



ADAPTATION FUND

AFB/B.34-35/10
20 February 2020

Adaptation Fund Board

**LEGAL AGREEMENT TEMPLATE
FOR MIE AGGREGATOR PROGRAMME**

Background

1. At its thirtieth meeting the Adaptation Fund Board (the Board) adopted the medium-term strategy of the Adaptation Fund (the Fund) as contained in the Annex 1 of the document AFB/B.30/5/Rev.1 (Decision B.30/42). At its thirty-first meeting the Board approved the implementation plan for the medium-term strategy for the Fund for 2018-2020 as contained in the Annex of the document AFB/B.31/5/Rev.1 (Decision B.31/32).

2. At the thirty-second meeting, having considered document AFB/PPRC.23/5/Rev.1, *Programme on Innovation: Selection of the Multilateral Implementing Entity to administer small grants projects*, the Board decided to select and invite both the United Nations Development Programme (UNDP) and United Nations Environment Programme (UN Environment) to serve as the multilateral implementing entity (MIE) aggregator(s) for small grants for innovation and invited the two MIE aggregators to prepare respective proposals for the consideration of the Board (Decision B.32/5). The programmes and the details of the proposals submitted by the UNDP and UN Environment were contained in document AFB/PPRC.25/35 and document AFB/PPRC.25/36, respectively.

3. At the thirty-fourth meeting having considered the recommendation of the Project and Programme Review Committee (PPRC), the Adaptation Fund Board decided to:

- (a) *Approve the fully-developed programme proposal, as supplemented by the clarification responses provided by the United Nations Environment Programme (UN Environment) to the request made by the technical review;*
- (b) *Approve the funding of US\$ 5,000,000 for the implementation of the programme, as requested by UN Environment; and*
- (c) *Request the secretariat to draft an agreement with UN Environment as the multilateral implementing entity for the programme.*

(Decision B.34/33)

4. At the thirty-fourth meeting having considered the recommendation of the Project and Programme Review Committee (PPRC), the Adaptation Fund Board decided to:

- (a) *Approve the fully-developed programme proposal, as supplemented by the clarification responses provided by the United Nations Development Programme (UNDP) to the request made by the technical review;*
- (b) *Approve the funding of US\$ 5,000,000 for the implementation of the programme, as requested by UNDP; and*

(c) *Request the secretariat to draft an agreement with UNDP as the multilateral implementing entity for the programme. Prior to the signature of the agreement, UNDP should submit to the Board a revised programme proposal, including the following:*

- (i) *A section on the visibility of the Fund; and*
- (ii) *A note on UNDP's proactive role on identifying small innovation projects for consideration under the Adaptation Fund-UNDP Innovation Small Grant Aggregator Platform (ISGAP), using its existing networks and initiative, with the participation of the beneficiaries' countries.*

(Decision B.34/34)

5. In accordance with Decision B.34/33 (c) and Decision B.34/34 (c), a legal agreement template for MIE aggregator programme, as contained in Annex to this document is prepared and submitted by the secretariat to the Board for its intersessional consideration and approval. The legal agreement template for MIE aggregator programme is developed based on the existing Standard Legal Agreement,¹ and therefore, all the responsibilities and obligations of the implementing entity under the Standard Legal Agreement are retained in the legal agreement template for MIE aggregator programme.

Recommendation

6. Having considered document AFB/B.34-35/10 and its Annex, the Adaptation Fund Board decides to approve the Legal Agreement for MIE aggregator programme as contained in Annex to document AFB/B.34-35/10.

¹ Available at <https://www.adaptation-fund.org/generic/legal-agreement-between-af-board-and-implementing-entity-amended-in-october-2014/>.

ANNEX



ADAPTATION FUND

AGREEMENT

(The Programme _____[Programme title])

between

THE ADAPTATION FUND BOARD

and

[IMPLEMENTING ENTITY]

AGREEMENT**[The Programme _____ [Programme title]]****between****THE ADAPTATION FUND BOARD****and****[IMPLEMENTING ENTITY]**

Whereas, the Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC) in its Decision 10/CP.7 decided that an Adaptation Fund (AF) shall be established to finance concrete adaptation projects and programmes in developing countries that are parties to the Kyoto Protocol to the UNFCCC (Kyoto Protocol);

Whereas, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) in its Decision 1/CMP.3 decided that the operating entity of the AF shall be the Adaptation Fund Board (Board), with the mandate to supervise and manage the AF under the authority and guidance of the CMP;

Whereas, in its Decisions 5/CMP.2 and 1/CMP.3, paragraph 5 (b), the Board adopted the AF Operational Policies and Guidelines for Parties to Access Resources from the Adaptation Fund, including the Fiduciary Risk Management Standards to be met by Implementing Entities (AF Operational Policies and Guidelines²);

Whereas, in its Decision B.30/42, the Board adopted the AF Medium-Term Strategy for 2018-2022³ which established a financing window through dedicated Innovation Facility in support of the AF Programme on Innovation;

Whereas, in its Decision B.32/5, the Board selected and invited the [Implementing Entity] to serve as the multilateral implementing entity (MIE) aggregator, a vehicle through which

² <https://www.adaptation-fund.org/document/operational-policies-guidelines-parties-access-resources-adaptation-fund/>.

