

Issued: 15 September 2016

Legal Agreements for contributions to new CGIAR Trust Fund

Purpose

This document provides visibility into preparation of the legal agreements required to transition to the new CGIAR Trust Fund and sets forth a proposed timeline for finalizing the agreements in time for Funders to be able to make contributions towards the 2017 – 2022 research programs and platforms that are planned to start on 1 January 2017.

During Agenda Item 9 for SC2, it is not anticipated that the draft agreements set out at Appendices 1 to 3 of this paper will be discussed.

Rather, the material in Appendices 1-3 is being provided so that Funder representatives to the System Council can liaise with their respective legal colleagues and provide comments on the draft documents by **6 p.m. Paris, France local time on Tuesday, 27 September 2016** to systemcouncil@cgiar.org to facilitate discussion on those inputs by the legal working group that is developing the materials.

Document category: Working document of the System Council

There is no restriction on the circulation of this document

Background

1. Article 13 of the CGIAR System Framework (“**Framework**”) establishes that there should be a trustee for funds contributed to a CGIAR Trust Fund and that the trustee shall have the responsibilities agreed between the System Organization and the Funders who contribute through the CGIAR Trust Fund.
2. The CGIAR Trust Fund, as defined in the Framework (“**Trust Fund**”), will be a new trust fund that is established for contributions from Funders to provide funding for the activities of the System Organization and for CGIAR Research as defined in the Framework.
3. CGIAR’s Centers and Funders agreed over a series of meetings in 2016 on the transition to the new governance structure to enter into the following 3 separate agreements to provide funding through the Trust Fund:
 - a. **Funding Agreement** – to be entered into between each Funder and the System Organization setting out the responsibilities of the System Organization in respect of the financial contributions that are transferred to Centers and/or the System Organization. Attached as Appendix 1. The Funding Agreement includes as annexes, the Framework and Standard Provisions (described in more detail in paragraph 6).
 - b. **Contribution Agreement** – to be entered into between each Funder providing financial contributions through the Trust Fund and the Trustee setting out the amounts and timing of Funder’s financial contributions to the Trust Fund. Attached as Appendix 2.
 - c. **Trustee Agreement** – to be entered into between the World Bank, as Trustee, and the System Organization setting out the terms and conditions for the administration of the Trust Fund. Attached as Appendix 3.
4. At the June 2016 Washington, D.C. final transition meeting, CGIAR’s Centers and Funders agreed the outlines of these agreements and a legal working group was formed, comprising representatives of legal advisors from Funders, Centers, the Trustee and the System Organization, to develop full drafts of the agreements, building on the agreed outlines.
5. The legal working group has endeavored to ensure consistency and coherence across the three agreements, keeping in mind that the purpose is to provide support through an established System and endeavoring to rely on, in regard to the use of the funds

transferred to the System Organization and Centers, the policies of the CGIAR System Organization.

6. To this end, the Funding Agreement (at Appendix 1) includes ‘Standard Provisions’ which, it is proposed, will be applicable to all Funders providing funding through the Trust Fund (or the System Organization)¹. The Standard Provisions could only be modified with the approval of the System Council after consultation with the System Management Board. This helps to create a common understanding and set of terms and conditions to apply to the System Organization and Centers.

The Importance of having the new documents in place in 2016

7. It is recognized that CGIAR Funders operate according to differing financial years, differing statutory and enabling environments, and with differing levels of flexibility to enter into arrangements for multi-year financial contributions.
8. Without in any way wishing to preempt the outcome of the System Council’s deliberations on the Centers’ proposed 2017 – 2022 portfolio of CGIAR research programs and platforms, there is a clear opportunity for the System Council to ensure that there is a fully operational contributions framework in place as early as possible to maximize the potential for the 2017 research agenda to be funded fully. This opportunity will be realized through the approval, by not later than end November 2016, of the three agreements provided under cover of this document.
9. For any Funders expecting to make additional contributions for the existing CRP portfolio for the 2016 budget year, the existing trust fund will remain in place until the end of the year.

Key dates for finalization of the three agreements

10. The draft agreements are being provided as *consultation drafts* only, with the System Management Office proposing the following timetable for their finalization and approval by the System Council.

¹ Some Funders are unable to contract directly with the Trustee under the current arrangements and therefore have requested to enter into an agreement directly with the System Organization in respect of the new CGIAR Trust Fund. Although the legal agreement will be between the System Organization and the relevant Funder(s) and there will not also be an agreement between the relevant Funder(s) and the Trustee as would ordinarily be the case, the funding provided under such agreements will continue to flow through the CGIAR Trust Fund.

Arrangements for contributions into the new CGIAR Trust Fund

Timetable: Key path to ensuring approval of agreements by 30 November 2016

Step	Date	Proposed action
1	Thursday 15 Sep 2016	Draft Trustee Agreement, Contribution Agreement and Funding Agreement circulated to System Council and Centers
2	Tuesday 27 Sep 2016	6pm Paris, France local time deadline for providing legal inputs on the draft agreements
3	Wednesday 28 Sep 2016	In-person meeting of the Legal Working Group in Mexico City to consider all comments and edits received on the draft agreements
4	Tuesday 4 Oct 2016	Circulate draft agreements to Funders and Centers for final review
5	Wednesday 12 Oct 2016	Deadline for final comments on draft agreements
6	Friday 14 Oct 2016	Telephone meeting of the Legal Working Group to consider comments and edits received on the revised draft agreements and prepare final drafts for review
7	Tuesday 25 Oct 2016	Circulate to System Council for electronic approval on a no objection basis
8	Wednesday 9 Nov 2016	If no objections are received the agreements will be considered approved

11. If useful, the System Management Office is available to host two informal telephone calls with the legal representatives of any of the Funders to provide early clarifications on the preliminary draft or respond to questions. The proposed times for the calls (providing flexibility for time zones) are set out below. Please contact systemcouncil@cgiar.org to register for either of the proposed calls.
 - a. Thursday 22 September, 09:00 - 11 am, Montpellier, France; and
 - b. Thursday 22 September, 16:00- 18:00 pm, Montpellier, France.

12. Recognizing that increased flexibility arises for the System as soon as the agreements are in place, if there are no substantial edits and/or comments provided on the draft agreements prior to the Wednesday, 28 September 2016 meeting of the Legal Working Group, it is proposed that the Legal Working Group moves directly to preparing final drafts of the legal agreements to present to the System Council on Wednesday 12 October for electronic approval on a no-objection basis.

13. Once these draft documents are completed, the System Organization will work with the Legal Working Group to prepare final drafts of the Financial Framework Agreements to be entered into between the System Organization and Centers. That further agreement will be approved by the System Management Board.

Appendix 1
Consultation draft
14 September 2016



FUNDING AGREEMENT

Between

THE CGIAR SYSTEM ORGANIZATION

And

[NAME OF FUNDER]

This Funding Agreement ("**Funding Agreement**"¹) is entered into between the Consortium of International Agricultural Research Centers (operating under the name of CGIAR System Organization (the "**System Organization**")) and _____ [*insert name of Funder*] (the "**Funder**") (together with the System Organization, the "**Parties**", and each, a "**Party**"). Capitalized terms not defined in this Funding Agreement have the same meaning given to them in the CGIAR System Framework.

WHEREAS:

- (A) CGIAR Research is carried out by Centers in close collaboration with CGIAR System Partners in support of the CGIAR Strategy and Results Framework.
- (B) The Funder wishes to provide financial contributions through a trust fund to fund the activities of the System Organization and CGIAR Research.
- (C) The System Organization and the International Bank for Reconstruction and Development, as trustee of the CGIAR Trust Fund (MTO No. []) (the "**Trust Fund**") (the "**Trustee**") entered into the Agreement on the Terms and Conditions for the Administration of the CGIAR Trust Fund, dated [], as may be amended from time to time in accordance with its provisions (the "**CGIAR Trustee Agreement**").
- (D) The Funder has agreed or intends to provide a Contribution (as defined below in Article 1.1) to the Trust Fund in accordance with and subject to the provisions of a contribution agreement entered into between the Trustee and the Funder ("**Contribution Agreement**") and has designated or intends to designate such contribution as one of the following: (a) Unrestricted Funding ("**Window 1**"); (b) research-program specific funding ("**Window 2**"); and/or (c) Center-specific funding ("**Window 3**"), or has not specified which window the funding will be designated, in which case, funding will be placed in a provisional account ("**Provisional Account**") until a determination is made by the Funder at a later date.
- (E) The Parties wish to set out in this Funding Agreement the terms and conditions governing the administration of the Contribution.

NOW THEREFORE, the Parties agree as follows:

¹This cover agreement and annex may be revised in the case of donors that require "arrangement" language to reflect appropriate terminology for making Funding Arrangements. Specific Donor terms that do not affect the Contribution and are acceptable to the System Organization and consistent with the CGIAR Framework and CGIAR Charter may also be added to the cover agreement.

Article I. **FINANCIAL CONTRIBUTION OF THE FUNDER**

- 1.1. The Funder has entered or intends to enter into a Contribution Agreement which sets forth the total amount of funds expressed as the Funder's contribution (the "**Contribution**") to the Trust Fund, as such amount of funds may be supplemented through amendments to such Contribution Agreement from time to time.
- 1.2. The purpose of the Contribution is to make funding available, on a coordinated basis, along with other Funders to support the activities of the System Organization (including the administrative costs of the CGIAR System ("**System Costs**") as approved by the System Council from time to time) and for CGIAR Research, which includes, for the avoidance of doubt, research programs, platforms and other special initiatives carried out by Centers and CGIAR System Partners in support of the CGIAR Strategy and Results Framework.
- 1.3. The System Organization will administer the Contribution in accordance with the terms and conditions specified in this Funding Agreement, including Annex 1 (CGIAR System Framework) and Annex 2 (Standard Provisions) which are hereby incorporated by reference and constitute an integral part of this Funding Agreement as well as the Contribution Agreement and the CGIAR System Charter.

Article II. **NOTICES**

- 2.1. Any notice or request required or permitted to be given or made in this Funding Agreement will be in writing. Such notice or request will be deemed to be duly given or made when it will have been delivered by hand, by an internationally recognized express delivery services, or emailed to the Party to which it is required to be given or made, at such Party's address specified below or at such other address as the Party will have specified in writing to the Party giving such notice or making such request:

For the Funder:

Title:
Dept./Unit
Address:
Telephone:
Email:

For the System Organization:

Title:
Dept./Unit
Address:
Telephone:
Email:

Article III. **ACCESS TO INFORMATION**

- 3.1. The Parties agree that the Funding Agreement may be made publicly available. In addition, any information provided by the System Organization to the Funder under the Funding Agreement relating to the CGIAR Research, activities of the System Organization and other activities funded by the Contribution as well as the implementation of the CGIAR Research may be disclosed in accordance with the Parties' policies, procedures [and/or applicable legislation on public disclosure of information *insert where applicable*].

Article IV. **NO WAIVER OF PRIVILEGES AND IMMUNITIES**

- 4.1. Nothing in or relating to this Funding Agreement will be deemed to be a waiver of any privileges and immunities of the System Organization [*or the Funder if relevant*].

Article V. **NO EMPLOYEE OR AGENCY RELATIONSHIP**

- 5.1. This is neither a contract for services nor a contract of service or employment. No provision in this Funding Agreement creates or may create a joint venture, an association, or a partnership, employment or agency relationship, between the Funder, the System Organization, the Centers or any Participating Partner (as such term is defined in Annex 2 (Standard Provisions)).

