UNITED NATIONS CAPITAL DEVELOPMENT FUND

TERMS OF REFERENCE

<table>
<thead>
<tr>
<th>Post Title:</th>
<th>EXPERT, MYANMAR FINANCIAL SECTOR LAW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency/Project Name:</td>
<td>United Nations Capital Development Fund/ Expanding Financial Access (EFA)</td>
</tr>
<tr>
<td>Duty Station:</td>
<td>UNCDF Office, Yangon, Myanmar</td>
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<tr>
<td>Type of Contract:</td>
<td>Individual Contract</td>
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<tr>
<td>Languages Required:</td>
<td>English</td>
</tr>
<tr>
<td>Contract Period:</td>
<td>Up to 12 months, 1 April 2022 – 31st March 2022</td>
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General Background

United Nations Capital Development Fund

UNCDF is the UN’s capital investment agency for the world’s 46 least developed countries. With its capital mandate and instruments, UNCDF offers “last mile” finance models that unlock public and private resources, especially at the domestic level, to reduce poverty and support local economic development.

UNCDF’s financing models work through two channels: financial inclusion that expands the opportunities for individuals, households, and small businesses to participate in the local economy, providing them with the tools they need to climb out of poverty and manage their financial lives; and by showing how localized investments — through fiscal decentralization, innovative municipal finance, and structured project finance — can drive public and private funding that underpins local economic expansion and sustainable development.

By strengthening how finance works for poor people at the household, small enterprise, and local infrastructure levels, UNCDF contributes to SDG 1 on eradicating poverty and SDG 17 on the means of implementation. By identifying those market segments where innovative financing models can have transformational impact in helping to reach the last mile and address exclusion and inequalities of access, UNCDF contributes to a number of different SDGs.

UNCDF’s Inclusive Digital Economies:

Since 2008, UNCDF has been supporting digital finance with significant success, with digital finance currently the largest part of its inclusive finance portfolio. This includes digital innovations linked to on and off-grid energy, agriculture, employment, health, and transport. With 60 professionals with strong digital finance experience across the globe and with several hundred projects in digital on-going, UNCDF is one of the leading development agencies in digital finance with a mission and expertise to reach very low-income customers in some of the world’s most difficult markets.

UNCDF’s digital team and resources are currently spread across several programmes and UNCDF is in the process of consolidating its financial and technical resources to create a comprehensive team of experts in various domains to drive the new strategy “Leaving no one behind in the digital era”.

Based on this experience UNCDF started in 2017 to expand the scope of its programmatic agenda to go beyond digital finance. Through the “Leaving no one behind in the digital era” strategy, UNCDF is supporting, the emergence of inclusive digital economies. The strategy recognizes that reaching the full potential of digital financial inclusion in support of the SDGs aligns with the vision of promoting digital economies for the following reasons:

- The value of DFS is not obvious, especially to poor and vulnerable populations, as it is not closely linked to their ability to respond to their specific constraints and needs around agriculture, education, health, energy, and other key aspects of their daily lives.
- New innovative services should be developed to address these unmet needs. Innovation will not come from traditional providers but mainly from a range of new players (entrepreneurs, start-ups in various sectors, and digital platforms).

The ‘Leaving no one behind in the digital era’ strategy, to move from digital finance to digital economies builds upon and constitutes a logical integration of UNCDF interventions in financial inclusion and digital, developed over many years. The legacy of UNCDF intervention programmes was built through a range of country/regional programmes and global thematic initiatives, which has established a very strong reputation for UNCDF vis-à-vis donors and peers. Please refer to www.uncdf.org

UNCDF in Myanmar

UNCDF has been operating in Myanmar since 2012 with a capital mandate to expand savings-led financial inclusion and use localised investments to drive poverty reduction and sustainable development. The country program seeks to improve financial service access and usage to achieve equitable, sustainable, and inclusive growth within the UN’s Sustainable Development Goals (SDGs) and the Myanmar Sustainable Development Plan (MSDP), which includes the use of innovate solutions to bring formal services for people at the bottom of the pyramid.

UNCDF Myanmar proposes to accelerate inclusive digital finance by building an interoperable payment switch for MFIs (the Myanmar Microfinance Digitization (MMD) project), particularly for women, by focusing on two use cases:
(i) MFI loan payments/disbursements,
(ii) Electronic Cash Transfers (ECT), and
(iii) Account to Account transfers

Additional use cases may be added during 2022.

