with, settling or resolving such claims.

6.2 **Damage to or Loss of UNDP Equipment or Property.** The Donor shall reimburse UNDP for any financial loss to UNDP, or for damage to UNDP-owned equipment or property, which is caused by the Specialist.

6.3 **Illness, injury or death**. UNDP shall not be liable to compensate the Donor or the Specialist in respect of illness, injury or death of the Specialist arising out of or related to the Assignment.

**7**. **CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION**

7.1 Information and data, excluding UNDP Personal Data (as defined in Article 8 (*Personal Data*) below), that is delivered or disclosed by one Party (“Discloser”) to the other Party (“Recipient”) pursuant to this Agreement and that has been designated as confidential at the time of exchange or promptly identified as confidential in writing when furnished in intangible form or disclosed orally, as well as information that the Recipient knows or should have reasonably known from its inherent nature, quality or characteristics that is proprietary or confidential (“Information”), shall be held in confidence by the Recipient and shall be handled in accordance with this Article 7.

7.2 The Recipient shall:

7.2.1 use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser’s Information as it uses with its own similar Information that it does not wish to disclose, publish or disseminate; and

7.2.2 use the Discloser’s Information solely for the purpose for which it was disclosed.

7.3 Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information as confidential in accordance with this Agreement and this Article 7, the Recipient may disclose Information to:

7.3.1. any other party with the Discloser’s prior written consent;

7.3.2 the Recipient’s employees, officials, representatives and agents who have a need to know such Information for purposes of performing obligations under this Agreement; and

7.3.3 for UNDP, a principal or subsidiary organ of the United Nations established in accordance with the Charter of the United Nations.

7.4 UNDP may determine that any Information provided by UNDP to the Donor forms part of the property and archives of UNDP within the meaning of the General Convention, and Article II of the General Convention is applicable to all such Information.

7.5 The Donor may disclose Information to the extent required by law, provided that, subject to and without any waiver of the privileges and immunities of the United Nations, the Donor will give UNDP sufficient prior notice of a request for the disclosure of Information in order to allow UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

7.6 UNDP may disclose Information to the extent required pursuant to the Charter of the United Nations, or pursuant to resolutions or regulations of the General Assembly or rules promulgated thereunder, or pursuant to UNDP’s regulations, rules, policies and procedures.

7.7 The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder.

7.8 These obligations and restrictions of confidentiality shall be effective during the Term, including any extension thereof, and shall remain effective following termination or expiration of this Agreement.

7.9 For the avoidance of doubt, the Donor understands and agrees that any Information disclosed by UNDP to the Specialist or by the Specialist to UNDP during or in relation to the Assignment shall be considered UNDP property and archives and handled in accordance with Article 4 (*Obligations of the Specialist*).

**8. PERSONAL DATA**

* 1. For purposes of this Agreement:

8.1.1 “Personal Data” shall mean any information relating to an identified or identifiable individual.

8.2.2 “UNDP Personal Data” shall mean Personal Data that is obtained by the Donor from UNDP or generated by the Donor for UNDP in connection with, or related to, the performance of this Agreement.

8.2 With respect to Personal Data that it obtains from the Donor in connection with this Agreement, UNDP shall:

8.2.1 apply its own legal framework including the [UNDP Personal Data Protection and Privacy Policy](https://popp.undp.org/SitePages/POPPSubject.aspx?SBJID=520&Menu=BusinessUnit&Beta=0) and the UN Personal Data Protection Principles;

8.2.2 use the same care and discretion to avoid disclosure, publication or dissemination of the Personal Data as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and

8.2.3 use the Personal Data solely for the purpose for which it was disclosed.

8.3 Unless otherwise provided for in this Agreement, with respect to UNDP Personal Data, the Donor shall at a minimum:

8.3.1 comply with all laws applicable to the Donor;

8.3.2 apply the UNDP Personal Data Protection and Privacy Policy and the UN Personal Data Protection Principles;

8.3.3 use the same care and discretion to avoid disclosure, publication or dissemination of the UNDP Personal Data as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and

8.3.4 use the UNDP Personal Data solely for the purpose for which it was disclosed.

