

The World BankINTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION1818 H Street N.W.
Washington, D.C. 20433
U.S.A.(202) 473-1000
Cable Address: INTBAFRAD
Cable Address: INDEVAS***CONFORMED COPY*****TRANSFER AGREEMENT
HAITI RECONSTRUCTION FUND (HRF) TRUST FUND
(MTO No. 069016)**

WHEREAS the International Development Association (“IDA”), as trustee (the “Trustee”) of the trust fund for the Haiti Reconstruction Fund (“HRF”) (MTO No. 069016) (the “Trust Fund”) and the Inter-American Development Bank, as Partner Entity (the “Partner Entity”, and together with the Trustee, the “Parties”) are entering into this Transfer Agreement (the “Transfer Agreement”) for the commitment and transfer of funds from the Trust Fund;

WHEREAS the Trust Fund has been established through Administration Agreements;

WHEREAS the Partner Entity may provide requests to the Trustee for the transfer of Transferred Funds from the Trust Fund to finance Projects and/or Programs and Administrative Fees, which the Trustee shall transfer under this Transfer Agreement in accordance with the terms set forth herein; and

WHEREAS the Partner Entity, in accordance with its policies and procedures, will enter into agreements with the entities that will receive funding to carry out activities, including but not limited to, the Government of Haiti which will implement the Projects and/or Programs (the “Recipients”).

NOW THEREFORE, the Parties hereto agree as follows:

1. This Transfer Agreement is being entered into between the Trustee and the Partner Entity based on the Allocations to finance Projects and/or Programs and Administrative Fees approved by the Steering Committee.

2. Capitalized terms used herein, but not otherwise defined in this Transfer Agreement, shall have the meanings ascribed to them below:

(a) “Administration Agreement” means any administration agreement entered into between the Trustee and any Donor in respect of the Donor’s Contribution.

- (b) “Administrative Costs” means the administrative and other costs incurred by the Trustee and/or the Secretariat, in connection with the performance of their administrative services and other activities in support of the Trust Fund.
- (c) “Activity” or “Activities” means one or more activities carried out to achieve the objective of the Trust Fund, including: (a) technical assistance and capacity building; (b) infrastructure investments; (c) delivery of basic services; (d) community development; (e) environmental protection and clean-up; (f) income generation activities; and (g) budget support.
- (d) “Administrative Fees” means the administrative and other costs, including but not limited to, costs for Project preparation, Project supervision, preparation of reports and unaudited or audited financial reports, incurred by the Partner Entity in connection with the management of the Projects.
- (e) “Allocation” means the portion of the Trust Fund funds, including the Contributions, that has been allocated to Projects, Administrative Costs and Administrative Fees that have been approved by the Steering Committee.
- (f) “Closing Date” means the date after which no disbursements can be made by the Partner Entity for the Projects, as may be amended from time to time as agreed by the Steering Committee.
- (g) “Contribution” means each Donor’s respective contribution to the Trust Fund, and “Contributions” means the aggregate of all the contributions to the Trust Fund.
- (h) “Donor” means any country (including any ministry and agency thereof) or, if agreed by the Steering Committee and the Trustee, such other entity, that provides a Contribution.
- (i) “Fiscal Year” means January 1 through December 31 of each calendar year.
- (j) “Investment Income” means the investment income earned on the Transferred Funds except for the income earned on the investment of the Administrative Fees.
- (k) “MDBs” means multilateral development banks.
- (l) “Program” means more than one Project.

- (m) “Project” means an Activity or Activities which are to be financed with funds from the Trust Fund, as approved by the Steering Committee based upon a Proposal.
- (n) “Proposal” means any proposal submitted by the Partner Entity to the Steering Committee seeking an Allocation of funds from the Trust Fund.
- (o) “Secretariat” means the administrative unit established at the World Bank with offices in Haiti to support the work of the Trust Fund and to support the Steering Committee.
- (p) “Steering Committee” means the committee of the Trust Fund established to approve Projects and/or Programs for each Partner Entity consistent with the objective of the Trust Fund as set forth in the Administration Agreements.
- (q) “Transferred Funds” means any portion of the Allocation that the Trustee transfers in United States dollars to the Partner Entity pursuant to this Transfer Agreement.
- (r) “World Bank” means IDA and the International Bank for Reconstruction and Development.