³ <https://www.adaptation-fund.org/wp-content/uploads/2018/03/Medium-Term-Strategy-2018-2022-final-03.01-1.pdf>.

innovation grants will be awarded to entities which are not accredited with AF, in support of the AF Programme on Innovation;

Whereas, the proposal submitted by the [Implementing Entity] to the Board seeking access to the resources of the AF in support of [Programme title] (the Programme), as set out in Schedule 1 to this Agreement, has been approved by the Board, and the Board has agreed to make transfers of the Grant to the [Implementing Entity] for the Programme under the terms of this Agreement; and

Whereas, the International Bank for Reconstruction and Development (IBRD) has agreed to serve as the Trustee of the AF Trust Fund (Trustee) and, in that capacity, to make transfers of the Grant to the [Implementing Entity] on the written instructions of the Board;

The Board and the [Implementing Entity] have agreed as follows:

1. DEFINITIONS

Unless the context otherwise requires, the several terms defined in the Preamble to this Agreement (Agreement) shall have the respective meanings set forth therein and the following additional terms shall have the following meanings:

1.01. "Grant" means the AF resources approved by the Board for the Programme [Programme title] under this Agreement and to be transferred by the Trustee to the Implementing Entity on the written instructions of the Board;

1.02. "Innovation Grant" means the AF Grant funds awarded through the [Implementing Entity] to the entities which are not accredited with AF for the purpose of the Programme;

1.03. "Designated Authority" means the individual or the authority that represents the government of the country in which the projects or activities financed by the Grant under the Programme [Programme title] are to be, are being, or have been, implemented pursuant to this Agreement;

1.04. "Executing Entity" means the [Executing Entity] that will execute the Programme under the overall management of the Implementing Entity;

1.05. "Implementing Entity" means the [Implementing Entity] that is the party to this Agreement and the recipient of the Grant;

1.06. "Implementing Entity Grant Account" means the account to be established by the Implementing Entity to receive, hold and administer the Grant;

1.07. "Secretariat" is the body appointed by the CMP to provide secretariat services to the Board, consistent with decision 1/CMP.3, paragraphs 3, 18, 19 and 31, which body is currently the Global Environment Facility (GEF); and

1.08. "AF Trust Fund" means the trust fund for the AF administered by the Trustee in accordance with the *Terms and Conditions of Services to be Provided by the International Bank for Reconstruction and Development as Trustee for the Adaptation Fund*.

2. THE PROGRAMME AND THE GRANT

2.01. The Board agrees to provide to the [Implementing Entity] the Grant in a maximum amount equivalent to _____ United States Dollars (US \$ _____) for the purposes of the Programme [Programme title]. The Programme document, which details the purposes for which the Grant is made, is set out in Schedule 1 to this Agreement. The disbursement schedule and special conditions that apply to the implementation of the Grant are set out in Schedule 2 to this Agreement.

2.02. The Trustee shall transfer the Grant funds to the [Implementing Entity] on the written instructions of the Board. Any subsequent transfer of Grant funds to the Implementing Entity after the first tranche shall only be transferred after the Board approved the annual Programme Performance Reports (PPR) referred to in section 7.01.b). Transfers shall be made to the following bank account of the Implementing Entity in accordance with the disbursement schedule set out in Schedule 2 to this Agreement:

[Insert Implementing Entity's bank account details]

2.03. The Implementing Entity shall make the disbursed Grant funds available to the [Executing Entity] in accordance with its standard practices and procedures.

2.04. The Implementing Entity may convert the Grant into any other currency to facilitate its disbursement to the Executing Entity.

2.05. Any investment income earned from the Grant funds shall be held in the Implementing Entity Grant Account and used for the same purposes and administered in accordance with the terms of this Agreement.

3. ADMINISTRATION OF THE GRANT

3.01. The Implementing Entity shall be responsible for the administration of the Grant and shall carry out such administration with the same degree of care used in the administration of its own funds, taking into account the provisions of this Agreement.

3.02. The Implementing Entity shall carry out all its obligations under this Agreement in accordance with:

- (i) the AF Operational Policies and Guidelines⁴ effective [MMYYYY]; and
- (ii) the Implementing Entity's standard practices and procedures.