8.4 Without prejudice to the generality of Article 8.3, and unless otherwise more specifically provided in this Agreement, the Donor shall at a minimum:

8.4.1 process UNDP Personal Data solely and exclusively in accordance with the requirements of this Agreement, and shall not use UNDP Personal Data for the Donor’s research, marketing, sales, promotional, or any other purposes;

8.4.2 implement appropriate technical and organizational measures, including appropriate access-control measures, with respect to UNDP Personal Data;

8.4.3 implement appropriate data security measures to preserve the integrity of UNDP Personal Data and prevent any corruption, tampering, loss, damage, unauthorized access and improper disclosure of UNDP Personal Data;

8.4.4 may disclose UNDP Personal Data only to those of its officials and employees who have a need to know such UNDP Personal Data for purposes of performing obligations under this Agreement;

8.4.5 process UNDP Personal Data in a manner that is legitimate, transparent, adequate, accurate, relevant and limited to what is necessary for the performance of this Agreement, and ensure that UNDP Personal Data is kept for no longer than is necessary to perform services under this Agreement;

8.4.6 as and when requested by UNDP, provide access to, correct, delete, refrain from, or restrict processing of UNDP Personal Data;

8.4.7 upon becoming aware of any data or security breach (including any accidental or unauthorized destruction, loss, alteration, disclosure, access, or unplanned loss of availability) that affects, or may affect, UNDP Personal Data:

(a) immediately notify UNDP in writing;

(b) take immediate mitigating and/or remedial action, including mitigating and/or remedial action as directed by UNDP; and

(c) inform and update on a regular basis UNDP of any measures taken by it to address such data or security breach;

8.4.8 promptly notify UNDP if it believes performance of the obligations under this Agreement or compliance with any UNDP instruction breaches, or might reasonably be considered to breach, any applicable data protection laws or the UNDP Personal Data Protection and Privacy Policy;

8.4.9 if it receives any complaint, request (including a data subject access request), notice, or communication which relates directly or indirectly to UNDP Personal Data:

(a) immediately notify UNDP;

(b) consult with, and follow the instructions of, UNDP with respect to handling any such complaint, request, notice or communication; and

(c) provide full co-operation and assistance to UNDP if UNDP elects to respond to such complaint, request, notice, or communication;

8.4.10 return, delete or destroy UNDP Personal Data if so instructed by UNDP in writing, and provide evidence of such action to UNDP upon written request;

8.4.11 destroy any and all UNDP Personal Data 10 years after the date on which this Agreement expires or terminates, unless otherwise instructed by UNDP in writing.

8.5 Except as provided for in Article 8.4 above, the Donor shall not otherwise transfer, disclose, publish or disseminate UNDP Personal Data without UNDP’s prior written consent.

8.6 The provisions of this Article 8 shall survive any termination or expiration of this Agreement.

1. **EFFECTIVENESS, DURATION AND TERMINATION**

9.1 This Agreement shall enter into effect on the date of its signature by both Parties.

9.2 Unless otherwise provided for in this Agreement, this Agreement shall remain in effect for the duration of the Assignment, unless terminated earlier in accordance with this Article 9. Termination of this Agreement shall result in contemporaneous termination of the Assignment.

9.3 UNDP may terminate the Assignment and this Agreement at any time upon 30 day’s advance written notice to the Donor.

9.4 Notwithstanding Article 9.3, UNDP may terminate the Assignment and this Agreement with immediate effect if:

9.4.1 in the opinion of UNDP, the Specialist’s performance of the Assignment is unsatisfactory, or the Specialist has failed to comply with the obligations set forth in Article 4 (*Obligations of the Specialist*) or in the Undertaking; or

9.4.2 UNDP learns of facts or circumstances which are relevant to the eligibility or suitability of the Specialist to perform the Assignment, including those set forth in Article 4 (Obligations of the Specialist), after the date of this Agreement.

**10. CONSULTATION**

UNDP and the Donor shall consult with each other in respect of any matter that may arise in connection with this Agreement.

 **11. SETTLEMENT OF DISPUTES**

11.1 This Agreement shall be governed by the terms provided herein, to the exclusion of application of any national and/or subnational law.

11.1.1 Any dispute, controversy, or claim between the Parties arising out of this Agreement, or out of the breach, termination or invalidity thereof (“Dispute”) shall be finally settled in the manner set out in this Article 11, which shall be binding on the Parties and shall be the exclusive mode of settlement of the Dispute in accordance with Article VIII, Section 29, of the General Convention.