3. Once the Steering Committee has approved the Program(s) or Project and made specific Allocations, and the Secretariat has notified the Trustee and the Partner Entity of the approval, the Trustee will commit the Allocations for such Project(s) and Administrative Fees, subject to the availability of funding and notify the Partner Entity of the commitment. The Partner Entity shall then request the Trustee to transfer Trust Fund funds to the Partner Entity pursuant to this Transfer Agreement, in the form of Schedule 1 attached hereto (a “Funds Transfer Request”). Upon receipt of the Funds Transfer Request, the Trustee shall, on behalf of the Steering Committee, transfer such funds to the Partner Entity to the account specified in such Funds Transfer Request, provided that: (i) any amount to be transferred by the Trustee to the Partner Entity is consistent with and does not exceed the specific Allocations; and (ii) the amount of available funds in the Trust Fund equals or exceeds the amount requested in the Funds Transfer Request, as specified in the approved final Project/Program document

4. Upon the transfer of the Transferred Funds, the Trustee shall have no responsibility, fiduciary or otherwise, to the Partner Entity, for the use of such funds, including the implementation or supervision of Projects financed by such funds.

5. The Partner Entity agrees that any Transferred Funds shall be used by the Partner Entity in accordance with: (i) its own policies and procedures including those in respect of maintaining its tax exempt status and related to procurement of goods and services, reporting arrangements, eligible expenditures, employment and supervision of consultants, and combating fraud and corruption; and (ii) the applicable decisions of the Steering Committee, including the purpose for which the specific Allocations have been approved by the Steering Committee as specified in the approved Program or Project.

6. The Partner Entity agrees that the Transferred Funds shall be kept separate and apart from the funds of the Partner Entity in one or more dedicated accounts pending their use for the purposes for which the specific Allocation has been approved by the Steering Committee. The Transferred Funds in these dedicated accounts may be commingled and may be freely exchanged by the Partner Entity into other currencies as may facilitate their further disbursement and investment. In the event that the Partner Entity has provided funding to a third party in a currency other than United States dollar, unless otherwise agreed by the Steering Committee, any exchange rate risk arising as a result of such conversion of currencies shall be borne by the Partner Entity. The Partner Entity shall require the Government of Haiti to maintain a dedicated account for any funds received for budget support.

7. Subject to the terms of this Transfer Agreement, the Partner Entity may invest all Transferred Funds pending their disbursement in accordance with the Partner Entity's policies and procedures concerning the investment of funds including those applicable to funds for which the Partner Entity acts as a trustee. The Partner Entity shall not be held liable for any losses, which may arise from such investment save to the extent provided for in paragraph 17 below. Except for investment income earned on Administrative Fees, any Investment Income earned on the Transferred Funds will be returned from the Partner Entity to the Trustee annually or such other frequency as may be agreed between the Trustee and the Partner Entity.

8. The Partner Entity may retain Administrative Fees for each Program and/or Project from the Transferred Funds in the amount approved by the Steering Committee.

9. The Partner Entity in accordance with its policies and procedures shall: (i) maintain books, records, documents, and other evidence in accordance with its usual accounting procedures to sufficiently substantiate the use of the Transferred Funds; (ii) provide periodic financial reports including annual unaudited or audited financial reports, as agreed with the Steering Committee; and (iii) provide any other relevant financial information, in United States dollars to the Trustee for distribution to the Steering Committee, as agreed with the Steering Committee.

10. The Partner Entity shall prepare and submit to the Secretariat for each Program or Project: (i) no later than one hundred fifty (150) days after the end of each Fiscal Year annual reports on implementation results based on the common format for reporting on implementation results approved by the Steering Committee; (ii) mid-year progress narrative reports if agreed with the Steering Committee; and (iii) no later than six (6) months after (a) each Closing Date or (b) notification by the Trustee that the Steering Committee has cancelled all or part of a Program(s) and/or Project for reasons set out in paragraph 12 below (as the case may be), a final report.

11. After notification by the Trustee that the Steering Committee has cancelled all or part of a Program(s) and/or Project for reasons set out in paragraph 12 below, the Partner Entity shall return to the Trustee any unexpended and uncommitted portion of the Transferred Funds for the cancelled Program(s) and/or Project remaining with it, and any unused amount of the Administrative Fees in consultation with the Steering Committee.

12. The Steering Committee may direct the Trustee, after consultation with the Partner Entity, to suspend any further commitment and/or withhold disbursements of the Trust Fund funds for a specific Program or Project under this Transfer Agreement for any of the following reasons: (i) a substantial deviation from the Program's or Project's workplan and budget approved by the Steering Committee; (ii) failure of the Partner Entity to comply with any of the terms of this Transfer Agreement and to remedy or cause to be remedied any such non-compliance; or (iii) evidence of financial mismanagement in Programs and/or Projects, as determined in accordance with the Partner Entity's policies and procedures.

