



**Project Agreement between
ADRA Norway and ADRA Myanmar**

For

***Strengthening Equity, Access and Quality in
Education II - Myanmar
(SEAQE2 Myanmar)***

ADRA Norway Programme #: 19NOR-DEV011

Project Period: 01.03.2019 – 31.12.23

**Project Agreement between ADRA Norway and ADRA Myanmar
As a part of the Programme
Strengthening Equity, Access and Quality in Education II - Myanmar
(SEAQE2 Myanmar)**

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PART I

Conditions Applicable to Grants from ADRA Norway and Norad

1. PREAMBLE

This document is an Agreement between ADRA Norway and ADRA Myanmar to implement the ADRA Myanmar Project as part of the programme **Strengthening Equity, Access and Quality in Education II**. ADRA Norway engages ADRA Myanmar to take full responsibility for the implementation of the Project as an agent of ADRA Norway. The intent of this Agreement is to establish a clear understanding between ADRA Norway and ADRA Myanmar regarding their mutual obligations, and set practical standards for financial evaluations and other reviews.

2. DEFINITIONS

- a) Country Director – is the chief executive officer of ADRA’s operations at country level.
- b) Donor Regulations and Requirements – Documented requirements provided in the Project proposal and Project agreement between ADRA Norway and Norad as well as other documents describing donor regulations.
- c) Illegal act – is defined as being illegal under the laws of Norway and/or Myanmar.
- d) Project Agreement (this document) – is the agreement between ADRA Norway and ADRA Myanmar, which contains the Project description including results framework & budget and the terms and conditions upon which the granting of funds is based, as well as the Donor’s requirements for the administration of these funds.
- e) Major dispute – is a dispute under this Project Agreement that remains unresolved after reasonable resolution efforts by the Parties have been exhausted and the subject of the dispute is considered by any Party to be vital to the performance of ADRA Myanmar’s responsibilities under this Project Agreement.
- f) Material deviation – is any unauthorized deviation from the provisions of this Project Agreement that violates applicable laws, regulations and policies so that it is reasonable for Norad and/or ADRA Norway to terminate the Project and/or recover some or all of the Project funds.
- g) Programme Advisor – The person designated by ADRA Norway to monitor and advise on the activities of ADRA Myanmar in this programme.
- h) Sub-agreement – is an agreement entered into by ADRA Myanmar and another entity with the purpose to assist in accomplishing the Project objectives under this Agreement.

3. PARTIES TO THE AGREEMENT

The parties of this Agreement are ADRA Norway and ADRA Myanmar (jointly referred to as the Parties).

4. SCOPE

The Parties have agreed to enter into an Agreement, consisting of this part I: Conditions Applicable to Grants from ADRA Norway and Norad, and Part II: Procurement Provisions in the Context of Projects Financed by Norad, both of which form an integral part of this Agreement.

5. OBJECTIVES OF THE PROJECT

The expected results (impact) of the Project are as follows:
95575 learners (48801F/46774M) in 1279 education institutions (primary / secondary / AE / TVET) including Karen Pa'o, Sagaw, Muslim, CWD, conflict-affected & other marginalised groups excluded from gov't support.

The planned outcomes for the target group of the Project are:

- More marginalised children and youth access and participate in inclusive education
- More children and youth learn in safe, protective and healthy education institutions
- Learners benefit from improved quality teaching and learning
- Learners, parents, communities and other stakeholders are more positively engaged with educational systems
- Strengthened civil society influences education policies and practices

For target specifications up to 2023 related to the impact of the five outcomes, reference is made to the enclosed Results Framework included as Annex B to this agreement. The results framework will be revised by the Parties after baseline and submitted to Norad no later than 15.10.19.

6. IMPLEMENTATION OF THE PROJECT

ADRA Myanmar shall implement the Project in accordance with:

- a) This Agreement, including all annexes
- b) The approved Application including updates
- c) The budget (Annex A) implementation plan
- d) Any amendments/addendums approved and signed by ADRA Norway and Norad.

During the implementation of the Project, ADRA Myanmar shall exercise the necessary diligence, efficiency and transparency in line with sound financial management and best practice principles.

ADRA Myanmar shall identify, assess and mitigate any relevant risks associated with the implementation of the Project, including the risk of corruption and other financial irregularities, and any potential negative effects that the Project may have on the environment and climate, gender equality and human rights.

7. THE GRANT

The Project described in the Agreement is funded by Norad (Norwegian Agency for Development Cooperation) and ADRA Norway. The funding agreement between ADRA Norway and Norad covers the period from 01.03.2019 to 31.12.2023. Nevertheless, funds are guaranteed **only on a 1-year basis**. Disbursements after the current calendar year is subject to Parliamentary appropriations. Significant reductions in the Parliament's annual allocation to the relevant budget line may lead to a reduction in annual Grant allocations and/or in the total Grant amount.