**11.2 Amicable Settlement:**

11.2.1 The Parties shall use their best efforts to amicably settle any Dispute. For that purpose, the Party asserting a claim shall provide the other Party with a detailed description of the Dispute, specifying the relief or remedy sought, and a copy of this Agreement and all relevant supporting documentation (“Notice of Dispute”).

11.2.2 Neither Party may refer the Dispute to arbitration, pursuant to Article 11.3 below, prior to pursuing amicable settlement efforts and prior to the expiry of 60 days from the date of the Notice of Dispute. However, the foregoing shall not preclude a Party to this Agreement from referring a Dispute to arbitration if such Party seeks interim measures of protection under the Arbitration Rules of the United Nations Commission on International Trade Law (“UNCITRAL Arbitration Rules”).

**11.3 Arbitration:**

11.3.1 Either Party may refer a Dispute that has not been resolved amicably, pursuant to Article 11.2 above, to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining, subject to the provisions of this Article 11.3.

11.3.2 The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration. The Parties agree that the periods for the intervention of the appointing authority stipulated in Article 8, paragraph 1, and Article 9, paragraphs 2 and 3 of the UNCITRAL Arbitration Rules shall be 60 days.

11.3.3 Any agreement between the Parties or decision by the arbitral tribunal as to the place of arbitration or the venue of the proceedings shall mean only the physical location where the arbitral tribunal shall hold in-person meetings, including for its deliberations or hearings, pursuant to Article 18, paragraph 2, of the UNCITRAL Arbitration Rules. Such agreement or decision as to the place of arbitration shall not amount to the determination of a legal seat, shall not entail any submission to any country’s law and jurisdiction in connection with the arbitral proceedings and any resulting award(s), and shall not be construed as a waiver, express or implied, of the privileges and immunities of the United Nations, including UNDP.

11.3.4 In interpreting the rights and obligations of the Parties under this Agreement, the arbitral tribunal shall first apply the terms of this Agreement and then apply generally recognized principles of international commercial law. Procedural matters shall be governed by the provisions of this Article 11 and the UNCITRAL Arbitration Rules. Where necessary, the Arbitral Tribunal may seek additional guidance from the generally accepted principles of procedure applied by international tribunals.

11.3.5 The arbitral tribunal may exercise the powers envisaged in Article 27, paragraph 3, of the UNCITRAL Arbitration Rules in respect of documents, exhibits or other evidence that (a) the Parties agree are to be produced, or (b) which the arbitral tribunal, in view of the statements of claim and defence and the evidentiary record, considers relevant to the Dispute and material to its outcome. When apportioning costs pursuant to Article 42, paragraph 1, of the UNCITRAL Arbitration Rules, the arbitral tribunal shall take into account the reasonableness of document production requests.

11.3.6 In accordance with the UNCITRAL Arbitration Rules, the arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under this Agreement, order the termination of this Agreement, or order that any other protective measures be taken with respect to the goods, services, or any other property, whether tangible or intangible or of any confidential information provided under this Agreement, as appropriate.

11.3.7 Unless otherwise expressly provided in this Agreement, the arbitral tribunal shall have no authority to award: (1) punitive damages or damages for indirect or consequential losses; (2) interest other than simple interest and only at the Federal Reserve Bank of New York’s Secured Overnight Financing Rate prevailing at the time of the award.

11.3.8 The arbitral tribunal shall have no authority to award any pre-award interest.

**12. TITLE RIGHTS**

UNDP shall be entitled to all intellectual property and other proprietary rights which the Specialist has developed for UNDP during the Assignment or otherwise under this Agreement.

**13. AMENDMENT**

This Agreement may be amended by written agreement of both Parties. Each Party shall give full consideration to any proposal for an amendment made by the other Party.

**14. 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, including UNDP.

**15. PROHIBITION ON FINANCING OF TERRORISM AND MONEY LAUNDERING**

15.1 UNDP is committed to the highest ethical standards and will not tolerate the diversion of the resources entrusted to it through Money Laundering or Terrorist Financing, and will not engage entities that tolerate the diversion of resources for the purposes of Money Laundering or Terrorist Financing.

15.2 The Donor:

15.2.1 Represents and warrants that it has not, and it shall not at any time during the duration of this Agreement, engage in Money Laundering or Terrorist Financing;

15.2.2 undertakes to take all reasonable measures to ensure that none of (i) its Beneficial Owners, officers or employees (together, as used in this clause, referred to as “affiliates”), or (ii) its contractors/suppliers, subcontractors, joint venture/consortium members, or agents (together, as used in this clause, referred to as “subparties”), or (iii) the Specialist, engage in Money Laundering or Terrorist Financing; and

15.2.3 shall ensure that the restrictions contained in this clause are reflected in its agreements with any subparties which are in any way involved in the implementation of any activity under this Agreement including the Specialist.