13. In the case where the Trustee has notified the Partner Entity in writing that (i), (ii) or (iii) as indicated in paragraph 12 above has occurred, and the Partner Entity fails to remedy or cause to be remedied such event within thirty (30) calendar days after written notification by the Trustee, the Trustee: (i) will consult with the Steering Committee; and (ii) at the direction of the Steering Committee in consultation with the Partner Entity, may suspend any further commitment and/or disbursement of the Transferred Funds for a specific Program(s) and/or Project to the Partner Entity until such time as the Partner Entity has remedied or has caused to be remedied the relevant event to the satisfaction of the Steering Committee as notified to the Trustee; provided, however, that in the case where the Trustee has notified the Partner Entity of non-compliance with respect to paragraph 15 below, the Partner Entity shall immediately suspend any further commitment and/or disbursement to the persons or entities or for the activities identified in the notice as being prohibited under paragraph 15 until such time as the Partner Entity has remedied or has caused to be remedied the non-compliance to the satisfaction of the Steering Committee.

14. The Steering Committee may also direct the Trustee to claim repayment of the Transferred Funds in full or in part directly from the Partner Entity to the extent the Partner Entity has been able to obtain repayment of the same from the negligent party if the said funds are found to be misused or not satisfactorily accounted for. Such repayment shall be in accordance with the Partner Entity's policies and procedures.

15. Recognizing the obligations of the Partner Entity's member countries under various United Nations Security Council Resolutions, the Partner Entity:

- (i) undertakes to use reasonable efforts, consistent with its policies and procedures, including those pertaining to combating financing for terrorists, to ensure that the Trust Fund funds provided to the Partner Entity by the Trustee are used for their intended purposes and are not diverted to terrorists or their agents;
- (ii) will not use Trust Fund 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) confirms that, given the activities to be funded with the Trust Fund funds provided to the Partner Entity, the Partner Entity does not believe that any such funds would be diverted to drug traffickers and their conspirators;
- (iv) shall immediately inform the Steering Committee, of a determination pursuant to the Partner Entity's applicable policies and procedures, of any illegal or corrupt practice in any Project financed under this Transfer Agreement; and
- (v) will include provisions corresponding to subparagraphs (i) – (iii) above in any sub-grant agreements that the Partner Entity enters into with entities to which the Partner Entity makes Trust Fund funds available.

16. The Partner Entity shall be responsible only for performing its functions specifically set forth in this Transfer Agreement and shall not be subject to any other duties or responsibilities, including, without limitation, any duties or obligations that might otherwise apply to a fiduciary or a trustee under general principles of trust or fiduciary law.

17. In performing its functions in accordance with the terms of this Transfer Agreement, the Partner Entity shall not be liable for any loss, costs or damages that may result from any act or omission on the part of the Partner Entity other than those caused by its gross negligence or willful misconduct.

18. Nothing in this Transfer Agreement shall be considered a waiver of any privileges or immunities of IDA and the Partner Entity under their respective constituent documents or any applicable law, all of which are expressly reserved. Nothing in this Transfer Agreement shall be considered as an acceptance by the Partner Entity of the jurisdiction of any national courts or the application of any domestic law.

19. This Transfer Agreement may be terminated by either Party upon three (3) months prior written notice and upon consultation with the Steering Committee. Following termination, the Trustee and the Partner Entity shall, in consultation with the Steering Committee to the extent possible, take all necessary action for winding up their affairs in relation to the Program or Project(s) in an expeditious manner, and for meeting the commitments already made by the Trustee and the Partner Entity under this Transfer Agreement prior to the date of the abovementioned termination notice. In the event of any such termination, unless the Parties agree on another course of action, (i) any agreement entered into prior to the termination between the Partner Entity and any consultants and/or other third parties will remain in effect and be unaffected by the termination, and (ii) the Partner Entity shall continue to disburse the Transferred Funds in respect of such agreements to the extent necessary to fulfill the Partner Entity's obligations thereunder as if this Transfer Agreement had not been terminated. All other Transferred Funds remaining with the Partner Entity including any Investment Income earned on the Transferred Funds and any unused amount of the Administrative Fees shall be returned to the Trustee.

20. The Partner Entity agrees that each Donor, as a third party beneficiary, shall have the right to seek recourse against the Partner Entity with respect to any unmet or breached obligations of the Partner Entity stated in this Transfer Agreement provided that the procedures specified in paragraph 13 have been exhausted. If as a result of a Donor's recourse the Partner Entity makes any payment, such payment will be made only to the Trustee and only for the benefit of the Trust Fund. The Donor may not seek recourse against the Partner Entity for unmet or breached obligations valued in an amount that exceeds the percentage of Contribution(s) made by the Donor, or Donors if acting severally, to the Trust Fund and transferred to the Partner Entity as Transferred Funds, as determined by the Trustee. The Partner Entity and the Donor(s) shall use their best efforts to amicably resolve any disputes, controversy or claims arising out of or relating to this Transfer Agreement.