Article VI. **SUSPENSION**

- 6.1. The Funder should rely, to the extent possible, on the System Organization to oversee the use of Window 1 and Window 2 Funds, which may include withholding transfers to, claiming repayments from, or terminating agreements with a Center or Centers if funds from the Trust Fund are not used in accordance with the relevant governing agreements or the CGIAR Policies. Notwithstanding the foregoing, the Funder may at any time suspend payments to the CGIAR Trust Fund, wholly or in part, if, without limitation, funds from the Trust Fund are not used in accordance with this Funding Agreement or the CGIAR Policies or a payment was made in error.
- 6.2. Before taking such action, the Funder will consult with the System Organization and the Parties will endeavor to identify ways and means to manage the suspension, thereby mitigating the impact on the CGIAR Research until such time that the suspension is lifted. If the discussions with the System Organization fail to resolve the matter within **[x]** calendar days, the Funder may notify the System Organization in writing, with a copy to the Trustee, of such decision to withhold contribution payments until such time that the Funder notifies the System Organization in writing, with a copy to the Trustee, to resume any such payments.

Article VII. **TERMINATION**

- 7.1. Either the System Organization or the Funder may terminate the Funding Agreement upon 90 days' written notice. If so terminated, the Funder may request a withdrawal of its Funder's Share (as defined in the Trustee Agreement) in accordance with Funder's Contribution Agreement, provided that the System Organization may use the amounts irrevocably allocated by the System Council in good faith up to the date on which the notice of termination takes effect and those agreed between the System Organization and the Funder as being required to wind-down CGIAR Research activities funded with the Window 1 and Window 2 Funds.
- 7.2. The Funder may decide to terminate this Funding Agreement with immediate effect in the event of material breach of this Agreement. Material breach of the Agreement shall include, without limitation, the following:
- (a) all or part of the grant has not been used in accordance with the Funding Agreement and/or approved research program and budget;
 - (b) the use of the grant has not been satisfactorily accounted for;
 - (c) the System Organization has, after having been granted an extended deadline, failed to provide the agreed reports;
 - (d) financial irregularities, grave professional misconduct or illegal activity in any form have taken place with respect to the CGIAR Research funded with the Contributions; or
 - (e) the organization has failed to inform the Funder of an indication of financial irregularities with respect to the CGIAR funded with Contributions Fund in accordance with any escalation policy developed and approved by the System Organization and/or the System Council as the case may be.
- 7.3. Before terminating, the Parties shall consult with a view to reaching a solution on the matter.
- 7.4. In the event of termination of this Funding Agreement, the Funder may request a withdrawal of its Funder's Share in accordance with its Contribution Agreement.

Article VIII. **DISPUTE SETTLEMENT**

- 8.1. The Parties will use their best efforts to amicably settle any dispute, controversy, or claim arising out of or relating to this Funding Agreement.

Article IX. **ENTIRE AGREEMENT AND AMENDMENTS**

- 9.1. This Funding Agreement including its annexes constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous communications and proposals, whether electronic, oral or written, between the Parties with respect to such subject matter.
- 9.2. Except for Annex 1 (CGIAR System Framework) and Annex 2 (Standard Provisions) which each may be amended from time to time in accordance with their terms, this Funding Agreement may only be modified in writing and must be signed and dated subsequent to the date of this Funding Agreement by duly authorized representatives of both Parties.

Article X. **ASSIGNMENT**

- 10.1. The Funding Agreement will not be assigned by the System Organization without the prior written consent of the Funder.

Article XI. **COUNTERPARTS; EFFECTIVENESS**

- 11.1. This Funding Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which will be considered one and the same agreement, and will become effective when one or more counterparts have been signed by each Party and delivered to the other Party. Copies of executed counterparts transmitted by facsimile or other electronic transmission service will be considered original executed counterparts for purposes of this Funding Agreement.

Article XII. **EFFECTIVE DATE**

- 12.1. This Funding Agreement will become effective on the date of the last signature by the Parties.

ACKNOWLEDGED AND AGREED

On behalf of [the Funder]

On behalf of the CGIAR System Organization

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Annexes:

Annex I: Framework Document

Annex II: Standard Provisions

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Annex 1
CGIAR System Framework (approved by the CGIAR System's Funders and Centers
on 17 June 2016)

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ANNEX 2

Standard Provisions

The following standard provisions (the “**Standard Provisions**”) set out the terms and conditions governing the System Organization’s administration of Contributions transferred pursuant to Contribution Agreements and Contribution Arrangements entered into between Funders and the Trustee to support the activities of the System Organization (including the System Cost) and/or for CGIAR Research. The terms “Contributions”, “Funding Agreements” and “Contribution Agreements” mean, for the purposes of the Standard Provisions, the collective Contributions of all Funders, the collective Funding Agreements and Funding Arrangements entered into between Funders and the System Organization, and the collective Contribution Agreements and Contribution Arrangements entered into between Funders and the Trustee.

A. Responsibility over the Contributions

1. **Window 1 and Window 2 Funds.**

- 1.1 For the purposes of the Standard Provisions, the term “Window 1 and Window 2 Funds” will mean funds distributed at the request of the System Organization from the Trust Fund through Windows 1 and 2, respectively.
- 1.2 The System Organization will have fiduciary responsibility for the use of any Window 1 and Window 2 Funds transferred to the System Organization or a Center as the case may be and will ensure that such Window 1 and Window 2 Funds are used exclusively for their intended purposes.
- 1.3 The System Organization will ensure that Window 1 and Window 2 Funds will be administered, used and expended by the System Organization in accordance with CGIAR Policies as well as the terms of the Funding Agreements, the Contribution Agreements, the CGIAR System Framework and the CGIAR System Charter.

2. **Window 3 Funds.**

- 2.1 For the purposes of the Standard Provisions, the term “Window 3 Funds” will mean funds distributed from the Trust Fund through Window 3.
- 2.2 Window 3 Funds are directed by Funders to individual Centers. Funders may designate specific amounts to specific Centers for use by the Center; provided such funds are used (i) to implement CGIAR Research and (ii) in accordance with applicable CGIAR Policies. Designations of Window 3 Funds by Funders to Centers are not subject to review, allocation or approval by the System Organization or System Council, although the System Organization will include in its sub-agreements with Centers provisions requiring Centers to report on the use of Window 3 Funds to the System Organization in accordance with the reporting provisions under the Funding Agreements.

- 2.3 The System Organization will not have fiduciary or programmatic responsibility over, or responsibility to supervise or monitor, Window 3 Funds, except as specifically provided in the Funding Agreements with references to funds from the Trust Fund, the Contributions or Window 3 Funds. Funders will have no specific rights of recourse under the Funding Agreements regarding the use of Window 3 Funds, except that in the event a Center fails to use Window 3 Funds for implementation of CGIAR Research or in accordance with applicable CGIAR Policies, Funders have the right to request that the System Organization takes corrective action. Any such actions taken by the System Organization will be as the System Organization, in its sole discretion, considers appropriate and which are within its purview.
- 2.4 Notwithstanding the foregoing, the System Organization may take whatever corrective actions it considers appropriate and within its purview in the event a Center fails to use Window 3 Funds for implementation of CGIAR Research or in accordance with applicable CGIAR Policies, whether or not requested by Funders or any specific Funder.
- 2.5 Such corrective action may include withholding instructions for further disbursements of Window 1 and Window 2 Funds to a Center or Centers. In the event questions of interpretation regarding the use of Window 3 Funds arise, (i) decisions about what constitutes activities for implementing CGIAR Research, and (ii) decisions about compliance with the CGIAR Policies will be made by the System Organization.
- 2.6 Nothing in the Funding Agreements will preclude Funders from entering into side agreements with individual Centers in regard to the terms and conditions governing the administration of Window 3 Funds provided by their Contributions. Such side agreements must be consistent with the Standard Provisions and substantially in the form of Schedule 1 (Form of W3 Side Agreement) attached to the Standard Provisions.

3. ***Additional Responsibilities in respect of the Contributions***

- 3.1 The System Organization will oversee the programmatic implementation of the CGIAR Portfolio supported by the Contributions in accordance with the organization's performance management system and risk management framework.
- 3.2 The System Organization will provide to Funders programmatic reports on the CGIAR Portfolio supported by the Contributions and financial reporting on CGIAR Research in accordance with the terms of the Funding Agreements.
- 3.3 For the avoidance of doubt, the Contributions, including the funds, assets and receipts thereof, held in the CGIAR Trust Fund will be administered in accordance with the terms of the CGIAR Trustee Agreement and Contribution Agreements.

B. Agreements with Centers

4. **Application of the Terms of this Agreement to Centers.** The System Organization will ensure that all relevant terms, conditions and obligations set forth in the Funding Agreements are reflected in its sub-agreement with each Center. The System Organization will require the Centers to do the same with respect to any CGIAR System Partner with which a Center contracts to implement CGIAR Research (“**Participating Partner**”) with the Contributions.
5. **Cooperation.** Such agreements with Centers will specify that the Centers are required to cooperate with the System Organization to ensure that it is able to fulfil its obligations under the Funding Agreements.

C. Responsibility of Funders

6. Funders will rely, to the extent possible and except as specified in a Funder’s individual Funding Agreement or Funding Arrangement, on the System Council for the collective exercise of rights and remedies on their behalf with respect to the Contributions.

D. Intellectual Property

7. **Intellectual Assets.** The System Organization will manage its own, and will require Centers and Participating Partners to manage their Intellectual Assets (as defined in the CGIAR Principles on the Management of Intellectual Assets (the “**CGIAR IA Principles**”) in accordance with the CGIAR IA Principles and the CGIAR Open Access and the Data Management Policy as each may be amended from time to time.
8. **Use of Materials.** Funders may, *inter alia*, reproduce, adapt, translate, publish, disseminate and distribute for non-commercial purposes and free of charge all documents (such as, reports, evaluations and impact assessment), provided or made available by the System Organization to Funders. Where appropriate and applicable, Funders should recognize the source. The System Organization will ensure that necessary intellectual property rights are obtained for Funders’ use of such documents under this paragraph. If it is unable to do so, despite its reasonable efforts, any limitation or requirement to the rights to use intellectual property contained in such documents or any requirement for recognition of source should be notified to Funders.

E. Procurement

9. In the event that consultants are employed or services or goods are procured with the Contributions, the System Organization will, and will require Centers and Participating Partners to, ensure that the employment and supervision of such consultants and the procurement of such services or goods will be the responsibility of each entity employing or contracting with such consultants or carrying out such procurement and will be conducted in conformity with the *Financial Guidelines Series, No. 6, CGIAR Procurement of Goods, Works and Services Guidelines* as updated from time to time.

F. Anti-Terrorism

10. Recognizing the obligations of countries that are members of the United Nations under various United Nations Security Council resolutions to take measures to prevent financing of terrorists, the System Organization agrees, and will cause the Centers and Participating Partners to agree, to undertake to use reasonable efforts, consistent with its governing arrangements and policies, including those pertaining to combating financing for terrorists, to ensure that the Contributions disbursed for the activities of the System Organization or CGIAR Research are used for their intended purposes and are not diverted to individuals or entities associated with terrorism, as identified in accordance with relevant United Nations Security Council resolutions. The System Organization will (in respect of (i) below), and will include in its agreements with Centers a provision that any recipient of the Contributions under such agreements will (i) not use such Contributions for the purpose of any payment to persons or entities, or for the import of goods, if such payment or import, to the recipient's knowledge or belief is directed to a person or entity, appearing on the Consolidated United Nations Security Council Sanctions List, and (ii) include a corresponding provision in any sub-agreements that the Center enters into with Participating Partners

G. Lobbying

11. The System Organization will, and will ensure that Centers and Participating Partners, agree that no portion of the Contributions are earmarked for lobbying activity, defined as attempting to influence legislation (i) through affecting the opinion of the general public or any segment thereof (i.e. grassroots lobbying) except to the extent such activities arise inherently in relation to CGIAR Research comprising policy development which has been approved by the System Council, or (ii) through communications with any member or employee of a legislative body.