Any extension or amendments to the period of implementation shall conform to provisions in Section 23 "Changes to the Agreement".

The tentative, annual distribution of the Grant for ADRA Myanmar will be as follows:

2019: NOK	8,943,605	(USD \$1 067 256)
2020: NOK	8,827,350	(USD \$1 053 383)
2021: NOK	8,936,821	(USD \$1 066 446)
2022: NOK	8,776,387	(USD \$1 047 302)
2023: NOK	<u>9,050,142</u>	(USD \$1 079 969)
Total: NOK	<u>44,534,304</u>	(USD \$5 314 356)

The US dollar exchange rate for the SEAQE2 budget is set at 8.38 NOK per dollar.

The grant is in NOK. The amounts in USD may vary according to changing exchange rates. The annual allocations must be confirmed by Norad and ADRA Norway following Parliament's approval of the state budget for the relevant budget year. Disbursements will be based on the actual financial need of the Project and according to approved disbursement plans and requests for funds.

The Grant shall be used exclusively to finance the actual costs of the implementation of the Project during the Support Period.

Transferred funds from ADRA Norway shall be used according to the attached budget. Any budget deviations above 10% and over USD \$1000 require prior negotiations and written agreement with ADRA Norway.

ADRA Norway will provide the 10% match for the budget as required by Norad. Any additional matching or cost sharing funds identified in approved field budgets is the sole responsibilities of ADRA Myanmar, unless otherwise negotiated, agreed upon in writing between ADRA Norway and ADRA Myanmar, and made part of the Project Agreement.

ADRA Norway may during the course of the programme bring third parties into the partnership for the purpose of co-financing ADRA Norway's 10% financial contribution (match). In such cases third parties may require special reporting and/or field visits. ADRA Norway will inform ADRA Myanmar through written communication before establishing any such partnership.

Unspent funds shall be sent to ADRA Norway at Project close, to be returned to Norad.

8. DISBURSEMENT OF FUNDS

Requests for funds shall be addressed to the ADRA Norway Finance Director using transfer request forms (Annex D). Approval of fund requests will be subject to the timely receipt of current financial reports accompanied by estimate of financial needs for the amount requested ("pipeline"). Funds may normally be requested to cover programme needs for up to 90 days. Request for transfers shall be made no less than five working days and not more than 30 days prior to the required transfer date. Funds will be transferred in US Dollars unless otherwise agreed.

Disbursement requests shall be signed by an authorised representative of ADRA Myanmar.

All disbursements are conditional upon continued compliance with the requirements of the Agreement, including timely fulfilment of reporting obligations. A confirmation that the Project is being implemented in accordance with the Agreement shall be included in the disbursement request. Any major deviations from the implementation plan shall be explained and justified.

A separate bank account must be maintained for this Project in a local, well-recognized bank. Deposits, withdrawals and exchange rates shall be clearly identified and documented by appropriate financial records. All bank accounts and related interest shall be managed in compliance with applicable donor regulations.

ADRA Myanmar shall immediately acknowledge receipt of the funds in writing. The amount received shall be stated, as well as the date of receipt.

9. OFFICIAL REPRESENTATIVES AND COMMUNICATION

The ADRA Norway Secretary General, or his/her designee, is the primary liaison with ADRA Myanmar.

The ADRA Myanmar Country Director is the primary person responsible for fulfilment of terms and conditions of the Project Agreement. All communications between the Parties shall follow communication channels agreed upon by the Parties,

Official communication between ADRA Norway and ADRA Myanmar, without regard to which party initiates it, shall ordinarily be in writing. Oral communications shall, as soon as possible, be the subject of a written confirmation. E-mail is considered an official form of communication.

Copies of all official communication, including correspondence, reports and agreements between ADRA Myanmar and local authorities or partners, and administrative committee minutes, shall be provided to ADRA Norway on request.

All Project documents, including correspondence, reports and agreements, shall be archived for no less than five years after the notification by ADRA Norway of the final closeout report.

10. HUMAN RESOURCES

The following positions are key personnel for the completion of Project objectives: Project Manager, Child Protection Specialist, Education/TVET Specialist and Monitoring & Evaluation Coordinator/Manager.

Prior approval from ADRA Norway is required for the adoption or modification of job descriptions, candidate selection, offers of terms of employment, involuntary termination of employment and transfer or release from contract obligations for key personnel.

All employment contracts for key personnel shall be consistent with the contract template and wage scale guidelines of ADRA Myanmar.

11. SUB-AGREEMENTS

All major sub-agreements or contracts entered into by ADRA Myanmar for the purpose of achieving Project objectives shall receive prior written approval from ADRA Norway. All such sub-agreements shall be consistent with the requirements of the Project Agreement.