15.3 The Donor shall immediately notify UNDP if it becomes aware of any actual, apparent, potential or attempted instances of Money Laundering or Terrorist Financing in relation to any of (i) its affiliates, or (ii) subparties which are in any way involved in the implementation of any activity under this Agreement including the Specialist. The Donor shall fully cooperate with any investigation or review by UNDP of Money Laundering or Terrorist Financing activity.

15.4. The Donor acknowledges and agrees that any breach of this Article 15, or any other engagement in Money Laundering or Terrorist Financing by it, or by any of (i) its affiliates, (ii) the subparties, or (iii) the Specialist who are in any way involved in the implementation of any activity under this Agreement, constitutes a material breach of this Agreement, which entitles UNDP to:

15.4.1 Immediately terminate this Agreement without incurring any liability or penalty;

15.4.2 apply and enforce any relevant sanctions in accordance with UNDP’s policies and procedures, including referring the matter to national authorities when appropriate; and

15.4.3 recover all losses, financial or otherwise, suffered by UNDP in connection with such Money Laundering or Terrorist Financing activity.

15.5 For the purpose of this Article 15, the following terms shall have the meaning ascribed to the below:

15.5.1 “Money Laundering” is any intentional act or omission that is designed to, or results in, concealment of the origins of money obtained illegally, typically by passing it through a complex sequence of financial or commercial transactions. Money Laundering usually involves three stages: (i) introducing the proceeds of crime into the financial system (placement); (ii) transactions to convert or transfer the funds to other locations or financial institutions (layering); and (iii) reintroducing the funds into the legitimate economy as "clean" money and investing it in various assets or business ventures (reintegration) appearing to have been legally obtained.

15.5.2“Terrorist Financing” means engaging with, contracting or providing support to individuals or entities that appear on the United Nations Security Council Consolidated Sanctions List, accessible at https://www.un.org/securitycouncil/content/un-sc-consolidated-list.

15.5.3The “Beneficial Owner” means each natural person that exercises ultimate effective control over the Donor. This may include:

1. Natural persons who have, directly or indirectly, controlling ownership of the Donor.
2. To the extent that there is doubt under (i), natural persons who exercise control of the Donor through other means – including through personal connections, family relationships, or contractual associations such as financing of the Donor.
3. Where no natural person is identified under (i) or (ii) above, the natural person who holds the

 position of senior managing official.

In witness whereof, the respective representatives of UNDP and the Donor have signed this Agreement on the date indicated below:

|  |  |
| --- | --- |
| For the **United Nations Development Programme**Signature: ……………………..Name: …………………………Title: …………………………. Date: ………………………….  | For **[Insert name of PRIVATE-SECTOR PARTNER Donor]**Signature: ……………………..Name: …………………………Title: …………………………. Date: ………………………….  |

**United Nations Development Programme**

# Annex I

**Terms of Reference for the assignment**

**Annex II**

**Undertaking**

[insert UNDP Office]

[insert UNDP Address]

Subject: **NRLA between UNDP and [*insert name of Private-Sector-Partner Donor*] - Undertaking**

1. I am [insert name of Specialist], the Specialist made available by [insert name of Private Sector Partner] (the “Donor”) to the United Nations Development Programme (“UNDP”) pursuant to the Non-Reimbursable Loan Agreement between the Donor and UNDP dated [insert date of NRLA] (the “NRLA” or “Agreement”).

2. I understand I will not be regarded, for any purpose, as being either a “staff member” of the UNDP, under the UN Staff Regulations and Rules, or an “official” of UNDP, for purposes of the Convention on the Privileges and Immunities of the United Nations.

3. I further understand that, while undertaking the tasks and services as set forth in Annex I hereto (the “Assignment”)for UNDP, I may be considered as an “expert on mission” within the meaning of article VI, sections 22 and 23, of the Convention on the Privileges and Immunities of the United Nations.

