MEMORANDUM OF UNDERSTANDING

BETWEEN

THE UNITED NATIONS STABILIZATION MISSION IN HAITI
AND
THE GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES

WHEREAS, by resolution 1542 (2004) of 30 April 2004, the Security Council decided to establish the United Nations Stabilization Mission in Haiti (MINUSTAH) and requested that, in carrying out its mandate, MINUSTAH cooperate and coordinate with the Organization of American States (hereinafter referred to as "OAS") ;

WHEREAS Security Council Resolution 2180 (2014) called upon MINUSTAH to deliver and coordinate, as appropriate, international electoral assistance to Haiti in cooperation with other international stakeholders, including the OAS;

WHEREAS The General Secretariat of the OAS (hereinafter referred to as "GS/OAS") has established an Electoral Observer Mission to the legislative, presidential and municipal elections scheduled for 9 August and 25 October 2015, and a possible third round election scheduled for 27 December 2015 (hereinafter referred to as the "OAS Mission");

WHEREAS MINUSTAH has been providing support since the initial phase of the OAS Mission, beginning in July 2015;

NOW THEREFORE, MINUSTAH and the GS/OAS (hereinafter referred to individually as "Party" and collectively as "Parties") hereby agree as follows:

Article 1
Scope

1.1. MINUSTAH will provide support to the members of the OAS Mission included in the list referred to in paragraph 1.3 of this article (hereinafter referred to individually as "Observer" and collectively as "Observers"), on a best efforts basis within its operational capabilities and subject to availability of resources, in accordance with this Memorandum of Understanding (hereinafter "MOU").

1.2. Any request for additional support not expressly provided for in this MOU shall be dealt with on a case-by-case basis and shall be subject to a prior written agreement between MINUSTAH and the GS/OAS.

1.3. Upon signature of this MOU, the GS/OAS shall provide MINUSTAH with a list of the Observers to whom MINUSTAH will provide support pursuant to this MOU together with their contact information and locations, which list shall be initialled by the Parties and shall constitute **Annex A** of this MOU.

Article 2
Transportation

2.1 MINUSTAH will provide air transportation of the Observers on MINUSTAH scheduled flights, subject to space availability and Mission priorities.

2.2 MINUSTAH may also, if requested in writing by the GS/OAS, arrange for special flights on MINUSTAH aircraft for the Observers on a cost reimbursable basis and subject to availability. Each Special Right Request (SFR) shall be submitted by the OAS Mission's focal point referred to in paragraph 1 of Article 8 to the MINUSTAH Mission Air Operations Centre (MAOC) or to the MINUSTAH Movement Control Section (MOVCON) at least 72 hours prior to flight departure. An overall estimated cost of the flight will be submitted by the Aviation Section to GS/OAS upon receipt of a Special Flight Request. GS/OAS shall confirm its acceptance within 24 hours from reception of such estimated costs. The GS/OAS will be invoiced by MINUSTAH for the actual costs of each Special Flight and shall reimburse MINUSTAH for such costs in accordance with article 7.

2.3 Observers are required to submit to MINUSTAH Movement Control (MOVCON) a duly completed Movement of Personnel (MOP) form at least 48 hours prior to flight departure, and are further required to sign, prior to travel on MINUSTAH aircraft, a General Release from liability in Connection with Travel by Third Parties on UN-provided Aircraft **(Annex B)**, except in the case of medical evacuation flights where their medical condition renders them unable to submit such MOP and/or to sign such General Release from liability.

2.4 The GS/OAS recognizes and agrees that neither the United Nations, including MINUSTAH, nor any of their officials, employees or agents is liable for any loss, damage, injury, or death that may be sustained by any Observer during or as a result of the provision of air transportation by MINUSTAH. The GS/OAS shall ensure that the Observers are made aware of this provision. The GS/OAS shall indemnify, hold harmless and defend at its own expense the United Nations against any claim, proceedings, suit by or liability to the Observers or their heirs, executors, administrators, personal representatives, successors and assigns, arising from or related to air transportation provided by MINUSTAH, except where such claim, proceedings, suit or liability arises as a result of gross negligence or wilful misconduct on the part of MINUSTAH, its officials, employees or agents. The provisions of this Paragraph do not lapse upon expiration or termination of this MOU.

Article 3
Communications

MINUSTAH will grant to the Observers access to internet wireless network, but not to VSAT services, in all MINUSTAH premises for weekly reports and Election Day reporting.

Article 4
Operations

4.1 MINUSTAH will provide visitor gate access passes to the Observers.

4.2 The MINUSTAH Chief Electoral Officer will provide the OAS Mission's Chief of Mission with all relevant contact information regarding MINUSTAH's logistical electoral support staff in the regions.