ADRA Norway has a contractual agreement with Zabai for the delivery of e-Learning content through an online Learner Management System (LMS). Zabai is a partner to the Project and ADRA Myanmar, through the signing of this contract, commits to cooperate with Zabai in the delivery of e-Learning to Project beneficiaries.

12. REPORTING AND OTHER DOCUMENTATION

ADRA Myanmar shall provide the following reports to ADRA Norway:

- a) Monthly finance reports comprising Sunplus statement (or equivalent), Excel standard report and the bank reconciliation.– deadline by 20th of the following month;
- b) Quarterly financial statements comprising the above mentioned documents plus forecast for the next three months and explanations to pre-approved deviations to budget above 10% and USD 1.000 for each section of the budget.- deadline 30th of the following month;
- c) Mid-term progress reports covering the period from January to June – deadline 31st of July;
- d) Annual progress reports covering the period from January to December – deadline 15th of February the following year;
- e) Annual SEAQE II financial statements and audit reports including management letter and written response from administration to the management letter, and signed by the board - deadline 15th March the following year.
- f) Annual consolidated financial statements, covering all projects implemented by the partner including the account for administration. Guidelines will come from ADRA Norway. – deadline 30th April;
- g) Final narrative and financial close-out reports, including all required attachments – deadline 15th of February 2024.
- h) Final audited financial statement, management letter and response, and asset ledger – deadline 15th of March 2024.

13. IMPLEMENTATION PLAN AND BUDGET

An updated implementation plan and budget covering the period from January to December the following year shall be submitted to ADRA Norway by October 1st each year.

The implementation plan and budget shall be directly related to the results framework and shall specify planned activities and outputs and time schedules for the upcoming reporting period.

Any updated budget to be submitted shall be based on the approved budget in Annex A and include estimated income to the Project from all sources as well as planned expenditures for the upcoming reporting period. The estimated financial need of the Project in the upcoming reporting period shall be clearly stated.

Significant deviations from or changes to the implementation plan and budget are subject to written approval of ADRA Norway and Norad. This includes the following deviations/changes:

- a) Changes to the Project's sources of income,
- b) Any changes to the results framework or scope of the Project,
- c) Changes to the implementation plan which imply a delay of more than three months of any activity,
- d) Changes to the Project's budget that imply reallocation of more than 10 % (when more than 1000 USD) of a budget line.

Progress Report

Any progress reports shall describe the results achieved by the Project during the reporting period. The report shall be set up in a way that allows direct comparison with the latest approved Application, implementation plan and budget. ADRA Myanmar is obliged to follow the most recent template for reporting that ADRA Norway provides.

The progress reports shall, as a minimum, include:

- a) An account of the results achieved so far by the Project, using the format, indicators and targets of the approved results framework. The overview must:

- show delivered outputs compared to planned Outputs;
 - show the Project's progress towards achieving the Outcome;
 - if possible, describe the likelihood of the Impact being achieved.
- b) An account and assessment of deviations from the latest approved implementation plan and Application;
- c) An assessment of how efficiently Project resources have been turned into Outputs;
- d) A brief account of materialised risk factors to the Project, including how these have been handled in the reporting period and/or will be handled in the future. Identified risks related to the climate and environment, gender equality, corruption and other financial mismanagement and human rights shall always be accounted for.
- e) Gender disaggregated data shall be provided where relevant.
- f) Disaggregated data for children with disabilities, refugees/IDPs shall be provided.

A schedule of all reporting will be provided by ADRA Norway.

14. FINANCIAL REPORTING

Any financial report shall comprise financial statements with a comparison to the latest approved budget for the reporting period, as well as an identification of any deviations from the budget. The financial report shall be certified by the finance director/financial controller.

The financial statements shall be set up in a way that allows for direct comparison with the latest approved budget, using the same currency and budget line items. They shall, as a minimum, include:

- a) The accounting principles applied;
- b) Income from all sources, including bank interest. Transfers from ADRA Norway shall be specified;
- c) Expenses charged/capitalised in the relevant reporting period;
- d) Expenses charged/capitalised from start-up of the Project to the end of the reporting period;
- e) Unused funds as per the reporting date;
- f) Overhead/indirect costs to be covered by the Grant;
- g) Balance sheet;
- h) Explanatory notes including a description of the accounting policies used and any other explanatory material necessary for transparent financial reporting.

Deviations between the approved budget and the expenses charged/capitalised shall be highlighted with information on both nominal accounts and percentage of each deviation. A written explanation is required for any deviations over USD \$1000 of more than 10 % from a budget line.

15. FINAL REPORT

The final report shall describe the results achieved by the Project during the Support Period. The report shall be set up in a way that allows for a direct comparison with the Application, and shall be signed by the programme director.