21. The Partner Entity may invite the Donors to participate in its supervision missions related to the Trust Fund and, if any Donor wishes to request to review or evaluate Activities of a Partner Entity financed by the Trust Fund, the Donor and the Partner Entity shall agree on the scope and conduct of such review or evaluation, and the Partner Entity shall provide all relevant information within the limits of its policies and procedures. It is understood that any such review or evaluation will not constitute a financial compliance or other audit of the Trust Fund. All associated costs will be borne by the Donor, unless otherwise agreed.

22. The persons listed below (the “Trustee Contact” and the “Partner Entity Contact”, respectively, and each a “Contact”), or any other authorized person identified by written notice from one Party to the other Party, may take any action required or permitted to be taken, and execute any documents required or permitted to be executed, pursuant to this Transfer Agreement on behalf of its respective organization. Any notice or request to be given or made under this Transfer Agreement by a Contact shall be in writing and sent to the address (including an email address) set forth below or such other address, as either Contact may provide by written notice.

Trustee Contact:

Ms. Susan McAdams
Director
Multilateral Trusteeship and Innovative Financing Department
The World Bank
1818 H Street, NW
Washington, DC 20433
U.S.A.

Tel: (202) 458-0019
Fax: (202) 614-0795
E-mail: Smcadams@worldbank.org

Partner Entity Contact:

All communications pertaining to institutional relation with the Trustee or the Steering Committee and resource mobilization will be directed to:

Advisor
Office of Outreach and Partnerships
Inter-American Development Bank
1300 New York Ave., NW
Washington, D.C. 20577 U.S.A.

Day-to-day communications regarding the implementation of this Transfer Agreement and management of the HRF funds shall be directed to:

Attention: Chief, Grants and Co-financing Management Unit
Vice Presidency for Countries
1300 New York Ave. NW
Washington, D.C. 20577
Tel. 202 623 1774
Fax. 202 623 3171
E-mail: vpc-gcm@iadb.org

23. The Trustee and/or the Partner Entity, will make this Transfer Agreement and any related information on the Trust Fund publicly available in accordance with their policies and procedures with respect to the disclosure of information, in effect at the time of such disclosure.

24. This Transfer Agreement may be amended only by written agreement between the Trustee and the Partner Entity.

25. The Trustee and the Partner Entity agree that upon receipt by the Trustee of the copy of this Transfer Agreement countersigned by the Partner Entity, this Transfer Agreement will become effective as of the date of the Partner Entity's countersignature.

**INTERNATIONAL DEVELOPMENT ASSOCIATION
AS TRUSTEE OF THE HAITI RECONSTRUCTION FUND**

By: /s/ Susan McAdams
Director
Multilateral Trusteeship and Innovative Financing Department

Date: November 24, 2010

INTER-AMERICAN DEVELOPMENT BANK

By: /s/ Bernardo Guillamon
Advisor
Office of Outreach and Partnerships

Date: November 29, 2010

Schedule 1**Form of Partner Entity Funds Transfer Request**

[Partner Entity letterhead]

[Date]

[name]

[title]

Trustee Contact pursuant to the
Transfer Agreement

RE: Haiti Reconstruction Fund (MTO No. 069016)

Dear [name]:

Reference is made to the Transfer Agreement between the International Development Association (“IDA”) as trustee (the “Trustee”) of the trust fund for the Haiti Reconstruction Fund (“HRF”) and the _____(the “Partner Entity”), effective as of _____ (the “Transfer Agreement”), in which the Trustee has agreed to transfer funds to the Partner Entity for the HRF consistent with the terms of the Administration Agreements for the Haiti Reconstruction Fund (MTO No. 069016) (the “Trust Fund”).

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Transfer Agreement.

Pursuant to paragraph 3 of the Transfer Agreement, the Partner Entity hereby requests you to transmit _____ [*insert currency and amount*] from the Trust Fund for the Partner Entity’s use consistent with the terms of the Transfer Agreement, for (i) the following Project(s) and/or Programs scheduled to be disbursed within the period from _____ to _____; and (ii) the Administrative Fees for each of the following Project(s) and/or Programs, as approved by the Steering Committee in accordance with the following table:

Approved Project(s)	Approved Amount for the Project(s) ([insert currency])	Approved Amount for the Administrative Fees for the Project(s) ([insert currency])	Closing Date
[_____]	[_____]	[_____]	
[_____]	[_____]	[_____]	
[_____]	[_____]	[_____]	
[_____]	[_____]	[_____]	
[_____]	[_____]	[_____]	

No Transferred Funds shall be disbursed by the Partner Entity after the relevant Closing Date for the Project and/or Programs.

Please make the payment by wire transfer to:

Bank Account Details

Bank account name:

Bank account number:

Bank name:

Bank address:

Bank SWIFT code:

Bank code:

Routing instructions:

Sincerely,

NAME OF PARTNER ENTITY

[Name]

[Title]

as Partner Entity Contact pursuant to the
Transfer Agreement