H. Electioneering

12. The System Organization will, and will ensure that Centers and Participating Partners, agree that the Contributions will not be used to influence the outcome of any specific public election or to directly or indirectly carry on any voter registration drive.

I. Financial Irregularities

13. **Definition of Financial irregularities.** 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 the Contributions not in accordance with the latest agreed research program proposals and budgets.
14. **Prevention of Financial Irregularities.** The System Organization will, and will require Centers and Participating Partners to, take all necessary precautions to avoid financial irregularities. The System Organization will, and will require Centers and Participating Partners to, prevent, detect and manage financial irregularities and will therefore:
 - a. organize operations and internal control systems in a way that financial irregularities are prevented and detected;
 - b. cooperate fully to prevent, stop and handle financial irregularities with respect to implementation of CGIAR Research;
 - c. require that all staff involved in, and any consultants, suppliers and contractors financed with the Contributions refrain from financial irregularities.
 15. **Requirement to Inform.** The System Organization will, and will require Centers and Participating Partners, to inform Funders of financial irregularities and of the measures initiated to handle the situation.
 16. **Cooperate with Investigations.** The System Organization will, and will require Centers and Participating Partners, to cooperate fully in the investigations of financial irregularities with respect to implementation of CGIAR Research financed by the Contributions, whether the investigation is led by the System Organization or an individual Funder.
 17. **Corrective Actions.** The System Organization will, and will require Centers and Participating Partners, to consider corrective actions towards any person and/or legal entity where there is a credible concern of corruption related to activities of the System Organization or CGIAR Research financed with the Contributions.

J. Additional Restrictions on the Use of Funds

18. **Investment Income.** Investment income generated by the Contributions disbursed to the System Organization or Centers or Participating Partners as the case may be, including currency conversion gains, will be used for the same purposes applicable to such funds under the governing agreements or, if not needed for such purposes, returned to the Trustee for deposit into Window 1 (as that term is defined in the Trustee Agreement) to be made available for allocation by the System Council.
19. **Efficiency.**
 - 19.1 The System Organization agrees, and will require Centers and Participating Partners, to agree that Contributions are used with due regard to economy and efficiency, and that the highest standards of integrity in the administration of the funds are upheld.

- 19.2 The System Organization agrees, and will require Centers to agree, that Contributions are used in accordance with the Financial Guidelines No. 5, *CGIAR Cost Allocation Guidelines as amended from time to time*, which set forth that cost incurred must be reasonable, allocable and assignable, where the following meanings apply:
- a. “Reasonable”. Any cost charged to a project should be reasonable, meaning that it is necessary for the performance of a project and that a prudent person in similar circumstances shall incur the same.
 - b. “Allocable”. Apart from the costs that are directly assigned, all projects should bear a fair share of costs of the organization’s services and institutional expenses. Such costs should be allocated to the projects using an appropriate allocation method.
 - c. “Assignable”. If a project directly benefits from an item of cost, such costs should be directly assigned to the project.
20. **Standards.**
- 20.1 The System Organization agrees, and will require Centers and Participating Partners to agree, to carry on their operations in accordance with sound administrative, technical, financial, economic, environmental and social standards and practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.
- 20.2 The System Organization agrees to require Centers and Participating Partners to carry out all regulated research activities under high standards (set with reference to internationally accepted practices) and in accordance with applicable laws and regulations.
21. **Drug Trafficking.** The System Organization agrees to confirm that each Center or Participating Partner receiving the Contributions does not believe that the Contributions would be diverted in support of drug trafficking.
22. **No Taxation.** The System Organization will, and will require Centers and Participating Partners, to use best efforts, to the extent allowed by applicable agreements, such as those signed with host governments, and other applicable laws, to ensure that the use of the Contributions will be free from any taxation or fees imposed under local laws.
23. **Responsibility to Inform.** The System Organization agrees to promptly inform Funders through the System Council should substantial deviation from the CGIAR Research supported by the Contributions develop, and will require Centers to agree to inform it of the same.

K. Programmatic Monitoring and Evaluations

24. **Monitoring.** The System Organization will monitor performance and oversee the implementation of CGIAR Research supported by the Contributions, in accordance with CGIAR Policies, including the performance management system and risk management framework and in accordance with the Funding Agreements, the Contribution Agreements, the CGIAR Framework and the System Charter.
25. **Evaluations.**
- 25.1 The System Organization will periodically commission governance and management reviews of Centers and carry out its other responsibilities in respect of evaluations, including in connection with evaluations conducted by the IEA, in accordance with the CGIAR Policies and the Funding Agreements, the Contribution Agreements, the CGIAR Framework and the System Charter.
- 25.2 The evaluations of the System Organization which are publicly disclosed can be found at: <http://iea.cgiar.org/evaluations>, or at such other URL as the System Organization may from time to time decide. The System Organization will inform Funders when evaluation reports are disclosed and if there is a change in URL.
26. **Requirements of Funders in Respect of Monitoring and Evaluations.**
- 26.1 Funders agree to manage their monitoring and evaluation needs and responsibilities with respect to the Contributions, collectively through the System Council, including relying on the CGIAR Policies, thereby refraining from conducting additional duplicative evaluations.
- 26.2 If an individual Funder wishes to request, on an exceptional basis, a review or evaluation of any activities financed by the Contributions, such Funder will consult with a designated representative from the System Management Organization on the most appropriate scope and terms of reference of such review or evaluation. The designated representative will assist in arranging for such review or evaluation. The costs of any such review or evaluation, including the internal costs of the System Organization and any Centers or Participating Partners with respect to such review or evaluation, will be paid by the requesting Funder.

L. Financial Reporting

27. **Maintain Books and Records.** The System Organization will, and will require Centers and Participating Partners, to maintain books, records, documents and other evidence in accordance with their respective usual accounting procedures to sufficiently substantiate the use of the Contributions, and to retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures related to the activities financed by the Contributions for at least [x] years after the completion or termination of the relevant activities; and permit designated representatives of the System Council to examine such records.

28. **Annual Audited Financial Statements.** The System Organization will provide to Funders, through the System Council, audited financial statements for (i) the System Organization and (ii) each Center. The audited financial statements will be prepared in accordance with International Financial Reporting Standards or US Generally Accepted Accounting Principles, as the case may be, and audited by an independent certified auditor of international standard in accordance with international audit standards such as the International Standards of Auditing (ISA) 800, ISA 805 or equivalent as well as the CGIAR Policies, and such statements will be prepared as of December 31st of each year to be submitted within six (6) months of the end of each calendar year.
29. **Audit Requirements.**
- 29.1 The totality of the Contributions disbursed to the System Organization and Centers will be included in the scope of the audit under paragraph [28] above. In its agreements with Centers, the System Organization will require the auditors of the Centers' financial statements to express opinions on whether the statements are prepared, in all material respects, in accordance with the requirements of the Funding Agreements. To this end, the auditor will obtain sufficient appropriate audit evidence regarding the financial statements of the Participating Partners.
- 29.2 All financial accounts and statements to be provided under the Funding Agreements will be expressed in United States dollars.
30. **Unaudited Financial Reporting.**
- 30.1 The System Organization will prepare and provide to Funders, through the System Council, unaudited financial reports on the CGIAR Portfolio, prepared in form and substance and provided as agreed by the System Council from time to time.
- 30.2 The System Organization will prepare and provide to Funders, through the System Council, a consolidated annual financial report for the System Organization and Centers prepared in form and substance and provided as agreed by the System Council from time to time.
31. **Information.** The System Organization will provide to Funders, and will require Centers and Participating Partners to provide to it or to Funders as the case may be, upon reasonable request, all information reasonably available to the System Organization, the relevant Center or Participating Partner as the case may be, relevant to the implementation and progress of the CGIAR Research funded by the Contributions.
32. **Inspection.** The System Organization will permit Funders, and will require Centers and Participating Partners to permit the System Organization or Funders as the case may be, to carry out inspection at any time during the period CGIAR Research funded by the Contributions is being implemented. Any such inspection will be performed during the relevant organization's normal business hours and will not unreasonably interfere with

business operations. Any costs incurred by the System Organization, any Center or Participating Partner with respect to such inspection, to be paid by the requesting Funder.

33. ***Additional Audits / Financial Reviews.*** Funders may request, through the System Council, that the System Organization have an external audit with respect to any or all of the Contributions audited by an external auditor. If the System Council agrees with such audit, a Funder specifically designated by the System Council to act for the System Council for this purpose and the System Organization will agree on the scope and terms of reference and payment source of such audit. The costs of any such audit, including the internal costs of the System Organization with respect to such audit, will be paid as a Systems Cost. If an individual Funder has a statutory, regulatory or policy environment requiring such Funder's ability to request unilaterally that the System Organization have an external audit with respect to Window 1 and/or Window 2 Funds, such Funder may proceed with the terms set forth above in agreeing with the System Organization directly on the most appropriate scope and terms of reference, with the costs of any such audit to be paid by such Funder.
34. ***Letters of Representation.*** Upon request by a Funder, the System Organization will provide Funders, through the System Council, a copy of letters of representation from each of the Centers and the System Organization (to be substantially in a form acceptable to the System Council and prepared in accordance with the rules and regulations of the respective organization as applicable), providing assurance on adequate internal control systems.

M. Programmatic Reporting

35. ***Annual Programmatic Reports.***
36. The System Organization will provide to Funders annually, through the System Council, reports prepared on the CGIAR Portfolio in accordance with the CGIAR Policies, in particular, the Template for Annual Reporting as updated from time to time. The current version of the Template for Annual Reporting at the date of initial approval of the Standard Provisions requires Centers to report the following information on implementation of the CGIAR Portfolio:
- 34.1 An evidence-based assessment of progress on or toward the achievement of expected outputs and outcomes and, if possible, a description of the likelihood of the impact being achieved, which includes evidence of performance using actual data on output and outcome level performance indicators, with such data available through web links provided by the System Organization;
- 34.2 Synthesis of progress and challenges in implementing the relevant CGIAR Research;
- 34.3 Overall financial summary: actual total spending (from all sources, including bilateral and Window 3 Funds);

34.4 An assessment of how the System Organization's Gender strategy is being implemented and how it is contributing to the achievement of expected results;

34.5 [if relevant, a summary of environmental issues that affect and/or arise from the CGIAR Research and how they are being addressed to ensure expected results are achieved;]

34.6 [if relevant, a summary of what governance and human rights issues affect the CGIAR Research and description of how governance considerations (i.e. capacity and responsiveness; efficiency and effectiveness; transparency and accountability; equity, equality and non-discrimination; participation and inclusion) have been taken into account to address the issues in the design, implementation, results and monitoring of the CGIAR Research.]

37. **[Final narrative report.** Within three (3) months of the completion of the CGIAR Research, or the expiry or termination of this Administration Agreement, the System Organization will provide, or cause Centers to provide, a final narrative report. The report will include an evidence-based analysis of cumulative outputs and outcomes achieved over the course of the CGIAR Research. This final narrative report should provide evidence of performance using actual data on output and outcome level performance indicators, identified in the relevant results framework for the CGIAR Research, in comparison to baseline and targets. The final narrative report should also be accompanied by an annex providing actual data on each performance indicator as per its collection frequency, which may be made available as a web link. The report should also outline challenges and lessons learned, and include a summary of considerations identified in above sections [34.2-34.5] and how the CGIAR Research is ensuring the sustainability of results achieved.]