Objective of assignment

This consultant will support the Myanmar Microfinance Digitization (MMD) project by way of providing their legal opinion of compliance with regards to the MMD Scheme.

Working under the direct supervision of UNCDF country lead of Myanmar, the consultant will be producing the following deliverables:

**Deliverables and Final Products Schedule**

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Deliverable(s)</th>
<th>Target Due (Dates)</th>
<th>Review and approval</th>
</tr>
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<table>
<thead>
<tr>
<th>Task</th>
<th>Deliverables</th>
<th>Start Dates</th>
<th>Required by</th>
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<tbody>
<tr>
<td>Provide legal analysis and advise (with a focus in legal set up, potential regulatory approval pathways, appropriate Scheme Rules, incorporation of a company if needed) with regards to the MMD Scheme compliance with Myanmar’s financial sector laws and practices.</td>
<td>Deliverable 1, 2 and 3: DRAFT and FINALIZE (three) High-Level Legal notes on Compliance of WynePay and its use-cases with regards to Myanmar Law</td>
<td>Week 12, Week 24, Week 44</td>
<td>Myanmar country technical lead</td>
</tr>
<tr>
<td>Draft agreements and contracts for the financial institutions on behalf of the MMD project, such as:</td>
<td>Deliverable 4: DRAFT and FINALIZE master agreement - between financial service providers, settlement bank, scheme operator – covering essential details for the Control User Group testing phase of the project</td>
<td>Week 6</td>
<td>Myanmar country technical lead</td>
</tr>
<tr>
<td>Guide the project team in legal matters related to the project and payment schemes</td>
<td>Deliverable 6: Regulatory Approval Decks (2) for outreach to Central Bank of Myanmar (CBM) and Financial Regulatory Department (FRD) suited to the project launch requirements, e.g., CUG</td>
<td>Week 12</td>
<td>Myanmar country technical lead</td>
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<tr>
<td>Provide legal expertise in establishing a suitable ownership structure of WynePay payment scheme</td>
<td>Deliverable 8: Draft and final legal documentation</td>
<td>Week 30</td>
<td>Myanmar country technical lead</td>
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<td></td>
<td>Deliverable 9: Final legal documentation</td>
<td>Week 36</td>
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Deliverable 10: Progress report of activities under the ownership legal support  
Week 40

The payments for undertaking the assignment shall be paid to the contractor, upon satisfactory of the following outputs/deliverables, as certified by the UNCDF Myanmar Country Technical Lead:

<table>
<thead>
<tr>
<th>No</th>
<th>Deliverables</th>
<th>Percentage of Payment</th>
<th>Target Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Deliverable 4: DRAFT and FINALIZE master agreement - between financial service providers, settlement bank, scheme operator – covering essential details for the Control User Group testing phase of the project</td>
<td>10 %</td>
<td>Week 6</td>
</tr>
<tr>
<td>2</td>
<td>Deliverable 5: DRAFT and FINALIZE bilateral agreements between FSPs and the MMD scheme owner or operator, such as NDAs, participation agreement, compliance letter, among others</td>
<td>10%</td>
<td>Week 8</td>
</tr>
</tbody>
</table>
| 3  | Deliverable 1: DRAFT and FINALIZE ONE High Level Legal notes on Compliance of WynePay and its use-cases with regards to Myanmar Law  
Deliverable 6: DRAFT and FINALIZE ONE Regulatory Approval Decks for outreach to Central Bank of Myanmar (CBM) and Financial Regulatory Department (FRD) | 20%                   | Week 12     |
| 4  | Deliverable 2: DRAFT and FINALIZE ONE High Level Legal notes on Compliance of WynePay and its use-cases with regards to Myanmar Law  
Deliverable 7: DRAFT and FINALIZE ONE Regulatory Approval Decks for outreach to Central Bank of Myanmar (CBM) and Financial Regulatory Department (FRD) | 20%                   | Week 24     |
| 5  | Deliverable 8: Draft and final legal documentation                                                | 10 %                  | Week 30     |
| 6  | Deliverable 9: Final legal documentation                                                          | 10 %                  | Week 36     |
| 8  | Deliverable 10: Progress report of activities under the ownership legal support                   | 10%                   | Week 40     |
| 9  | Deliverable 3: DRAFT and FINALIZE High-Level Legal notes on Compliance of WynePay and its use-cases with regards to Myanmar Law | 10%                   | Week 44     |

E. Institutional Arrangement

The consultant will work under the direct supervision of Country Lead of Myanmar. The Consultant is responsible for providing his/her own laptop during his/her engagement with UNCDF.