4.3 MINUSTAH will support the OAS Mission during its training seminars for Long and Short-Term Observers, by providing information on its mandate, security framework, available communications facilities, medical facilities and assistance, as outlined in this MOU.

Article 5
Medical

5.1 The GS/OAS is responsible for ensuring that the Observers are adequately insured against death, injury or disability incurred in connection with the performance of this MOU.

5.2 If required in case of emergency, MINUSTAH will provide the Observers with access to MINUSTAH Level I Medical facilities (Civilian and Military) and Military Level II medical facilities as necessary. The GS/OAS confirms that it has permission to negotiate and obtain permission for use of services at MINUSTAH Medical Facilities on behalf of the Observers and agrees to deal with any questions or issues that may arise relating to the provision of such services by MINUSTAH. Eligible Observers will benefit from the full range of medical services available to United Nations personnel at MINUSTAH Medical facilities on a space-available basis, except for Stress Management, Medical Evacuation outside Haiti and referrals for further medical treatment.

5.3 The GS/OAS assumes financial responsibility for all expenses incurred by the Observers at MINUSTAH Medical facilities; the GS/OAS agrees to accept as final invoices issued by MINUSTAH for this purpose, which shall be forwarded by an authorized MINUSTAH office monthly. The GS/OAS shall settle all invoices according to the provisions of article 7 hereunder.

5.4 MINUSTAH will provide medical evacuation within Haiti if and to the extent that medical evacuation services are not otherwise available, and subject to the availability of required resources. The Observers shall be covered by their own medical insurance for medical evacuation outside Haiti.

5.5 The GS/OAS shall take all necessary steps to enable MINUSTAH to perform its obligations under this article, such as the provision to MINUSTAH medical facilities of all relevant medical information, including any pre-existing conditions, in respect of the Observer for whom medical support is required.

5.6 MINUSTAH's provision of medical care to an Observer under this article is subject to the presentation by the Observer of a valid OAS Mission ID card and the signing by the Observer of a General Release from Liability in Connection with UN-provided Medical Care (**Annex C**), with the exception of life threatening emergency situations rendering the Observer unable to produce such a card and/or sign such General Release from Liability.

5.7 MINUSTAH shall in no event be held liable for the costs of medical or hospital care for the Observers, or for any related costs.

5.8 The GS/OAS recognizes and agrees that neither the United Nations, including MINUSTAH, nor any of their officials, employees or agents is liable for any loss, damage, injury, or death that may be sustained by the Observers during or as a result of the provision of medical care by MINUSTAH medical personnel. The GS/OAS shall ensure that the Observers are made aware of this provision. The GS/OAS shall indemnify, hold harmless and defend at its own expense the United Nations against any claims, proceedings, suit by or liability to the Observers or their heirs, executors, administrators, personal representatives, successors and assigns, arising from or related to medical care provided by MINUSTAH medical personnel, except where such claim, proceedings, suit or liability arises as a result of gross negligence or wilful misconduct on the part of MINUSTAH, its officials, employees or agents. The provisions of this Paragraph do not lapse upon expiration or termination of this MOU.

Article 6
Security

6.1 MINUSTAH and the OAS Mission will coordinate on all security-related matters and security requirements for the OAS Mission. MINUSTAH will provide all relevant releasable security information and relevant security advisories to the OAS Mission (e.g. security warnings, security zones etc.).

6.2 The GS/OAS shall have the primary responsibility for taking adequate measures to safeguard the Observers protect GS/OAS and the Observers' property and safeguard against sabotage, damage and theft of GS/OAS and the Observers' materiel, supplies and equipment.

6.3 The Observers will be included in the MINUSTAH security framework when possible and feasible and on a reimbursable basis. For this purpose, the OAS Mission shall abide by all security regulations, policies and procedures of MINUSTAH and the United Nations as well as with all MINUSTAH security advisories and shall ensure that the Observers abide by all such regulations, policies, procedures and security advisories. MINUSTAH, its officials, agents, servants and employees shall not be held responsible for any loss, damage, injury, illness or death that may be sustained as a result of the OAS Mission or the Observers' non-compliance with such regulations, policies, procedures and security advisories.

6.4 The OAS Mission shall designate a Security Coordinator who shall be the focal point for MINUSTAH Security for all matters pertaining to Security. The OAS Mission's Security Coordinator shall be equipped with a satellite telephone by the GS/OAS and shall promptly communicate his/her telephone numbers to MINUSTAH Security.

6.5 Each Observer shall be equipped by the GS/OAS with a handheld VHF radio, which will be programmed by MINUSTAH.

6.6 All emergency calls shall be directed from the designated OAS Mission's Security Coordinator to the relevant MINUSTAH Regional Security Office(s) for appropriate response.