3.03. The Implementing entity:

(i) undertakes to use reasonable efforts, consistent with its standard practices and procedures, including those pertaining to combating financing for terrorists, to ensure that the Grant funds provided to the Implementing Entity by the Trustee are used for their intended purposes and are not diverted to terrorists;

(ii) shall not use the Grant funds for the purpose of any payment to persons or entities, or for the import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, including under United Nations Security Council Resolution 1373 and related resolutions;

(iii) shall immediately inform the Board in the event the Grant funds are not being used or have not been used for the implementation of the Programme or of any illegal or corrupt practice. The Implementing Entity consistent with its standard practices and procedures and integrity of the investigative process shall keep the Board informed of the progress of any formal investigation concerning the misuse of Grant funds and provide a final report to the Board on the findings of such investigation upon its conclusion.

(iv) shall include provisions corresponding to subparagraphs (i) – (ii) above in any agreements that the Implementing Entity enters into with executing entities to which the Implementing Entity makes Grant funds available.

3.04 If, during the course of administering the Grant, the Implementing Entity identifies any material inconsistency between the AF Operational Policies and Guidelines and its own standard practices and procedures, the [Implementing Entity] shall: (a) immediately notify the

⁴ <https://www.adaptation-fund.org/documents-publications/operational-policies-guidelines/>

Board, through the Secretariat, of such inconsistency, and (b) the [Implementing Entity] and the Board shall discuss and promptly take any necessary or appropriate action to resolve such inconsistency.

3.05. In the event that the Implementing Entity makes any disbursements of the Grant in a manner inconsistent with the AF Operational Policies and Guidelines, and these inconsistencies cannot be resolved as provided in paragraph 3.04, the Implementing Entity shall refund to the AF Trust Fund, through the Trustee, any such disbursements.

4. PROGRAMME IMPLEMENTATION

4.01. The Implementing Entity shall be responsible for the overall management of the Programme, including all financial, monitoring and reporting responsibilities.

4.02. The Implementing Entity shall ensure that the Grant is used exclusively for the purposes of the Programme, and shall refund to the AF Trust Fund, through the Trustee, any disbursements made for other purposes. Where the Board believes that the Grant has been used for purposes other than the Programme, it shall inform the Implementing Entity of the reasons supporting its view and provide the Implementing Entity an opportunity to provide any explanation or justification for such use.

4.03. Any material change made in the original budget allocation for the Programme by the Implementing Entity, in consultation with the Executing Entity, shall be communicated to the Board for its approval and shall be made in conformity with the Operational Policies and Guidelines of the Fund. "Material change" shall mean any cumulative total budget change at output-level between the revised budget and the original budget that involves ten per cent (10%) or more of the total budget of the Programme.

4.04. The Implementing Entity shall promptly inform the Board, through the Secretariat, of any conditions that may seriously interfere with its management, or the Executing Entity's execution, of the Programme or otherwise jeopardize the achievement of the objectives of the Programme, providing detailed information thereof to the Board for its information.

4.05. The Implementing Entity shall be fully responsible for the acts, omissions or negligence of its employees, agents, representatives and contractors under the Programme. The Board shall not be responsible or liable for any losses, damages or injuries caused to any persons under the Programme resulting from the acts, omissions or negligence of the Implementing Entity's employees, agents, representatives and contractors.

5. PROGRAMME SUSPENSION

5.01. The Board may suspend the Programme for reasons that include, but are not limited to:

- (i) financial irregularities in the implementation of the Programme, or
- (ii) a material breach of this Agreement and/or poor implementation performance leading the Board to conclude that the Programme can no longer achieve its objectives; provided, however, that before the Board makes its final decision (a) the Implementing Entity shall be given an opportunity to present its views to the Board, through the Secretariat; and/or (b) the Implementing Entity may make any reasonable proposal to promptly remedy the financial irregularities, material breach or poor implementation performance.

6. PROCUREMENT

6.01. The procurement of goods and services (including consultants' services) for activities financed by the Grant will be carried out in accordance with the [Implementing Entity's] standard practices and procedures, including its procurement and consultants' guidelines. In the event that the Implementing Entity makes any disbursements in a manner which the Board considers to be inconsistent with the AF Operational Policies and Guidelines, it will so inform the Implementing Entity giving the reasons for its view and seeking a rectification of the inconsistency. If the inconsistency cannot be resolved, the Implementing Entity shall refund to the AF Trust Fund, through the Trustee, any such disbursements.