38. **Additional Programmatic Reporting.** If a Funder wishes to request, on an exceptional basis, that the System Organization, a Center or Participating Partner provide additional programmatic reports with respect to the Contributions, and the requesting Funder has a statutory, regulatory or policy environment requiring such Funder's ability to make such a request unilaterally, such Funder will agree with the System Organization and the relevant Center(s) on the most appropriate scope and terms of such report, with the costs of any such additional reporting, including the internal costs of the System Organization and any Centers or Partners with respect to such additional reports, to be paid by such Funder.

N. Limitation of Liabilities

39. **No Liabilities.** In providing funds under the Funding Agreements, Funders do not accept any responsibility or liability towards any third parties including any claims, debts, demands, damage or loss as a result of the implementation of the activities under the Trust Fund.

40. **Excess Costs.** No individual Funder will be obligated to reimburse the System Organization or any other recipient of the Contributions for costs incurred in excess of the total amount committed in the relevant Contribution Agreement between such Funder and the Trustee. The recipients will not be obligated to continue performance under relevant agreements or otherwise

incur costs in excess of the amounts committed in such agreements, unless and until such amounts have been increased through amendments specifying the new committed amounts.

O. Conflict of Interest

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

39. **Avoiding Conflicts of Interest.** The System Organization will take all necessary precautions to avoid or manage any conflicts of interest in all matters related to the Contributions.

40. **Resolving Conflicts of Interest.** If a conflict of interest occurs, the System Organization will, 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.

P. Acknowledgement of Funders

41. All communications products on CGIAR Research funded by the Contributions, whether online or in hard copy form (e.g., publications, press releases, newsletters, website stories, blogs, posters, etc.), must acknowledge support received by Funders, including through either of the following statements, which should either be hyperlinked to Funders' webpage or include this URL: <http://www.cgiar.org/who-we-are/cgiar-fund/fund-donors-2/>:

- a. This research is supported by CGIAR Funders.
- b. This work is supported by CGIAR Funders.
- c. We would like to thank all Funders who supported this [work/research] [choose one] through their contributions to the CGIAR Trust Fund.

Q. Withholding Transfers of Window 1 and Window 2 Funds to Centers

42. The System Organization may decide to withhold approving transfers of Window 1 and Window 2 Funds out of the Trust Fund to a specific Center or Centers for the following reasons:

- a. there are substantial deviations from the obligations under the relevant agreement between the System Organization and a Center or Centers;
- b. the strategic goals of the CGIAR Strategy and Results Framework are imperiled;
- c. reports are not delivered as agreed;
- d. there is suspicion of financial irregularities in relation to the implementation of CGIAR Research with funds from the Trust Fund; or

- e. the System Organization has failed to inform Funder of financial irregularities with respect to implementation of CGIAR Research with funds from the Trust Fund in accordance with any escalation policy developed and approved by the System Organization and/or the System Council as the case may be.

R. Refunds

43. **Unexpended Funding.** The System Organization may, and may require Centers and Participating Partners, to promptly return any portion of the Window 1 and Window 2 Funds that are unexpended or uncommitted at the completion of the CGIAR Research activity for which it was provided (including approved extensions). Such returned funds will be deposited to Window 1 of the Trust Fund unless determined otherwise by the System Organization in consultation with the System Council.

44. **Misused Funds.** The System Organization will, and will require Centers, to refund any portion of the Contribution used for purposes or in a manner other than as provided in the Funding Agreements, and such funds will be deposited to the Window 1 of the Trust Fund unless determined otherwise in consultation with the System Council.

45. **Return of Funds to Funders.** An individual Funder may request the return of a pro rata share of any refunds made to the Trust Fund. In case of such request from such Funder, the System Organization will request the Trustee to calculate Funder's pro rata share of the refunds made in the same manner that the Trustee calculates Funder's share as set out in article [] of the Trustee Agreement based on the Window identified by the System Organization as pertaining to the refunds.

46. **Reallocation of Returned Funds.** The System Organization will reallocate any portion of the Window 1 and Window 2 Funds refunded to the Trust Fund. Such reallocation shall be carried out in accordance with the CGIAR Policies, the Funding Agreements, the Contribution Agreements, the CGIAR System Framework and the CGIAR System Charter.

S. Continuing Effect

47. Notwithstanding the sections on refund, suspension or termination under the Funding Agreements, the provisions of the Funding Agreements that contemplate performance or observance subsequent to any termination or expiration of the Funding Agreements will continue in full force and effect.

T. Inconsistency

48. In the event of any inconsistency between the cover agreement and the Standard Provisions, the Standard Provisions will prevail.

U. Amendments

49. The Standard Provisions may only be amended by approval of the System Council, after consultation with the System Management Board.

DRAFT

Schedule 1
Form of W3 Side Agreement

DRAFT

Appendix 2
Consultation draft
14 September 2016

DRAFT TEMPLATE OF CONTRIBUTION AGREEMENT/ARRANGEMENT

*Trust Fund Contribution [Arrangement][Agreement]
Between the [insert the name of Funder] and the International Bank for
Reconstruction and Development as Trustee of the CGIAR Trust Fund (MTO
No. _____)*

WHEREAS, the Consortium of International Agricultural Research Centers (operating under the name of CGIAR System Organization) (the “CGIAR System Organization”) and the International Bank for Reconstruction and Development (the “World Bank”), as trustee of the CGIAR Trust Fund (MTO No. []) (the “Trust Fund”)(the “Trustee”) entered into the Agreement on the Terms and Conditions for the Administration of the CGIAR Trust Fund (including all annexes attached thereto, which constitute an integral part thereof), dated [], as may be amended from time to time in accordance with its provisions (the “CGIAR Trustee Agreement”);

WHEREAS, pursuant to the CGIAR Trustee Agreement, the Trustee established the Trust Fund for the purpose of allowing Funders (as defined in the CGIAR Trustee Agreement) to make funding available on a coordinated basis, to support the activities of CGIAR; [and]

WHEREAS, the _____ *[insert name of Funder]* (the “Funder”) has decided to provide contributions to the Trust Fund in accordance with and subject to the provisions of this Contribution [Agreement][Arrangement]; [and]

[**WHEREAS**, the Funder has entered into a Funding Agreement with the System Organization with respect to the Funder’s contribution to the Trust Fund.]¹

NOW THEREFORE, the [Parties][Participants] hereto [agree][decide] as follows:

1. The Trustee acknowledges that the Funder (together with the Trustee, the “[Parties][Participants]” and each a “[Party][Participant]”) agrees [, subject to legislative appropriations,]² to provide the sum of _____ *[insert amount and currency written out in words]* (_____ *[insert abbreviated currency*

¹ Include this bracketed text if the Funding Agreement has been entered into before the date of this Contribution Agreement.

² Include if applicable.

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reference and numerical amount) (the “Contribution”) for the Trust Fund in accordance with the terms of this Contribution [Agreement][Arrangement].³

2. The Trustee [shall][will] administer the Contribution to the CGIAR Trust Fund in accordance with the CGIAR Trustee Agreement and the provisions of the CGIAR Trustee Agreement [shall][will] apply to the Contribution. The Parties acknowledge as of the date of this Contribution [Agreement][Arrangement] that: in accordance with the CGIAR Trustee Agreement, (a) the Trustee may return to the Funder an amount deposited in the Window 3 or Provisional Account, if applicable, in accordance with paragraph 5.9 thereof, (b) the Trustee will provide to the Funder an annual single audit report in accordance with paragraphs 9.3 thereof, (c) the Funder may request, on an exceptional basis, a financial statement audit by the Trustee’s external auditors of the Trust Fund in accordance with paragraphs 9.4 thereof, (c) the Trustee may return to the Funder the Funder’s Share, as applicable, in accordance with paragraph 10.2, 10.6, 10.7, 10.8 and 10.9 thereof, and (d) the CGIAR Trustee Agreement (including those paragraph 5.9, 9.3, 9.4, 10.2, 10.6, 10.7, 10.8 and 10.9 mentioned above) may be amended with written agreement signed by the Trustee and the System Organization, but only with the prior consent of all Funders contributing to the Trust Fund (paid or not yet paid) during the three year period immediately preceding to the date of the request sent to the Funders for consent, as set out in paragraph 10.2 thereof.

3. Other Funders are also expected to contribute to the CGIAR Trust Fund on such terms and conditions.

4. The Funder confirms that it has received a copy of the CGIAR Trustee Agreement.

5. The Funder [shall][will] make payments of the Contribution as follows:

5.1. Contribution Currency: _____ *[insert currency]*

5.2. Payment Method:⁴ Deposit in cash through a bank transfer, into such bank account designated by the Trustee (each amount deposited hereinafter referred to as an “Installment”) upon submission of a payment request by the Trustee for each Installment.

When making any deposit of cash, the Funder will instruct its bank to include in its deposit details information (remittance advice) field of its SWIFT deposit message, information indicating: the amount deposited, that the payment is made by the Funder for the CGIAR Trust Fund (MTO _____ *[insert TF number]*), and the date of the deposit (the “Deposit Instructions”). In addition, the Funder [shall][will] provide a copy of the Deposit Instructions to the Bank’s Accounting Trust Funds Division by e-mail sent to tfremiadvice@worldbank.org or by fax sent to (202) 614-1315.

³ Include the following text for those Funders that it is a requirement for them and agreed with the Trustee: “It is acknowledged that the Funder shall not be required to provide any amount in excess of the Contribution.”

⁴ Modify if a promissory note is used.

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5.3. Payment Schedule:⁵

Installment	Amount	Payment Date
1	[<i>currency</i>] _____	[upon full signature of this Contribution [Agreement][Arrangement]] [by _____ [<i>insert date</i>]]
2	[<i>currency</i>] _____	[by _____ [<i>insert date</i>]]

5.4. Window Designation [and Cost Sharing Portion]:⁶

Installment	Amount ⁷	Window ⁸	Designation ⁹	[Cost Sharing Portion] ¹⁰	Net Allocation Amount (i.e., Amount less Cost Sharing Portion)
TOTAL					

5.5. Additional Conditions for Payments:

Notwithstanding paragraph 5.3 (Payment Schedule) above:

- (a) [the Funder [shall][will] not be required to make any payment for the Contribution before the agreement is entered into between the System Organization and the Funder with respect to the Funder’s contributions to the Trust Fund (the “Funding Agreement”);]¹¹
- (b) Upon notice by the Funder in writing to the System Organization, with a copy to the Trustee, of its decision to withhold its payment [following an event of suspension of Funder’s payment] pursuant

⁵ Modify the payment schedule as appropriate.

⁶ Modify the sub-heading and the table as appropriate depending on the applicability of [Cost Sharing Portion].

⁷ The numbers in this column must aggregate to the total Contribution in paragraph 1.

⁸ In each case, indicate either Window 1, 2 or 3, or Provisional Account.

⁹ Designations can be either specific eligible CRPs for Window 2, specific Centers for Window 3, or “Not Applicable” for Window 1 and the Provisional Account.

¹⁰ Cost Sharing Portion is charged to Windows 2 and 3 only.

¹¹ Include this bracketed text only if the Funder has not entered into the Funding Agreement before the date of this Contribution Agreement.