The final report shall, as a minimum, include:

- a) The items listed for progress reports covering the entire Support Period;
- b) An assessment of the Project's effect on society (Impact);
- c) A description of the main lessons learned from the Project;
- d) An assessment of the sustainability of the results achieved by the Project.

16. AUDIT

The annual financial statements of the Project shall be audited in accordance with International Standards of Auditing ISA 800 (“Special considerations audits of financial statements prepared in accordance with special purpose frameworks”) or ISA 805 (“Special considerations audits of single financial statements and specific elements, account or items of a financial statement”).

ADRA Myanmar is responsible for submitting the annual audit report to ADRA Norway by March 15th every year.

The audit shall be carried out by an independent chartered/certified or state-authorized public auditor. The local auditor must be pre-approved by the auditor in Norway to ensure appropriate qualifications and compliance with professional standards. The auditor in Norway can require replacement of the auditor in Myanmar if there is any doubt concerning independence or professional standards.

The auditor shall form an opinion on whether the Project’s financial statements fairly reflect the financial position of the Project and whether they are prepared, in all material respects, in accordance with the applicable financial reporting framework.

The auditor shall report in accordance with the applicable audit standard.

The audit report shall comply with all the requirements of financial reporting as per article 14 above (“Financial Reporting”). In addition, it shall include:

- a) The Project name and agreement number;
- b) The subject of the audit;
- c) The financial reporting framework applied;
- d) The auditing standards applied;
- e) A statement that the auditor has obtained reasonable assurance about whether the financial statements as a whole are free from material misstatement;
- f) The auditors opinion.

In addition to the Project’s audit report, the auditor shall submit a management letter (matters for governance attention), which shall contain findings made during the audit of the Project. It shall also list any measures that have been taken as a result of previous audits and whether such measures have been adequate to deal with reported shortcomings.

If any findings have been reported in the Project’s management letter, ADRA Myanmar shall prepare a response including an action plan to be submitted to ADRA Norway together with the management letter.

17. CONTROL MEASURES

Representatives of ADRA Norway, Norad and the Norwegian Auditor General may at all times carry out independent reviews, audits, field visits or evaluations or other control measures related to the Project. The objective of such control measures may be to verify that the Grant has been used in accordance with the Agreement or to evaluate the achievement of results.

ADRA Myanmar shall facilitate such control measures by providing all documentation necessary to carry out the relevant initiative, as well as ensuring unrestricted access to any premises, records, goods and documents requested.

The representatives shall also have access to the auditor of ADRA Myanmar and the auditor's assessments of all information pertaining to the Project. ADRA Myanmar shall release the auditor from any confidentiality obligations in order to facilitate such access.

The rights and obligations of this article 17 shall remain in force for 5 years following expiry or termination of the Agreement.

18. PROJECT MONITORING AND PARTNERSHIP MEETINGS

ADRA Norway shall make periodic reviews of actual project performance during field visits to ADRA Myanmar, the purpose being to assist ADRA Myanmar in monitoring the efficiency of project services, and shall provide a written report of findings, as well as discuss such findings with the ADRA Myanmar personnel. ADRA Myanmar is obligated to act upon any necessary recommendations within an established timeframe. ADRA Myanmar shall as required and/or requested supply additional verbal and/or written reports.

Programme reviews/evaluations will be initiated and/or conducted by ADRA Norway and will be guided by an agreed upon Scope of Work/Terms of Reference. Programme reviews/evaluations include a baseline survey (to be finalized by October 31, 2019), a mid-term evaluation (2021), an end-term review (in 2023) and special studies as needed. As appropriate, donor and ADRA standards and requirements will be used. Programme monitoring and evaluation is a budgeted programme expense.

ADRA Myanmar will be subject to ongoing financial monitoring, including annual financial/compliance evaluations, in accordance with donor regulations. Such evaluations will be initiated and/or conducted by ADRA Norway. Financial monitoring is a budgeted programme expense. Any additional evaluations or audits proposed for this agreement must be arranged and/or approved by ADRA Norway.

ADRA Myanmar shall participate in Annual Partnership Meetings initiated by ADRA Norway and held with invited participants from all partner countries in the programme. The meetings will include sharing of learning and results, coordination and planning, training and capacity building.

19. FINANCIAL MANAGEMENT

ADRA Myanmar shall keep accurate accounts of the Project's income and expenditure using an appropriate accounting- and double-entry book-keeping system in accordance with the applicable accounting- and bookkeeping policies in Myanmar.

The accounts shall be kept up to date at least on a monthly basis. Bank reconciliations and cash reconciliations shall be completed at least every month, and shall be documented by ADRA Myanmar.