4. I further understand that, under no circumstances, may I:

(a) make commitments, financial or otherwise, for UNDP;

(b) exercise supervisory functions;

(c) engage in any project, activity, negotiation or decision-making process for or on behalf of UNDP that (i) involves or could reasonably be perceived to involve, direct or indirect engagement between UNDP and the Donor, or (ii) creates or could reasonably be perceived to create, a financial or other material benefit for the Donor in connection with the activities conducted under the Assignment.

5. I shall promptly disclose to UNDP any situation that may constitute, or appear to constitute, a conflict of interest and shall recuse myself from any related decision-making unless otherwise authorized in writing by UNDP.

6. I shall perform my Assignment under the authority of, and in full compliance with the instructions of, the Director of [insert name of Office] (the “Director”) or any person acting on the Director’s behalf.

7. I will comply with the Standards of Conduct set forth in the Secretary General’s Bulletin ST/SGB/2002/9 of 18 June 2002, entitled “Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission”.

8. I shall respect the impartiality and independence of the United Nations and shall not seek nor accept instructions regarding the Assignment from any government or from any public or private entity external to UNDP, including the Donor. Should any authority external to UNDP seek to impose any instructions concerning or restrictions on my performance under the Assignment, I will promptly notify UNDP.

9. I shall refrain from any conduct that would adversely reflect on the United Nations and/or UNDP and shall not engage in any activity that is incompatible with the aims and objectives of the United Nations and UNDP or of the Assignment.

10. I shall comply with the standards of conduct set forth in the Secretary General’s bulletin ST/SGB/2003/13 of 9 October 2003, concerning ‘Special measures for protection from sexual exploitation and sexual abuse”. In particular, I shall not engage in any conduct that would constitute sexual exploitation or sexual abuse (“SEA”), as defined in that bulletin. Moreover, and without limitation to the application of other regulations, rules, policies and procedures, bearing upon the Assignment, I shall comply with the standards of conduct stated in UNDP’s policy on “Harassment, Sexual Harassment, Discrimination, and Abuse of Authority” set forth in the Programme and Operations Policies and Procedures. Further, I represent and warrant that (i) I have not engaged in any conduct that may constitute SEA or sexual harassment (“SH”) prior to signing this Undertaking, (ii) an allegation of SH or SEA has never been established against me, and (iii) I have not been advised that my name has been placed, or may be placed, on an internal United Nations’ database as a result of an allegation of SH or SEA. I further acknowledge and agree that any breach of, or failure to disclose information relevant to, any of these provisions shall give rise to grounds for immediate termination of this Agreement and the Assignment.

11. I understand that, should sufficient information of prohibited conduct, including but not limited to SH and/or SEA, on my part be brought to UNDP’s attention, UNDP may investigate my conduct in this regard in accordance with UNDP’s regulations, rules, policies and procedures. Should allegations of SH or SEA be substantiated, I acknowledge that UNDP may place my name into an internal United Nations’ database which may affect my ability to work with/for the United Nations System in any capacity in the future. I further understand that this undertaking with respect to my conduct will survive the expiration or any earlier termination of this Agreement and the Assignment.

12. I shall provide full and timely cooperation with any investigation carried out by UNDP.

13. I shall exercise the utmost discretion in all matters relating to the Assignment and shall not communicate, at any time, without the authorization of the Director to the media or to any other institution, person, government or other party external to UNDP, including the Donor, any information that has not been made public, and which has become known to me by reason of my functions. I shall not use any such information without the authorization of the Director and, in any event, such information shall not be used for personal gain. I further undertake and understand that these obligations do not lapse upon termination of the Assignment.

14. I shall complete any training courses deemed mandatory by UNDP.

15. I shall comply with all regulations, rules, policies, procedures or instructions issued by UNDP and the Director, which includes all security requirements and instructions provided.

16. My name is not included on the United Nations Security Council Consolidated List[[1]](#footnote-2) and I am not otherwise suspended, debarred, sanctioned or otherwise identified as ineligible by any UN entity, any member of the World Bank Group, or any other international organization.

17. I am and will remain in full compliance with all laws and regulations designed to fight money laundering and terrorism financing applicable to me.

18. I understand that my failure to comply with any of the foregoing may result in immediate termination of the Agreement and my Assignment with UNDP.

19. I further agree to cooperate with UNDP after the conclusion of the Assignment to the extent necessary to clarify or explain any report or recommendations made by me during the course of the Assignment.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name (printed in block letters)

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

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

1. <https://www.un.org/securitycouncil/content/un-sc-consolidated-list> [↑](#footnote-ref-2)