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to the terms of the Funding Agreement between the Funder and the System Organization, the Funder may withhold all or any portion of Contribution payment that has not been made to the Trustee, until such time that the Funder notifies the System Organization in writing, with a copy to the Trustee, to resume any such payments; and

- (c) [If the System Organization notifies the Trustee in writing that the Funder and the System Organization have agreed that it is necessary to either bring Installments forward or delay them on the basis of financial needs of the Trust Fund and accordingly to revise the Payment Schedule set out above, the Trustee and the Funder [shall][will] agree in writing to revise the Payment Schedule reflecting the schedule notified by the System Organization].¹²

6. With respect to contributions to Window 3, if any, by designating a Center under paragraph 5.4 above, the Funder shall be deemed to have requested and authorized the Trustee to transfer to the designated Center the Net Allocation Amount specified for it under the said paragraph. The Trustee may make such transfer, promptly after the receipt by the Trustee of the Contribution funds (and upon conversion to the Holding Currency, if applicable), to a bank account notified by the concerned Center in its standing instruction letter provided to the Trustee, without any further instructions from the Funder, Center, System Organization or any other entity. This paragraph 5 [shall][will] be applicable only if any portion of the Contribution is provided to the Window 3.

7. Except with respect to the Deposit Instructions, any notice, request or other communication to be given or made under this Contribution [Agreement][Arrangement] [shall][will] be in writing and delivered by mail, fax or e-mail to the respective [Party][Participant]'s address specified below or at such other address as such [Party][Participant] notifies in writing to the other [Party][Participant] from time to time:

For the Trustee (the "Trustee Contact"):

Director
Trust Funds and Partnerships
Development Finance
The World Bank
1818 H Street, NW
MSN G6-602
Washington, DC 20433, U.S.A.

Tel: + 1 (202) 473-7654
E-mail: mtotruster@worldbank.org

For the Funder (the "Funder Contact"):

[insert details]

¹² Include this bracketed text for those Funders that requires this and agreed with the Trustee.

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8. The Trustee [shall][will] disclose the Contribution [Agreements][Arrangements] and related information on this Trust Fund in accordance with the World Bank’s Policy on Access to Information. By entering into the Contribution [Agreement][Arrangement], the Funder consents to such disclosure of its respective Contribution [Agreement][Arrangement] and such related information.

9. The Funder and the Trustee [shall][will] use their best efforts to amicably settle any dispute, controversy, or claim arising out of or relating to the Contribution [Agreements][Arrangements].

10. The Trustee shall be responsible only for performing those functions specifically set forth in the CGIAR Trustee Agreement and Contribution [Agreements][Arrangements] and shall not be subject to any other duties or responsibilities to the Funders, including, without limitation, any duties or obligations that might otherwise apply to a fiduciary or trustee under general principles of trust or fiduciary law. Nothing in the Contribution [Agreements][Arrangements] shall be considered a waiver of any privileges or immunities of the World Bank under its Articles of Agreement or any applicable law, all of which are expressly reserved.

11. This Contribution [Agreement][Arrangement] [shall][will] constitute the entire agreement and understanding between the Trustee and the Funder. This Contribution [Agreement][Arrangement] may be amended only by written amendment between the Trustee and the Funder. The several terms defined in the Preamble to this Contribution [Agreement][Arrangement] [shall][will] have the respective meanings set forth therein.

[12. It is understood that this Contribution Arrangement is not an international treaty and is not eligible for registration as a treaty under Article 102 of the United Nations Charter. It is an administrative arrangement between the Trustee and the Funder.]¹³

[13. All references made in the CGIAR Trustee Agreement to “shall”, “Contribution Agreement” and “Parties” will have the same meaning as the term “will”, “Contribution Arrangement” and “Participants” herein. In addition, references in the CGIAR Trustee Agreement that indicate “agreements” on the part of the Funder will be deemed to constitute references to “decisions” on the part of the Funder.]¹⁴

[14. Each of the Parties represents, by confirming its agreement below, that it is authorized to enter into this Contribution [Agreement][Arrangement] and act in accordance with these terms and conditions. The Parties are requested to sign and date this Contribution [Agreement][Arrangement], and upon possession by the Trustee of this fully signed Contribution [Agreement][Arrangement], this Contribution [Agreement][Arrangement] [shall][will] become effective as of the date of the last signature.

**INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT,
as Trustee of the CGIAR Trust Fund**

By: _____

¹³ Include this bracketed text for those Funders that requires this.

¹⁴ Include this bracketed text for those Funders that requires this.

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Name: _____

Title: _____

Date: _____

[FUNDER]

By: _____

Name: _____

Title: _____

Date: _____

DRAFT

DRAFT TEMPLATE OF AMENDMENT/MODIFICATION FOR SUPPLEMENTAL CONTRIBUTION

[Amendment][Modification] No. [insert number] to the Contribution [Agreement][Arrangement] between the [insert the name of Funder] and the International Bank for Reconstruction and Development as Trustee of the CGIAR Trust Fund (MTO No. _____)

WHEREAS, the _____ *[name of Funder]*¹⁵ (the “Funder”) and the International Bank for Reconstruction and Development (the “World Bank”), as trustee of the CGIAR Trust Fund (MTO No. [] (the “Trust Fund”)(the “Trustee”, and together with the Funder, the [“Parties”] [“Participants”] and each a [“Party”] [“Participant”]) entered into a Contribution [Agreement][Arrangement] effective as of _____ *[insert effectiveness date]*, as may have been amended from time to time (the “Contribution [Agreement][Arrangement]”); and

WHEREAS, the Funder wishes to make a supplemental contribution to the Trust Fund.

NOW THEREFORE, the [Parties][Participants] hereto [agree][decide] to [amend][modify] the Contribution [Agreement][Arrangement] as follows:

1. In reference to the Contribution [Agreement][Arrangement], the Trustee acknowledges that the Funder agrees [, subject to legislative appropriations,]¹⁶ to provide a supplemental contribution in the sum of _____ *[insert amount and currency written out in words]* (_____ *[insert abbreviated currency reference and numerical amount]*) (the “Supplemental Contribution” or “Contribution”) for the Trust Fund in accordance with this [Amendment][Modification] (the “[Amendment][Modification]”).¹⁷

2. The Trustee shall administer the Supplemental Contribution as set out in the Contribution [Agreement][Arrangement].

3. The Funder [shall][will] make payments of the Supplemental Contribution as follows:

3.1. Contribution Currency: _____ *[insert currency]*

3.2. Payment Method:¹⁸ Deposit in cash through a bank transfer, into such bank account designated by the Trustee (each amount deposited hereinafter referred to as an “Installment”) upon submission of a payment request by the Trustee for each Installment.

When making any deposit of cash, the Funder will instruct its bank to include in its deposit details information (remittance advice) field of its

¹⁵ Use the same Funder name as in the original AA.

¹⁶ Include if applicable.

¹⁷ Include the following text for those Funders that it is a requirement for them and agreed with the Trustee: “It is acknowledged that the Funder shall not be required to provide any amount in excess of the Contribution.”

¹⁸ Modify if a promissory note is used.

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SWIFT deposit message, information indicating: the amount deposited, that the payment is made by the Funder for the CGIAR Trust Fund (MTO _____ *[insert TF number]*), and the date of the deposit (the “Deposit Instructions”). In addition, the Funder [shall][will] provide a copy of the Deposit Instructions to the Bank’s Accounting Trust Funds Division by e-mail sent to tfremitadvice@worldbank.org or by fax sent to (202) 614-1315.

3.3. Payment Schedule:¹⁹

Installment	Amount	Payment Date
1	<i>[currency]</i>	[upon full signature of this [Amendment][Modification] [by _____ <i>[insert date]</i>]
2	<i>[currency]</i>	[by _____ <i>[insert date]</i>]

3.4. Window Designation [and Cost Sharing Portion]:²⁰

Installment	Amount ²¹	Window ²²	Designation ²³	[Cost Sharing Portion] ²⁴	Net Allocation Amount (i.e., Amount less Cost Sharing Portion)
TOTAL					

3.5. Additional Conditions for Payments:

Notwithstanding paragraph 3.3 (Payment Schedule) above:

- (a) Upon notice by the Funder in writing to the System Organization, with a copy to the Trustee, of its decision to withhold its payment [following an event of suspension of Funder’s payment] pursuant to the terms of the Funding Agreement between the Funder and the System Organization, the

¹⁹ Modify the payment schedule as appropriate.

²⁰ Modify the sub-heading and the table as appropriate depending on the applicability of [Cost Sharing Portion].

²¹ The numbers in this column must aggregate to the total Contribution in paragraph 1.

²² In each case, indicate either Window 1, 2 or 3, or Provisional Account.

²³ Designations can be either specific eligible CRPs for Window 2, specific Centers for Window 3, or “Not Applicable” for Window 1 and the Provisional Account.

²⁴ Cost Sharing Portion is charged to Windows 2 and 3 only.

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Funder may withhold all or any portion of Supplemental Contribution payment that has not been made to the Trustee, until such time that the Funder notifies the System Organization in writing, with a copy to the Trustee, to resume any such payments; and

- (b) [If the System Organization notifies the Trustee that the Funder and the System Organization have agreed that it is necessary to either bring Installments forward or delay them on the basis of financial needs of the Trust Fund and accordingly to revise the Payment Schedule set out above, the Trustee and the Funder [shall][will] agree in writing to revise the Payment Schedule reflecting the schedule notified by the System Organization].²⁵

4. With respect to contributions to Window 3, if any, by designating a Center under paragraph 3.4 above, the Funder shall be deemed to have requested and authorized the Trustee to transfer to the designated Center the Net Allocation Amount specified for it under the said paragraph. The Trustee may make such transfer, promptly after the receipt by the Trustee of the Supplemental Contribution funds (and upon conversion to the Holding Currency, if applicable), to a bank account notified by the concerned Center in its standing instruction letter provided to the Trustee, without any further instructions from the Funder, Center, System Organization or any other entity. This paragraph 3 [shall][will] be applicable only if any portion of the Contribution is provided to the Window 3.

5. Except with respect to the Deposit Instructions, any notice, request or other communication to be given or made under this Contribution [Agreement][Arrangement], including this [Amendment][Modification], [shall][will] be in writing and delivered by mail, fax or e-mail to the respective [Party][Participant]'s address specified below or at such other address as such [Party][Participant] notifies in writing to the other [Party][Participant] from time to time:

For the Trustee (the "Trustee Contact"):

Director
Trust Funds and Partnerships
Development Finance
The World Bank
1818 H Street, NW
MSN G6-602
Washington, DC 20433, U.S.A.

Tel: + 1 (202) 473-7654
E-mail: mtotruster@worldbank.org

For the Funder (the "Funder Contact"):

[insert details]

6. The Trustee [shall][will] disclose this [Amendment][Modification] and related information on this Trust Fund in accordance with the World Bank's Policy on Access to Information. By entering into this

²⁵ Include this bracketed text for those Funders that requires this and agreed with the System Organization and the Trustee.

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[Amendment][Modification], the Funder consents to such disclosure of this [Amendment][Modification] and such related information.

7. All other terms of the Contribution [Agreement][Arrangement] [shall][will] remain the same.

[8. It is understood that this Contribution Arrangement is not an international treaty and is not eligible for registration as a treaty under Article 102 of the United Nations Charter. It is an administrative arrangement between the Trustee and the Funder.]²⁶

[9]. Each of the Parties represents, by confirming its agreement below, that it is authorized to enter into this [Amendment][Modification] and act in accordance with these terms and conditions. The Parties are requested to sign and date this [Amendment][Modification], and upon possession by the Trustee of this fully signed [Amendment][Modification], this [Amendment][Modification] [shall][will] become effective as of the date of the last signature.

**INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT,
as Trustee of the CGIAR Trust Fund**

By: _____

Name: _____

Title: _____

Date: _____

[FUNDER]

By: _____

Name: _____

Title: _____

Date: _____

²⁶ Include this bracketed text for those Funders that requires this.