Income and expenditures relating to the Project must be easily identifiable and verifiable, either by using separate accounts for the Project or by ensuring that the Project expenditure can be easily identified and traced within the general accounting- and bookkeeping systems. The accounts must provide details of any bank interest accrued on the grant.

ADRA Myanmar shall keep the Project's accounting records for at least 5 years from the time of Norad's approval of the final report for the Project. This shall include e.g. vouchers, receipts, contracts and bank statements. Alternatively, all original documentation can be sent to ADRA Norway.

For further details regarding financial management please refer to the ADRA Global Finance Manual (Annex D).

20. EXCHANGE RATE FLUCTUATIONS

Exchange of project funds into another currency shall be made through a national or commercial bank unless otherwise approved by ADRA Norway and Norad.

If exchange rate fluctuations decrease the value of the Grant to such an extent that this will have consequences for the implementation of the Project, ADRA Myanmar shall inform ADRA Norway immediately.

Any exchange gains shall be used for Project purposes. Net surplus from conversion into other currency shall be subtracted from future disbursements, unless otherwise agreed with ADRA Norway.

21. EQUIPMENT, CONSUMABLES AND INTELLECTUAL PROPERTY RIGHTS

The right of ownership to equipment, consumables and intellectual property rights procured or developed by use of the Grant shall vest in ADRA Norway or ADRA Myanmar. All matters associated with such equipment, consumables and intellectual property rights are the exclusive responsibility of ADRA Norway. However, significant use of such equipment, consumables and intellectual property rights for purposes outside of the Project shall be subject to Norad's prior approval as outlined in article 23 "Changes to the Project or the Grant Recipient".

Norad shall have a non-exclusive and royalty-free license to use all intellectual property rights procured or developed by the use of the Grant. Norad may assign this right to any individual or organisation at its own discretion.

Transfer of ownership of such equipment, consumables or intellectual property rights during the Support Period shall be made at market terms. Ownership may not be transferred to an employee of the Grant Recipient or its cooperating partner, or to anyone related or connected to an employee, if such relation could lead to a conflict of interest as describe in article 30 of the agreement.

Before a transfer is decided, ADRA Norway shall assess whether it may have an impact on the Project and, where appropriate, consult with Norad. Any income from transfer shall accrue to the Project, and shall be reported in the financial statement of the Project.

ADRA shall prepare a record of transfer of ownership for any equipment, consumables and intellectual property rights. The record shall comprise information about the object of transfer, the original purchase price paid, price offers received, the final sales price and the name of the purchaser. The record shall be submitted to ADRA Norway along with the first progress report due after the sale.

If the activities of the Project do not continue after the end of the Support Period or after termination of the Agreement, ADRA Myanmar shall inform ADRA Norway about remaining equipment and goods that have been purchased by use of the Grant. Norad may require that such assets be sold. Such sale shall be completed in accordance with the procedures described above. Income from sale shall be repaid to Norad through ADRA Norway unless otherwise agreed by ADRA Norway and Norad.

22. REAL PROPERTY

The Grant may not be used to purchase or construct real property (land or buildings) unless explicitly approved by ADRA Norway and Norad. In such cases Norad requires a formal agreement document including ownership and status of the real property after the end of the Project. Norad may require that the real property shall be sold after the end of the Support Period and that the proceeds from the sale be repaid to Norad.

23. CHANGES TO THE PROJECT OR THE GRANT RECIPIENT

Proposed modifications to this Agreement may be initiated by either Party. All official modifications shall be in writing, signed and dated by all the Parties and attached to the Programme Agreement as an addendum.

Any significant deviations from or changes to the Application or approved implementation plans or budgets are subject to ADRA Norway's and Norad's prior written approval. The same applies to significant changes to, or circumstances materially affecting, ADRA Norway or ADRA Myanmar.

The following deviations/changes shall always be subject to Norad's prior written approval:

- a) any changes to the Project's sources of income,
- b) any changes to the results framework or scope of the Project,
- c) changes to the implementation plan which implies a delay that may influence the achievement of expected results as presented in the results framework attached as an annex to this Agreement,
- d) changes to the Project's budget that imply reallocation of more than 10 % of a budget line.

Norad and ADRA Norway may suspend disbursements of the Grant until such changes have been approved.

24. THE SUPPORT PERIOD

The Support Period of the Project is 01.03.2019 – 31.12.23. ADRA Myanmar must without delay, inform ADRA Norway of any circumstances likely to hamper or delay the implementation of the Project.

25. ETHICAL CONDUCT

ADRA Myanmar shall share with ADRA Norway its policies for ethical conduct and child protection and shall put in place systems to prevent any type of abuse and ensure the safety of children and youth.