7. RECORDS AND REPORTING

7.01. The Implementing Entity shall provide to the Board, through the Secretariat, the following reports and financial statements:

- a) An inception report submitted to the secretariat no later than one (1) month after the inception workshop has taken place. The start date of the Programme is considered the date of the inception workshop;
- b) Annual Programme Performance Reports (PPR) on the status of the Programme implementation, including the disbursements made during the relevant period and net investment income earned from the Grant funds and the associated expenditures, or more

frequent progress reports if requested by the Board. The PPR shall be submitted on a yearly basis one (1) year after the start of Programme implementation and no later than two (2) months after the end of the reporting year;

c) A mid-term evaluation, prepared by an independent evaluator selected by the Implementing entity for any Programme that is under implementation for over four years; the mid-term evaluation should be submitted to the Fund Secretariat within six months of the mid-point of Programme implementation;

d) A Programme completion report, including any specific Programme implementation information, as reasonably requested by the Board through the Secretariat, within six (6) months after Programme completion;

e) A final evaluation report, prepared by an independent evaluator selected by the Implementing Entity. The final evaluation report shall be submitted within nine (9) months after Programme completion. Copies of these reports shall be forwarded by the Implementing Entity to the Designated Authority for information; and

f) A final audited financial statement of the Implementing Entity Grant Account including net investment income earned, prepared by an independent auditor or evaluation body, within six (6) months of the end of the Implementing Entity's financial year during which the Programme is completed.

8. MANAGEMENT FEE

8.01. The Board authorizes the Implementing Entity to deduct from the total amount of the Grant and retain for its own account the management fee specified in Schedule 2 to this Agreement.

9. OWNERSHIP OF EQUIPMENT

9.01. If any part of the Grant is used to purchase any durable assets or equipment, such assets or equipment shall be transferred upon the completion of the Programme to the recipient(s) of the Innovation Grant or such other entity as the Designated Authority may designate.

10. CONSULTATION

10.01. The Board and the Implementing Entity shall share information with each other, at the request of either one of them, on matters pertaining to this Agreement.

11. BRANDING

11.01. The Implementing Entity shall, where feasible, endeavor to maximize opportunities for acknowledging the identity of the Programme grant provided by the Adaptation Fund (e.g. through use of the Adaptation Fund logo, and appropriate references in reports, publications, information given to beneficiaries and press, related publicity materials, and any other forms of public information).

12. COMMUNICATIONS

12.01. All communications between the Board and the Implementing Entity concerning this Agreement shall be made in writing, in the English language, to the following persons at their addresses designated below, by letter or by facsimile. The representatives are:

For the Board:

Adaptation Fund Board Secretariat

1818 H Street, NW

Washington, D.C. 20433

USA

Attention: Adaptation Fund Board Chair

Fax: _____

For the Implementing Entity:

Attention: _____

Fax: _____

13. EFFECTIVENESS AND AMENDMENT OF THE AGREEMENT

13.01. Upon receipt by the Adaptation Fund Board of this countersigned copy, this Agreement shall become effective as of the date of countersignature by the Implementing Entity.

13.02. This Agreement may be amended, in writing, by mutual consent between the Board and the Implementing Entity.

14. TERMINATION OF THE AGREEMENT

14.01. This Agreement may be terminated by the Board or the Implementing Entity, by giving prior written notice of at least ninety (90) days to the other.

14.02. This Agreement shall automatically be terminated in the event of:

- a) cancellation of the Implementing Entity's accreditation by the Board; or
- b) cancellation of the Programme by the Board.

14.03. Upon termination of this Agreement, the Board and the Implementing Entity shall consider the most practical way of completing any ongoing activities under the Programme, including meeting any outstanding commitments incurred under the Programme prior to the termination. The Implementing Entity shall promptly refund to the AF Trust Fund, through the Trustee, any unused portion of the Grant, including any net investment income earned therefrom. No Grant funds shall be disbursed after termination.

14.04. In the event of expiration of accreditation and/or the Board's decision to not to re-accredit the Implementing Entity, the responsibilities and obligations in this Agreement survive and shall be unaffected, and the Implementing Entity shall continue to disburse the Grant funds, in accordance with its standard practices and procedures and the AF Operational Policies and Guidelines to the extent necessary to fulfill the Implementing Entity's obligations hereunder.

15. SETTLEMENT OF DISPUTES

15.01. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, will be settled amicably by discussion or negotiation between the Board and the Implementing Entity.

15.02. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, which has not been settled amicably between the

Board and the Implementing Entity shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as presently in force.

THE ADAPTATION FUND BOARD

_____	_____
[Name], Chair	Date

[IMPLEMENTING ENTITY]

_____	_____
[Name, Title]	Date

[The following Schedules will be attached to the Agreement: Schedule1 ([[Programme] Proposal) and Schedule 2 (Disbursement Schedule)].