Appendix 3
Consultation Draft
14 September 2016

AGREEMENT

on

the Terms and Conditions for the Administration of the CGIAR Trust Fund

between

CGIAR SYSTEM ORGANIZATION

and

**INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT,
AS TRUSTEE OF THE CGIAR TRUST FUND**

DRAFT 9.10.2016 – Subject to World Bank internal review and clearance

MTO No. []

This AGREEMENT on the Terms and Conditions for the Administration of the CGIAR Trust Fund (the “CGIAR Trustee Agreement”) is dated _____, 2016 and made between the CONSORTIUM OF INTERNATIONAL AGRICULTURAL RESEARCH CENTERS (operating under the name of CGIAR SYSTEM ORGANIZATION) (the “System Organization”) and the INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the “World Bank”), as trustee of the CGIAR Trust Fund (MTO No. []) (the “Trust Fund”)(the “Trustee”)(together with the System Organization, the “Parties”, and each, a “Party”).

WHEREAS:

(A) The System Organization is the international organization, governed by the Charter of the CGIAR System Organization (the “CGIAR System Charter”), with its organs being the System Management Board (the “System Management Board”) and the System Management Office (the “System Management Office”);

(B) The System Council is established under the CGIAR System Framework, as the strategic decision-making body, which keeps under review the strategy, mission, impact and continuous relevancy of the CGIAR System (as such term is defined in the System Framework), and the purpose of the CGIAR System is to advance agri-food science and innovation to enable poor people, especially women, to better nourish their families, and improve productivity and resilience so they can share in economic growth and manage natural resources in the face of climate change and other challenges;

(C) Those independent research organizations that are recognized as CGIAR Research Centers contributing knowledge, technical expertise, and resources in support of the CGIAR Strategy and Results Framework under the CGIAR System Charter and the CGIAR System Framework (each such organization, a “Center”) recognize the benefits of collaboration in CGIAR Research (as such term is defined in the CGIAR System Framework) in general, and working jointly within, and as members of, the CGIAR System Organization to achieve the goals of the CGIAR Strategy and Result Framework facilitated by the System Management Board;

(D) The System Organization will work with the System Council in accordance with the CGIAR System Charter and the CGIAR System Framework;

(E) The System Organization has requested the World Bank to establish a trust fund at the World Bank, as trustee, to receive contributions from Funders (as defined below) to provide funding for the activities of the System Organization and for CGIAR Research, and to administer such trust fund in accordance with this CGIAR Trustee Agreement; and

(F) The World Bank agrees to establish and administer the Trust Fund pursuant to the terms of this CGIAR Trustee Agreement and Contribution Agreements (as defined below).

NOW THEREFORE, the Parties hereto agree as follows: ¹

1. Interpretation

1.1. All annexe(s) hereto constitute an integral part of this CGIAR Trustee Agreement, whose terms taken together shall constitute the entire agreement and understanding between the System Organization and the Trustee.

1.2. Unless the context otherwise requires, the several terms defined in the Preamble to this CGIAR Trustee Agreement shall have the respective meanings therein set forth when used in this CGIAR Trustee Agreement.

2. Establishment of the Trust Fund

2.1. The Trustee shall establish and administer the Trust Fund to receive financial contributions (each, a “Contribution”) from the Funders, and shall hold in trust, as a holder of the legal title, and administer the funds, assets and receipts that constitute the Trust Fund to provide funding for the activities of the System Organization (including administrative costs of the CGIAR System) and for CGIAR Research, in accordance with the terms of this CGIAR Trustee Agreement.

2.2. For the purpose of receipts of Contributions and transfers of Trust Fund funds, which shall be made in accordance with the provisions of this CGIAR Trustee Agreement and contribution agreements or contribution arrangements entered into between the Trustee and the Funders with respect to the Trust Fund (each, a “Contribution Agreement”), the Trustee shall maintain in the Trust Fund: (a) a window for Contributions that are not designated by Funders for any specific Center or research program (“Unrestricted Funding”)(the “Window 1”), (b) a window for Contributions for research program-specific funding (“Research Program-Specific Funding”)(the “Window 2”), (c) a window for Contributions for Center-specific funding (the “Window 3”, and together with the Window 1 and the Window 2, collectively “Windows” and each a “Window”), and (d) an account for any Contribution for which a Funder has not specified which window the funding will be designated (the “Provisional Account”).

2.3. The Trustee shall be responsible only for performing those functions specifically set forth in this CGIAR Trustee Agreement and Contribution Agreements and shall not be subject to any other duties or responsibilities to the System Organization, Funders or any other CGIAR participant, including, without limitation, any duties or obligations that might otherwise apply to a fiduciary or trustee under general principles of trust or fiduciary law. Nothing in this CGIAR Trustee Agreement shall be considered a waiver of any privileges or immunities of: (a) the World Bank under its Articles of Agreement or any applicable

¹ The draft includes provisions relating to Window structure, which are drafted largely based on the existing arrangements under the current CGIAR Fund, based on the assumption that such Window structure will be maintained under the new CGIAR Trust Fund.

law, all of which are expressly reserved, or (b) the System Organization under any applicable laws and agreements, all of which are expressly reserved.

2.4. The Trustee shall perform its functions under this CGIAR Trustee Agreement in accordance with the applicable provisions of the World Bank's policies and procedures, as the same may be amended from time to time.

2.5. Unless otherwise specified in this CGIAR Trustee Agreement, any instruction, confirmation, information, or agreement permitted or required to be provided by, or to, the System Organization under this CGIAR Trustee Agreement shall be made through the System Management Office.

2.6. The Trustee may rely in good faith on any instruction, confirmation and information provided under this CGIAR Trustee Agreement in writing by the System Management Office, including the System Management Office acting for the System Management Board or the System Council, as the case may be, without further inquiry or investigation on its part, and will have no liability for relying in good faith on any such instruction or otherwise for any actions taken, or omitted to be taken, in good faith. In providing such instruction to the Trustee, the System Organization shall be deemed to represent and warrant to the Trustee that the System Management Office has all necessary approvals by the System Management Board and/or the System Council, to the extent applicable, to provide such instructions. The Trustee shall have no responsibility for any decision or determination made by the System Management Board, the System Council or the System Management Office under or in connection with this CGIAR Trustee Agreement.

2.7. The Trustee shall be fully indemnified, out of the Trust Fund resources, and held harmless, against any liabilities, claims, losses, costs and expenses, including attorneys' fees and expenses, incurred by the Trustee in connection with or arising out of the performance of its role and responsibilities under this CGIAR Trustee Agreement. Such indemnity shall not include any liabilities, claims, losses, costs or expenses incurred by the Trustee as a direct result of its own gross negligence or willful misconduct.

2.8. If any proposed decision of the System Council or System Management Board is likely to affect the functions of the Trustee under this CGIAR Trustee Agreement, the System Management Office shall consult with the Trustee in advance, and the Trustee shall be invited to attend to the relevant meeting of the System Council or the System Management Board, as applicable. For the avoidance of doubt, in the absence of such consultation with, and the agreement of, the Trustee, in no event shall the Trustee be required to follow any such decision affecting the functions of the Trustee under this CGIAR Trustee Agreement.

3. Contributions and Contribution Agreements

3.1. The Trustee may receive Contributions to the Trust Fund from an entity that enters into a Contribution Agreement with the Trustee (each, a "Funder") consistent with this CGIAR Trustee Agreement and the Trustee's policies and procedures; provided that the

Trustee reserves the right to reject a proposed Contribution to the Trust Fund, if receipt of such Contributions is not consistent with the World Bank's policies and procedures. The Trustee shall inform the System Organization of any proposed Contributions to the Trust Fund which have been rejected by the Trustee.

3.2. Contribution Agreements shall be substantially in a form agreed with the System Management Office from time to time (following System Management Office's consultation with the System Council and the System Management Board as appropriate), consistent with the terms of this CGIAR Trustee Agreement, and shall provide, among other things, that the Contribution from the Funder shall be administered by the Trustee in accordance with the terms of this CGIAR Trustee Agreement. The Trustee shall provide the System Organization with a copy of the executed Contribution Agreements for any Window and/or Provisional Account.

3.3. Payments of Contributions by Funders may be made in any Holding Currency (as defined below) or in another freely convertible currency acceptable to the Trustee (such currency of payment, a "Contribution Currency").

3.4. In the case of deposits of Contribution received in a Contribution Currency other than any Holding Currency, promptly upon the receipt of such amounts in cash (including cash received from encashment of promissory notes) and the accompanying deposit instructions, as required under the relevant Contribution Agreement, the Trustee shall convert such amount into the Holding Currency at the exchange rate obtained by the Trustee on the date of the currency conversion. If more than one Holding Currency is added to the Trust Fund, the System Organization and the Trustee shall agree to the procedures for determining which Holding Currency the deposits of Contribution will be converted to. Where deposits prove to be insufficient to complete activities as a result of exchange rate fluctuations, the Trustee will not be responsible for providing any additional financing.

3.5. Payments of Contributions by Funders may be made in cash, or if so agreed with the Trustee, by the delivery to the Trustee of a promissory note (or similar obligations) payable on demand, in a form acceptable to the Trustee (such mode of payment, a "Payment Method"). In the case of payment in cash, unless otherwise agreed with the Trustee and so specified in the Contribution Agreement, such payment shall be made by deposit in cash through a bank transfer into such account with such bank designated by the Trustee.

3.6. Contributions may be paid in one lump sum or in installments on terms acceptable to the Trustee (such payment schedule, a "Payment Schedule").

3.7. Subject to Section 5 below, any amount of Contributions to the Trust Fund may be made to the Window 1, any research program-specific designation to the Window 2, any Center-specific designation to the Window 3 or the Provisional Account (such designation, a "Window Designation").

3.8. [If so approved by the System Council, the System Organization may send a written instruction to the Trustee, notifying that a certain sum (whether based on a

percentage, fixed amount or otherwise) shall be retained from the amounts of Contributions deposited in Window 2 and/or Window 3, for transfer to the Window 1 for the purpose of cost-sharing of administrative costs of the CGIAR System. If any such instruction is provided to it, the Trustee shall ensure to include the relevant amount of funds (a “Cost-Sharing Portion”) in the relevant Contribution Agreement in accordance with paragraph 3.9 below, and according to which the Trustee shall transfer the relevant sum to the Window 1.]

3.9. Contribution Currency, Payment Method, Payment Schedule, Window Designation, Cost Sharing Portion shall be specified in the respective Contribution Agreement. The Trustee shall confirm those terms of Contribution with the System Organization before entering into a Contribution Agreement with a Funder.

4. Commingling, Exchange and Investment of the Contributions

4.1. The funds deposited in the Trust Fund shall be accounted for as a single trust fund and shall be kept separate and apart from the funds of the World Bank. The funds deposited in the Trust Fund may be commingled with other trust fund assets maintained by the World Bank. The World Bank, in its capacity as Trustee, has legal title to the funds deposited in the Trust Fund.

4.2. The Trust Fund shall be maintained by the Trustee in the currency(-ies) set forth in Annex I (Holding Currencies) attached hereto (a “Holding Currency”), as the same may be amended from time to time in accordance with paragraph 10.2 below.

4.3. The funds deposited in the Trust Fund may be freely exchanged by the Trustee into other currencies as may facilitate their administration as provided herein, at the exchange rate obtained by the Trustee on the date of the conversion.

4.4. The Trustee shall invest and reinvest the funds in the Trust Fund pending their transfer in accordance with the World Bank’s applicable policies and procedures for the investment of trust funds administered by the World Bank. The Trustee shall credit all income from such investment to the Window 1 of the Trust Fund to be used for any purposes provided for the Window 1 under this CGIAR Trustee Agreement.