26. TRANSPARENCY

ADRA Myanmar shall make Project Documentation available to anyone upon request unless disclosure is prohibited by confidentiality obligations and/or if it may be detrimental to legitimate interests of ADRA Myanmar or ADRA Norway. "Project documentation" shall include this Agreement and any contracts, cooperation agreement or other sub-agreements financed by the Grant, the Application and all agreed reports.

27. PROCUREMENT

ADRA Myanmar must have board-approved procurement and property management policies and procedures in place and adhere strictly to them. A copy of such policies shall be provided to ADRA Norway.

All procurements under the Project shall be completed in accordance with the Procurement Provisions in Part III of this Agreement.

If the total value of a contract exceeds NOK 100 000 (or the threshold stipulated in the ADRA Myanmar procurement policy, if lower), the procurement record and the signed contract shall be submitted to ADRA Norway, for further submission to Norad upon request. Procurement records shall include documents, assessments, decisions taken and minutes from meetings concerning the procurement process, from planning to contract signing. The procurement records shall be kept in an organised and complete manner. They shall include all explanations and background information needed for a straightforward understanding by whoever accesses the files.

Along with the documentation mentioned above, ADRA Myanmar shall confirm in writing that the requirements of the Procurement Provision in part II of this Agreement have been fulfilled.

Procurements shall be verifiable and based on principles of competition, equal treatment and non-discrimination, transparency and ex-ante publicity, objective criteria and notoriety.

In addition, the following conditions must be met for procurements taking place under the scope of the Project:

- a) Take into account the environmental impact during the planning of procurement;
- b) Do its utmost so that child labor, forced labor and/ or discrimination as defined in the core conventions of the International Labor Organization does not occur among suppliers and that they respect the association and collective bargaining as required by core conventions;
- c) Ask providers to disclose whether there may be potential conflicts of interest issues related to a procurement;
- d) Enforce strict standards for eligibility and avoid conflict of interest;
- e) Ensure that all contracts concluded under the Project state that ADRA Myanmar may terminate the contract if it finds that illegal or corrupt practices have taken place in connection with the contract award or execution.

28. REPAYMENT OF INTEREST AND UNSPENT FUNDS

ADRA Myanmar shall report to ADRA Norway on any interest accrued on the grant during the year by 20 January the following year. Any interest accrued on the Grant during the course of the year shall be repaid (through ADRA Norway) to Norad.

Upon the termination of this Agreement, any unused funds that total more than NOK 500 shall be repaid to ADRA Norway within two months. The repayment shall include any interest and other financial gain accrued on the Grant and not previously repaid.

29. FINANCIAL IRREGULARITIES

ADRA Myanmar shall have board-approved policies for fraud, mismanagement and whistle blowing, and shall comply with these. A copy shall be provided to ADRA Norway.

ADRA Norway and ADRA Myanmar are required to practice a zero-tolerance against corruption and other financial irregularities within and related to the Project. The zero tolerance policy applies to all staff members, consultant and other non-staff personnel and to cooperating partners and beneficiaries of the Grant.

Financial irregularities refers to all kinds of:

- a) Corruption, including bribery, nepotism and illegal gratuities;
- b) Misappropriation of cash, inventory and all other kinds of assets;

- c) Financial and non-financial fraudulent statements;
- d) All other use of Project funds which is not in accordance with the implementation plan and budget.

In order to fulfil the zero tolerance requirement, ADRA Myanmar shall:

- a) Organise its operations and internal control systems in a way that financial irregularities, are prevented and detected;
- b) Do its utmost to prevent and stop financial irregularities within and related to the Project;
- c) Require that all staff involved in, and any consultants, suppliers and contractors financed under the Project refrain from financial irregularities;
- d) Ensure that a clause for annulment of any contracts with suppliers and sub-contractors be inserted for action in case of fraudulent procedures.

ADRA Myanmar shall inform ADRA Norway immediately (within 24 hours) of any indication of financial irregularities in or related to the Project, to other projects implemented by the partner or to the administration account. ADRA Myanmar shall as soon as possible provide ADRA Norway with an account of all the known facts and an assessment of how the matter should be followed up, including whether criminal prosecution or other sanctions are considered appropriate.

ADRA Norway will report the matter to Norad. The matter will be handled by Norad in accordance with Norad's guidelines for handling suspicion of financial irregularities. ADRA Myanmar shall cooperate fully with ADRA Norway and Norad's investigation and follow-up. If requested by Norad, ADRA Myanmar shall initiate prosecution and/or apply other sanctions against persons or entities suspected of financial irregularities.

Norad may claim repayment of all or parts of the Grant in accordance with article 31 of the Agreement (Breach of the agreement) if it finds that any financial irregularities have taken place in or related to the Project. The repayment claim may also include any interest, investment income or any other financial gain obtained as a result of the financial irregularity.

30. CONFLICT OF INTEREST

ADRA Myanmar shall take all necessary precautions to avoid any conflicts of interest in all matters related to the Project.