The following supporting documents will serve as conditions for payments to an Individual
Contractor(s): (i) submission of Certificate of Payment (COP); (ii) submission of all deliverables / workplan / progress report with the relevant supporting documentation; and (iii) review, approval and written acceptance of each deliverable by the UNCDF Regional Manager for Digital Hub for Asia and any other Project/Programme Manager designated by UNCDF Regional Manager.

F. Duty Station

Duty station: Home-based

Expected places of travel: Occasional travel to and within Yangon may be required, depending on the need. Any travel will need to be approved beforehand and will be subject to the country’s regulations.

G. Qualifications of the Successful Individual Contractor

Education:
- A Master’s degree in Law or related discipline or equivalent relevant experience equivalent.

Professional Experience:
- At least 10 years of legal expertise in Banking and the Financial Sector of Myanmar
- At least 5 years of experience with the MFI Sector in Myanmar
- Proven experience of engaging with governments to form robust and defendable opinions.
- Deep understanding of the rules & regulations related to the Myanmar Banking and Finance Industry

Language Requirements:
- Fluency in English (Speaking, Reading, Writing) is mandatory.
- Fluency in Burmese is highly desirable.

Competencies:
- Ability to establish strong working relationships with various stakeholders’ institutions and administrators.
- Ability to work in a multicultural environment and being aware of political sensitivities.
- Ability to think and act strategically.
- Computer literacy, including proficient use of research and applied software.

Evaluation Process and Criteria
Individual consultants will be evaluated based on the following methodology:

All applications must contain the following information:
- Cover letter;
- Earliest availability and proposed schedule for consultancy;
- Complete and signed P11 or CV, Personal History Form with names and current contacts of 3
Preliminary Evaluation –
Step I: Screening; Technical Evaluation Weight - 70% = Step II: Shortlisting (100 points) and
Step III: Desk Review; Financial Evaluation Weight - 30% = Step IV. Scoring evaluation – Step V: Selection

Step I: Screening:
Applications will be screened and only applicants meeting the following minimum criteria (listed under education and experience) will progress to the pool for shortlisting.

Step II: Shortlisting by Desk Review:
UNCDF will conduct a desk review to produce a shortlist of candidates and technically evaluate them. As applicable, only the first top 3 ranked applicants achieving 70% of the points at this stage shall be considered for a desk review.

Step III: Desk Review Technical Evaluation:
The top 3 shortlisted candidates will be considered by the evaluation panel. The technical qualification of the individual is evaluated based on the following technical qualification evaluation criteria (it depends on TOR):

<table>
<thead>
<tr>
<th>Technical Evaluation Criteria</th>
<th>Obtainable Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Master’s degree in Law or related discipline or equivalent relevant experience equivalent</td>
<td>20</td>
</tr>
<tr>
<td>At least 10 years of legal expertise in Banking and the Financial Sector of Myanmar</td>
<td>40</td>
</tr>
<tr>
<td>At least 5 years of experience with the MFI Sector in Myanmar</td>
<td>10</td>
</tr>
<tr>
<td>Proven experience of engaging with governments to form robust and defendable opinions</td>
<td>15</td>
</tr>
<tr>
<td>Deep understanding of the rules &amp; regulations related to the Myanmar Banking and Finance Industry</td>
<td>15</td>
</tr>
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Step IV: Financial Proposal Evaluation:
The following formula will be used to evaluate financial proposal: Lowest Financial proposal/price of the proposal being evaluated X 30%. Lowest Financial Proposal refers to the lowest price offered by Offerors scoring at least 49 points in the technical evaluation.

Step V: Selection
The contract shall be awarded to the best applicant whose offer have been evaluated and determined as: responsive/compliant/acceptable and having received the highest combined weight technical proposal 70% + financial 30%= 100%.

References