5. Trust Fund and its Windows

5.1. Following receipt and identification of any deposits of Contributions, the Trustee shall, pursuant to this Section 5, assign and credit any amount of Contribution to the Window 1, Window 2, Window 3 or Provisional Account, according to the Window Designation(s) for the Contribution specified in the relevant Contribution Agreement.

5.2. With respect to the Window 1, the Trustee shall assign and credit to the Window 1:

(a) the amounts of Contributions, which are designated for the Window 1 under paragraph 5.1;

(b) the amounts retained from the relevant Contributions as the Cost-Sharing Portion for transfers to the Window 1 under paragraph 3.8 above.

(c) all income from the investment of the funds in the Trust Fund as set out in paragraph 4.4 above;

(d) the amounts of Window 2 funds instructed by the System Organization for transfers to the Window 1 under paragraph 5.8 below; and

(e) the funds received by the Trustee and confirmed by the System Organization to be returned to the Window 1 under paragraph 6.7 below.

5.3. Any Window Designation to the Window 2 shall be based on a CGIAR Research program that has been approved by the System Council as eligible to receive Window 2 funding, and subject to the Trustee's establishment of such a CGIAR Research program as an eligible designation in the Window 2. The System Organization shall provide the Trustee with information of such CGIAR Research program as necessary for the Trustee to establish such an eligible designation in the Window 2.

5.4. The Trustee will maintain a list of eligible designations in Window 2 and provide information to the System Organization with respect to the resources available in each of the designations.

5.5. Any Window Designation to the Window 3 will be based on Centers, and in the case of a Center that is newly admitted under the CGIAR System Charter, subject to the Trustee's establishment of a new designation in the Window 3 for such Center. The System Organization shall provide the Trustee with information of such a Center as necessary for the Trustee to establish such an eligible designation in the Window 3.

5.6. If Funders wish to contribute funds to the Trust Fund prior to specifically designating those funds to any Window, the funds may be directed to the Provisional Account. The Trustee holds such funds without assigning to any Window until such time as a Funder requests that the amount it contributed to the Provisional Account be assigned to one or more Windows. Funds in the Provisional Account shall not be available for allocation by the System Council or transfer to any recipients.

5.7. Without prejudice to the Funders' rights under paragraph 10.7 below, once any amount of Contributions has been designated by the Funder and assigned by the Trustee to the Window 1, research program-specific designation in the Window 2 or Center-specific designation in the Window 3, as the case may be, that Window Designation may not be changed by the individual Funder; provided always that in the case of a Window Designation to the Window 2, the amount assigned may be re-designated as set out in paragraph 5.8 below.

5.8. With respect to Window Designations to the Window 2, if the System Organization determines that the funds contributed to a specific Window 2 designation are no longer

necessary for the relevant CGIAR Research program, the System Organization may send a written instruction to the Trustee to transfer those excess funds into the Window 1 or the Provisional Account (as chosen, and notified to the System Organization, by the relevant Funder), on a pro rata basis for each Funder that has contributed funds to that research program-specific designation. The Trustee shall make such transfer only in accordance with the written instruction of the System Organization.

5.9. If any amount deposited by a Funder in the Window 3 or the Provisional Account remains in such window or account without any transfer to the relevant entity or any Window, as applicable, for longer than eighteen (18) months, the Trustee shall consult with the System Organization and the concerned Funder with a view to resolving the situation. If the situation fails to be resolved despite such consultation, the Trustee may, after consultation with the System Organization, return such amount (net of the Cost-Sharing Portion retained under paragraph 3.8 above, if applicable, and without any investment income thereon) to the relevant Funder.

6. Transfer of Trust Fund Resources

6.1. With regard to transfer by the Trustee of Trust Fund funds from the Window 1 and the Window 2, the following provisions shall apply:

(a) The System Organization may send a written instruction (together with a copy of a relevant decision of the System Council, as applicable), in the manner and pursuant to the procedures agreed under paragraph 6.3 below, to request the Trustee to transfer Trust Fund funds to Centers, the System Organization, and relevant entity hosting the System Council advisory bodies or other functions.

(b) The System Organization represents to the Trustee that any written instruction under paragraph 6.1.(a) above is provided: (i) for the activities of the System Organization and/or for CGIAR Research following and in accordance with the relevant decision of the System Council, (ii) with respect to transfer of funds for a CGIAR Research program, in accordance with relevant instruction from the lead or other relevant Center, and (iii) with respect to transfer of funds from a research program-specific designation in the Window 2, only for a specific CGIAR Research program for which the concerned designation is established.

(c) Subject to the availability of funds held in the Window 1 or, as the case may be, in the relevant research program-specific designation of the Window 2, as determined by the Trustee, and to other terms of this CGIAR Trustee Agreement, the Trustee shall transfer Trust Fund funds from the Window 1 or relevant Window 2 research program-specific designation, as applicable, only at, and in accordance with, a written instruction provided by the System Organization to the Trustee; and in the manner and pursuant to the procedures agreed under paragraph 6.3. below. Unless otherwise agreed between the System Organization and the Trustee, the Trustee shall initiate any such transfer of funds within ten (10) Business Days of receipt of the relevant written instruction from the System Organization, where a Business Day means any day (other than a Saturday or Sunday)

when: (x) banks are generally open for business in Washington, D.C., U.S.A., and (y) the World Bank is generally open for business in Washington, D.C., U.S.A.

6.2. With regard to transfer by the Trustee of Trust Fund funds from the Window 3, the following provisions shall apply:

(a) Following receipt of the relevant funds in the Trust Fund and assignment and credit of such amount to the Window 3 under paragraph 5.1 above, the Trustee shall transfer the funds from the Window 3 to relevant Centers in accordance with the terms of the relevant Contribution Agreements; provided that such transfer shall be made in the manner agreed with the Trustee, to such account with such bank specified for the relevant Center in the standing instruction letter provided by the Center to, and agreed upon by, the Trustee from time to time. The Trustee shall notify the relevant Center of such transfer in the manner as agreed in the standing instruction letter. The standing instruction letter shall be substantially in a form agreed with the System Management Office (following the System Management Office's consultation with the System Council, as appropriate).

6.3. The System Organization and the Trustee shall agree on the manner and the procedures, respectively, pursuant to which: (a) the System Organization will send a written instruction for funds transfer under paragraph 6.1, (b) the Trustee shall transfer Trust Fund funds under paragraph 6.1, and (c) the System Organization shall provide the Trustee with information on projected cash requirements of transfer of Trust Fund funds for the coming period, if necessary. The System Organization shall provide the Trustee with: (i) the information (including timely updates thereon) on an account of each of the Centers and other relevant entities with a depository bank, to which Trust Fund funds shall be transferred under paragraph 6.1. above, and (ii) such other necessary information for the Trustee to effect any transfer of Trust Fund funds under paragraph 6.1. above, including a list of staff in the System Organization authorized to sign such funds transfer instructions.

6.4. No transfer by the Trustee of Trust Fund funds from the Window 1 or the Window 2 under paragraph 6.1 above shall be made together with any amount of Trust Fund funds to be transferred from the Window 3 under paragraph 6.2 above, in the same transfer.

6.5. Following the transfer of Trust Fund funds by the Trustee under paragraphs 6.1. or 6.2. above, the Trustee shall have no responsibility for the use of the Trust Fund funds and activities carried out therewith. In addition, the Trustee shall neither be responsible nor liable towards any third parties (including any person or third party engaged by the System Organization) including any claims, debts, demands, damage or loss, as a result of implementation of any activities funded with the Trust Fund funds transferred by the Trustee.

6.6. Without prejudice to the manner and the procedures that may be agreed for transfer of funds under paragraph 6.3 above, the Trustee may not transfer Trust Fund funds under this CGIAR Trustee Agreement, if a resolution, action or decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations prohibits or restricts, in Trustee's determination, a member State of the United Nations to make such a transfer. For the avoidance of doubt, this provision does not create any obligation of the

Trustee under the anti-terrorist financing and asset control laws, regulations rules and executive orders of an individual member country that may apply to a Funder.

6.7. Subject to paragraph 6.9 below, and except in relation to Window 3 funding, the Trustee may receive and credit Trust Fund funds that have been returned from Centers and other relevant entities subsequent to Trustee's transfer thereof under paragraph 6.1 above (such as, but not limited to, refunds of unused funds or investment income earned on the funds transferred, if applicable) into the Window 1 (unless otherwise agreed in writing between the System Organization and the Trustee or instructed in writing by the System Organization under paragraph 6.8 below) upon written confirmation from the System Organization of such return of funds. The Trustee and the System Organization shall agree to the procedures, according to which any such written confirmation by the System Organization, and receipt and credit by the Trustee of returned funds to the Trust Fund shall be made.

6.8. If the System Organization sends a written instruction (together with a copy of a relevant decision of the System Council, as applicable) to request the Trustee to refund to Funders the funds returned to the Trust Fund under paragraph 6.7 above, the Trustee shall transfer such Trust Fund funds to the Funder(s) so named and in the amount(s) so instructed (or, as the case may be, the amount(s) calculated by the Trustee in accordance with the formula provided by the System Organization) in such written instruction by the System Organization, in accordance with the procedures agreed under paragraph 6.7 above.

6.9. The Trustee shall not be involved in any action seeking to enforce the return of any Trust Fund resources, including any misused funds or reflow of funds, from any entities in receipt of the Trust Fund resources transferred under this CGIAR Trustee Agreement.

7. Responsibilities of the System Organization to the Funders

7.1. In respect of the Window 1 and the Window 2, the System Organization shall be responsible for ensuring that the Trust Fund funds transferred by the Trustee are used for the purposes for which they are provided in accordance with the CGIAR System Framework and the agreements entered into between the System Organization and the Funders with respect to their Contributions (the "Funding Agreements"). In respect of the Window 3, it is acknowledged that except as specifically provided in the relevant Funding Agreements, the System Organization will have no responsibility to the Funders to oversee the use of Window 3 funds transferred by the Trustee, and the relevant Center will be responsible directly to the respective Funders providing Window 3 funding for the use of funds transferred.

7.2. The System Organization may agree with the Funders in the Funding Agreement for review or evaluation by the Funder of activities financed with the Window 1 and Window 2 funds transferred by the Trustee under this CGIAR Trustee Agreement. If any such review or evaluation requires any information from the Trustee, the System Organization and the Trustee shall agree on the scope and manner in which information is requested, and the Trustee shall provide all relevant information within the limits of the Trustee's applicable policies and procedures; provided that any costs incurred by the

Trustee shall be borne by the Window 1 (if requested by the System Council) or the requesting Funder (if requested by the Funder). It is understood that any such review or evaluation will not constitute a financial compliance or other audit of the Trust Fund, and that except as specifically provided herein, the Trustee is not responsible for any such review or evaluation.

7.3. The System Organization shall ensure that nothing in the Funding Agreements conflict with the provisions of this CGIAR Trustee Agreement.

8. Compensation

8.1. The Trustee shall be paid for costs, expenses and fees incurred by it in connection with performing its functions as Trustee under this CGIAR Trustee Agreement (including any costs, expenses and fees incurred prior to the effectiveness of this CGIAR Trustee Agreement) on a full cost recovery basis. For that purpose, unless otherwise agreed between the System Council and the Trustee, the Trustee shall submit annually (or such other frequency as may be agreed between the System Council and the Trustee) to the System Council for approval, its proposed work program and estimated budget for allocation of funds to the Trustee for the upcoming budget period.