Conflict of interest refers to any situation where the impartial and objective exercise of the functions of anyone acting on behalf of the Grant Recipient is, or may be, compromised for reasons involving family, personal life, political or national affinity, economic interest or any other connection or shared interest with another person.

If a conflict of interest occurs, ADRA Myanmar shall, without delay, take all necessary measures to resolve the conflict, e.g. by replacing the person in question or by obtaining independent verification of the terms of the proposed decision or transaction.

If the conflict of interest cannot be resolved and/or if it relates to a decision or transaction of special significance to the Project, the decision or transaction may not be concluded without the prior, written approval of ADRA Norway and Norad.

31. BREACH OF THE AGREEMENT

If ADRA Myanmar fails to fulfil its obligations under this Agreement and/or if there is suspicion of financial irregularities, ADRA Norway and Norad may suspend disbursement of all or part of the Grant.

In the event of material breach of the Agreement, ADRA Norway and Norad may terminate the Agreement with immediate effect, and/or claim repayment of all or parts of the Grant.

Material breach of the Agreement shall include, without limitation, the following situations:

- a) all or part of the Grant has not been used in accordance with the Agreement and (or) approved implementation plans and budget,
- b) ADRA Myanmar has made false or incomplete statements to obtain the Grant,
- c) the use of the Grant has not been satisfactorily accounted for,
- d) ADRA Myanmar has, after having been granted an extended deadline, failed to provide the agreed reports, or has knowingly provided reports that do not reflect reality,
- e) Financial irregularities, grave professional misconduct or illegal activity of any form have taken place within ADRA Myanmar or its cooperating partners,
- f) ADRA Myanmar has failed to inform ADRA Norway of indication of financial irregularities within the Project in accordance with article 29 (Financial Irregularities) in this Agreement,
- g) ADRA Myanmar has changed legal personality without prior notification to ADRA Norway.
- h) ADRA Myanmar is bankrupt, is having its affairs administered by the courts, or is subject to any analogous or corresponding procedure provided for under national legislation.

ADRA Myanmar shall inform ADRA Norway immediately of any circumstances that may indicate or lead to a breach of Agreement, and shall provide ADRA Norway with any information or documentation it may reasonably require in order to determine if a breach of the Agreement has occurred.

Norad may suspend disbursements or terminate the Agreement with immediate effect if a material breach of another agreement between Norad and ADRA Norway has been established.

32. TERMINATION OF THE AGREEMENT

ADRA Myanmar, ADRA Norway and Norad may terminate the Agreement upon a written notice.

The Support Period shall end three months after the date of the notice of termination. During these three months, ADRA Myanmar may only use the Grant to cover commitments that have been established before the date of the note of termination.

If the Project cannot continue without the Grant, ADRA Myanmar shall use these three months to discontinue or scale down the Project promptly and in an orderly and financially sound manner. Any funds that remain unused at the end of the Support Period shall be repaid to Norad through ADRA Norway.

ADRA Myanmar shall submit a final report to ADRA Norway within two months of the end of the Support Period. The final report shall meet the requirements set out in article 4 (Final Report) of the Agreement and shall also include a financial report and audit report covering the period from the previous financial report until the end of the Support Period.

The Agreement will be considered terminated when the final report has been approved by ADRA Norway and Norad and any remaining funds have been repaid.

33. WAIVER AND IMMUNITIES

Nothing in the Agreement or any document related to the Agreement shall imply a waiver, express or implied, by Norad, the Government of Norway or any of its officials of any privileges

or immunity enjoyed by them or their acceptance of the jurisdiction of the courts of any country over disputes arising thereof.

34. LIABILITY

ADRA Norway and Norad shall not under any circumstances or for any reason be held liable for damage, injury, or loss of income sustained by ADRA Myanmar or its staff or property as a direct or indirect consequence of the Project. ADRA Norway and Norad will not accept any claim for compensation or increases in payment in connection with such damage, injury, or loss of income.

ADRA Myanmar shall assume sole liability towards third parties, including liability for damage, injury or loss of income of any kind sustained by them as a direct or indirect consequence of the Project. ADRA Myanmar shall indemnify ADRA Norway and Norad against any claim or action from ADRA Myanmar's employees or third parties in relation to the Project.

35. ASSIGNMENT

The Agreement and/or Grant may not be assigned to a third party without the prior written consent of ADRA Norway. This shall not, however, prevent transfer of parts of the Grant to a cooperating partner.

36. RECOGNITION AND PUBLICATION

Project communication and branding shall be in line with ADRA policies and guidelines and the communication strategies outlined in the proposal document.

ADRA Myanmar shall acknowledge Norad's support to the Project in all publications and other materials issued in relation to the Project. Norad's logotype will be provided by ADRA Norway upon request.