8.2. Following approval of allocation of funds by the System Council, the Trustee shall deduct and transfer the amount of allocation to its own account from the resources in the Window 1 of the Trust Fund; provided that the amount of the funds transferred may be subject to an end of budget period adjustment on the basis of full cost recovery for the services provided during the budget period, as such arrangement may be agreed between the System Council and the Trustee in connection with the aforementioned proposal.

9. Accounting and Financial Reporting

9.1. The Trustee shall maintain separate records and ledger accounts in respect of the funds deposited in the Trust Fund account and transfers made therefrom.

9.2. Unless otherwise agreed between the Trustee and the System Management Office (following the System Management Office's consultation with the System Council and the System Management Board, as appropriate), the Trustee shall provide a quarterly report to the System Management Office and Funders on the receipts in, transfers from and fund balance of the Trust Fund in the relevant Holding Currency. The System Management Office shall forward such report to the System Council and the System Management Board. The System Organization shall also make such report available on its website.

9.3. The Trustee shall provide to the System Management Office and the Funders, within six (6) months following the end of each World Bank fiscal year, an annual single audit report, comprising: (a) a management assertion together with an attestation from the World Bank's external auditors concerning the adequacy of internal control over cash-based financial reporting for all cash-based trust funds as a whole; and (b) a combined

financial statement for all cash-based trust funds together with the World Bank's external auditor's opinion thereon. The cost of the single audit shall be borne by the World Bank.

9.4. If the System Council or a Funder wishes to request, on an exceptional basis, a financial statement audit by the Trustee's external auditors of the Trust Fund, the Trustee shall first consult with the System Council or as the case may be, the Funder, as to whether such an external audit is necessary, and may agree on the appropriate scope and terms of reference of such audit. Following agreement on the scope and terms of reference, the Trustee shall arrange for such external audit; provided that the costs of any such audit, including the internal costs of the Trustee with respect to such audit, shall be borne by the Window 1 of the Trust Fund (if requested by the System Council) or the requesting Funder, as applicable.

9.5. The Trustee shall furnish the System Management Office, in the manner and frequency agreed between the System Management Office and the Trustee, with relevant information with respect to the Trust Fund, as may be agreed in writing between the System Management Office and the Trustee from time to time. The System Management Office may forward such information to the System Council and the System Management Board, as appropriate.

9.6. For the avoidance of doubt, the Trustee shall not be responsible for provision of financial statements with respect to use of funds transferred from the Trust Fund.

10. Effectiveness, Amendment, and Termination

10.1 This CGIAR Trustee Agreement shall become effective upon the signatures of both Parties.

10.2. This CGIAR Trustee Agreement may be amended only with written agreement signed by the Trustee and the System Organization, with the prior consent of all Funders contributing to the Trust Fund (paid or not yet paid) during the three year period immediately preceding to the date of the request sent to the Funders for consent under this paragraph 10.02 (and the Contribution Agreements shall specify that right of the Funders to consent); provided that:

- (a) if the Trustee sends a written request to Funders for their consent to any proposed amendment to this CGIAR Trustee Agreement, and if the Trustee does not receive any response from a Funder within thirty (30) calendar days from the date of the delivery of the request, the Trustee shall send a reminder to that Funder, stating that the Contributor may be deemed to have consented to such proposed amendment if it does not respond within thirty (30) calendar days from the date of the delivery of the reminder. Consent by that Funder shall be deemed upon expiry of the thirty (30) calendar days period without Trustee having received any response to the reminder;
- (b) The delivery of the request and the reminder under paragraph 10.2.(a) above shall be deemed effective: (a) if delivered by mail, on the date that the mail is delivered or its delivery is attempted as evidenced by a delivery notice from a courier service

or registered mail service, or (b) if delivered by facsimile or email, upon the receipt by the Trustee of a confirmation from the addressee by facsimile or email that the request or the reminder has been received other than by way of an automated reply;

- (c) If any Funder objects to consent, the Trustee and the System Organization, after consultation with the System Council, may decide to return to that Funder its Funder's Share in accordance with paragraph 10.9 below; and
- (d) The Trustee shall notify all Funders of any amendment made to this CGIAR Trustee Agreement.

10.3. Unless otherwise agreed in writing between: (a) the System Organization with prior approval of the System Council, and (b) the Trustee; to extend such date, the Trustee may not make any new transfer from the Trust Fund after [xxx] (the "End Disbursement Date").

10.4. Either: (a) the System Organization with prior approval of the System Council, or (b) the Trustee; may terminate the World Bank's role as trustee of the Trust Fund at any time upon six (6) months prior written notice to the other and all Funders. Following termination of the World Bank's role as the trustee of the Trust Fund, the World Bank as Trustee shall carry on no business for the Trust Fund except for the purpose of winding up its affairs.

10.5. Following the End Disbursement Date, or upon earlier termination of the World Bank's role as Trustee pursuant to paragraph 10.4 above, the Trustee, in consultation with the System Management Office, shall take necessary actions for winding up Trustee's affairs in an expeditious manner, including for meeting outstanding commitments and for transferring of any remaining resources in the Trust Fund, as directed by the System Management Office (following the System Management Office's consultation with the System Council and the System Management Board) through a written instruction. All of the powers and rights of the Trustee under this CGIAR Trustee Agreement, including the rights to be paid for costs and expenses incurred by the Trustee, shall continue until the affairs of the Trustee have been wound up. The System Organization shall make all reasonable efforts to assist the Trustee with the winding up under this paragraph 10.5.

10.6. In the event of occurrence of the End Disbursement Date pursuant to paragraph 10.3 above or termination by the Trustee of its role pursuant to paragraph 10.4 above, and if a Funder does not wish its Funder's Share (as defined below) to be transferred as directed by the System Management Office under paragraph 10.5 above, then the Funder may request, at any time prior to termination of the World Bank's role as trustee of the Trust Fund, a return of its Funder's Share to it by delivering a written notice to the Trustee and the System Organization. In such a case, unless otherwise agreed between the Trustee and the Funder, the Trustee will return to that Funder, as soon as reasonably practicable pursuant to the procedures set out in paragraph 10.9 below, the amount of all of its Funder's Share calculated as of the End Disbursement Date, or as the case may be, the end of the termination notice period.

10.7. If either the System Organization or a Funder sends a notice to terminate the agreement entered into between the System Organization and the Funder with respect to its Contributions, such Funder may send a ninety (90) days' prior written notice to the System Organization and the Trustee, requesting for a withdrawal of all of its Funder's Share calculated as of the end of the notice period.

10.8. For the purpose of this CGIAR Trustee Agreement, a "Funder's Share" shall mean with respect to each Funder, the aggregate of the respective Funder's share, calculated as relevant Holding Currency amounts, of: (a) applicable outstanding fund balance in each Window that has not been allocated by the System Council as of the calculation date of the share, and (b) the amount of the funds received in the Trust Fund or released from previous allocations of Trust Fund resources after the date of calculation, to the extent that such funds are received or released from any such allocation made prior to the date of calculation. The foregoing is subject to the proviso that (i) the Funder's share in the Window 1 shall be calculated on the pro rata basis, based on the total Contributions deposited in the Window 1 by the Funder for whom the calculation is made (including amounts of Cost-Sharing Portion transferred to the Window 1), relative to the total Contributions deposited in the Window 1 by all Funders (including amounts of Cost-Sharing Portion transferred to the Window 1); and (ii) the Funder's share in the Window 2 shall be calculated on the pro rata basis, based on the total Contributions deposited in the respective research program-specific designation of the Window 2 by the Funder for whom the calculation is made, relative to the total Contributions deposited in the same research program-specific designation of the Window 2 by all Funders; and (iii) the Funder's share in the Window 3 and the Provisional Account, respectively, shall be the amounts deposited in the Window 3 or the Provisional Account, as applicable, by the Funder but not yet transferred out from it by the Trustee (whether to a Center or a Window).

10.9. If: (a) a Funder requests a return of its Funder's Share under paragraph 10.6 or a withdrawal under paragraph 10.7 above, or (b) the System Organization and the Trustee decide to return any Funder's Share under paragraph 10.2.(c) above, the System Organization shall confirm to the Trustee in writing the amounts already allocated by the System Council as of the date of calculation of the relevant Funder's Share. Following receipt of such written instruction, unless otherwise agreed between the Trustee and such Funder, the Trustee will return to the Funder the amount of its Funder's Share and, if applicable, cancel any outstanding amount of the Funder's Contribution, which has not been paid to the Trust Fund; except that the Funder may waive in writing its Funder's Share, in which case the relevant amount will proportionally augment the other Funder's Shares. Following transfer of such Funder's Share (or a waiver by the Funder of its Funder's Share) and, if relevant, cancellation of any outstanding amount, in full, such Funder shall be considered to have withdrawn from the Trust Fund.

11. Authorization and Enforceability

11.1. Each Party hereby represents and warrants that:

- (a) it has all requisite power and authority to enter into this CGIAR Trustee Agreement and to carry out the transactions contemplated by this CGIAR Trustee Agreement;
- (b) its execution, delivery and performance of this CGIAR Trustee Agreement and its consummation of the transactions contemplated by this CGIAR Trustee Agreement have been duly authorized by all requisite internal action; and
- (c) this CGIAR Trustee Agreement has been duly executed and delivered by the Party and constitutes a valid and binding obligation of the Party.

12. Notices

12.1. Except with respect to Deposit Instructions, unless otherwise specified in this CGIAR Trustee Agreement, any notice, request or other communication to be given or made under this CGIAR Trustee Agreement shall be in writing and delivered by mail, fax or e-mail to the respective Party's address specified below or at such other address as such Party notifies in writing to the other Party from time to time.

For the System Organization:

[*title*]
[*office*]
The System Organization
[*address*]

Telephone:
Facsimile:
E-mail:

For the Trustee:

Director
Trust Funds and Partnerships
Development Finance
The World Bank
1818 H Street, N.W.
MSN G 6-602
Washington, DC 20433
U.S.A.

Telephone: +1 (202) 473-7654
Facsimile: +1 (202) 522-2447
E-mail: mtotruster@worldbank.org

13. Disclosure

13.1. The Trustee shall disclose this CGIAR Trustee Agreement and related information on the Trust Fund in accordance with the World Bank's Policy on Access to Information. By entering into this CGIAR Trustee Agreement, the CGIAR System Organization consents to such disclosure of this CGIAR Trustee Agreement and such related information.

14. Dispute Resolution

14.1. The Parties shall use their best efforts to amicably settle any dispute, controversy or claim arising out of or relating to this CGIAR Trustee Agreement.

14.2. Any dispute, controversy or claim arising out of or relating to this CGIAR Trustee Agreement, which has not been settled by agreement of the Parties, shall be settled by arbitration in accordance with the United Nations Commission on International Trade Law Arbitration Rules (the UNCITRAL Arbitration Rules) in force on the effective date of this CGIAR Trustee Agreement, and the following provisions: (a) the appointing authority shall be the Secretary-General of the Permanent Court of Arbitration; and (b) the language of the arbitral proceedings shall be English. The arbitral award will be final and binding on the Parties.

15. Execution in Counterpart

15.1. This CGIAR Trustee Agreement may be simultaneously executed in several copies, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this CGIAR Trustee Agreement to be executed on its behalf by its duly authorized officer, as of the date first above written.

CGIAR SYSTEM ORGANIZATION

By: _____
[*name*]
[*title*]
[*office*]

**INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT,
AS TRUSTEE OF THE CGIAR TRUST FUND**

By: _____
[*name*]
[*title*]
[*office*]

ANNEX I

Holding Currencies

1. United States Dollars

DRAFT