37. ENTRY INTO FORCE, DURATION AND AMENDMENT

The Agreement shall enter into force at the date of the last signature and shall remain in force until all obligations arising from it have been fulfilled, or until it is terminated in accordance with the provisions of the Agreement. Whether the obligations for the Agreement shall be considered fulfilled, will be determined through consultations between ADRA Norway and Norad and confirmed by Norad in a completion letter to ADRA Norway, who will in turn share it with ADRA Myanmar.

38. ASSIGNMENT OF RIGHTS

ADRA Myanmar does not have the right to transfer, assign or sell this Programme Agreement to any person, firm or corporation at any time during the term of this Programme Agreement without written approval from ADRA Norway. Any such assignee shall acquire all of the rights and assume all of the obligations of ADRA Myanmar under this Programme Agreement.

39. THIS IMPLEMENTATION AGREEMENT IS THE ENTIRE AGREEMENT

This Programme Agreement, including documents incorporated by reference, constitutes the entire agreement, supersedes all prior agreements, negotiations, and discussions between the parties; and may not be modified, altered or amended except as agreed upon in writing by all parties.

This section shall not be construed to negate the necessity for all the Parties to the regulations and policy, and primary agreement in force during the period of this Programme Agreement.

40. CHOICE OF LAW AND SETTLEMENT OF DISPUTE

The agreement shall be governed and construed in accordance with Norwegian law.

If any dispute arises relating to the implementation or interpretation of the Agreement, the Parties shall seek to reach an amicable solution in a fair and timely manner.

In the case of a major unresolved dispute, the Parties shall request the General Conference Office of General Counsel to provide ad hoc procedure for resolving the major dispute.

Any dispute arising out of or in connection with the Agreement that cannot be solved within these internal systems, shall exclusively be settled before the Norwegian courts of law with Oslo District Court as legal venue.

Norad can, at its own sole discretion and as an alternative to the legal venue mentioned above, choose to settle the dispute by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The arbitral tribunal shall be composed of three arbitrators. If the disputed amount is below and amount corresponding to NOK 10,000,000 the arbitral tribunal shall, however, be composed of a sole arbitrator. The seat of arbitration shall be Stockholm, Sweden, and the language to be used in the arbitral proceedings shall be English. The Parties agree that neither the arbitral proceedings nor the award shall be subject to any confidentiality.

The Parties agree that no other courts of law, than as set out in this article 24, shall have jurisdiction over disputes arising out of or in connection with this Agreement.

Each party hereto recognises and acknowledges that this agreement is not intended to, and shall not, release any of the parties hereto from any liability or damages, if any, caused by, or arising out of, the failure or refusal to perform any or all of the acts required on their respective parts to be done, as per the terms and conditions of this agreement. In the event of any breach of this agreement, the party aggrieved shall be entitled to recover from the party who breached, in addition to any other relief provided by law, such reasonable attorney's fees and court costs as may be incurred by the non-breaching party in enforcing this agreement.

41. SIGNATURES

By signing part I of the Agreement, the Parties confirm receipt and approval of part II: Procurement Provisions, which forms an integral part of the Agreement.

The Parties to this Project Agreement understand and accept their obligations and responsibilities, and by signing indicate full acceptance to be legally bound to all of the provisions of this Agreement.

This Agreement has been signed in two (2) original copies in the English language. In the event of any discrepancies between this English language version and any later translations, the English language version shall prevail.

42. OTHER

ADRA Norway has developed a list of Safeguarding Standards (see the list attached to this contract on annex E), that apply to all organizations receiving ADRA Norway donor funding. This includes ADRA Country Offices, other lead organizations, and other downstream partners or contractors.

All Safeguarding Standards are part of the ADRA Network's Licensing and Accreditation requirements. ADRA Myanmar must comply with these standards by 31 December 2020, or risk having SEAQE2 funding discontinued.

Meanwhile, ADRA Myanmar shall report any safeguarding related issues including issues of child protection or protection of other vulnerable people to ADRA Norway in a timely manner. Such reporting should be accompanied with an action when such cases of abuse involve ADRA staff, consultants, contractors, or others, and when the issue is of high impact.

43. SIGNATORIES

For ADRA Norway

Signature: Birgit Philipson

Typed Name: Birgit Philipson

Title: Secretary General

Date: 17/6/19

For ADRA Myanmar

Signature: Claudio Sandoval Maître

Typed Name: Claudio Sandoval Maître

Title: Country Director

Date: 20/6/19

Attachments:

- Part II of the Agreement – Procurement Provisions
- Annex A: Approved budget for the Project
- Annex B: Results framework
- Annex C: ADRA Global Finance Manual
- Annex D: C-4 Transfer Request
- Annex E: ADRA Norway Safeguarding Standards