Article 7
Invoicing and payment

7.1 MINUSTAH will invoice the GS/OAS from time to time based on the actual costs to MINUSTAH of the logistical assistance and support provided to the OAS Mission plus an administrative fee at the United Nations official rate of fourteen per cent (14%), Unless otherwise notified by the GS/OAS to MINUSTAH in writing, the invoices shall be addressed to: The General Secretariat of the Organization of American States, 1889 F Street NW, Washington, DC 20006, USA.

7.2 Within thirty (30) days of the delivery of the invoices to the address specified in paragraph 7.1 above, the GS/OAS shall transfer the invoiced amount into the following bank account:

ACCOUNT NAME: MINUSTAH
ACCOUNT NUMBER: 0096332017
BANK NAME: CITIBANK, HAITI
BANK ADDRESS: Port Au Prince, HAITI
SWIFT CODE: CITIHTP1
CURRENCY: USD

Article 8
General responsibilities of the parties

8.1 The following individuals are designated by the Parties as their focal points to coordinate on administrative, operational and technical matters related to support provided under this MOU (with the exception of security-related matters):

For GS/OAS:
Ms. Cristobal Dupouy
Deputy Chief of Mission EOM Haiti
Tel: +509-4026-5542
Email: cdupouy@oas.com

For MINUSTAH:
Mr. Kent Ekstrom
Chief, Joint Logistics Operations Centre
Tel: +509-3170-1301
Email: ekstrom@un.org

8.2 Both Parties shall keep accurate and up-to-date records and documents in respect of all expenditures incurred in application of the provisions of this MOU, and will maintain the proper supporting documentation, including original itemized invoices, bills, receipts pertinent to each expenditure.

8.3 The Parties agree that any information, data and/or document received within the framework of this MOU shall not be disclosed or used for any purpose other than the performance of their obligations under the provisions of this MOU. Each party shall take reasonable measures to prevent inadvertent disclosure.

8.4 Each Party agrees that it will be held solely liable for any loss, damage, injury, suit, claim, demand and liability of any nature or kind, including their costs and expenses that may occur as a result of its acts and omissions or the acts and omissions of its officials, agents, servants, employees and other person designated by it, in the performance of its obligations and responsibilities under the provisions of this MOU, except as otherwise expressly agreed herein. The GS/OAS shall indemnify, hold and save harmless, and defend, at its own expense, the United Nations including MINUSTAH, and their officials, agents, servants and employees from and against all suits, demands and liability of any nature or kind, including their costs and expenses arising out of acts or omissions of the GS/OAS or the GS/OAS' employees, officers, servants, agents or other personnel.

8.5 MINUSTAH and the GS/OAS undertake to respect each other's complementary but separate role in assisting the Haitian authorities in the presidential, parliamentary and municipal elections.

Article 9
Term

9.1 This MOU shall enter into force upon signature by both Parties and shall remain in force until the presidential, parliamentary and municipal elections in Haiti have been completed, their final results have been confirmed, and the Parties have discharged all their obligations and settled all accounts in accordance with this MOU.

9.2 The provisions of paragraph 8.4 of article 8 and of Article 11 shall survive the expiration or termination of this MOU to the extent necessary to enable the Parties to pursue the remedies and benefits provided for in these provisions.

Article 10
Non-waiver of privileges and immunities

Nothing in or relating to the provisions of this MOU shall be deemed a waiver, express or implied of any of the privileges and immunities of the United Nations including MINUSTAH or of the GS/OAS.

Article 11
Settlement of disputes

11.1 The Parties shall use their best efforts to amicably settle any dispute, controversy or claim arising out of this MOU or the breach, termination, or invalidity thereof.

11.2 Any dispute, controversy, or claim between the Parties arising out of this MOU or the breach, termination or invalidity thereof, unless settled amicably under the preceding paragraph within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The arbitral tribunal shall have no authority to award punitive damages. Unless otherwise expressly provided in this MOU, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any

arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have signed this MOU on the dates indicated below.

For MINUSTAH:

Name: Sandra Honoré

Title: Special Representative of the Secretary General

Date: 06/08/15

Signature:

For GS/OAS:

Name: Jose Enrique Castillo Barrantes

Title: Chief of Mission EOM /OAS Haiti

Date: 6/8/15

Signature:

Memorandum of Understanding
between
the United Nations Stabilization Mission in Haiti and the General Secretariat of the Organization of American States

ANNEX B

GENERAL RELEASE FROM LIABILITY IN CONNECTION WITH TRAVEL BY THIRD PARTIES ON UN-PROVIDED AIRCRAFT

GENERAL RELEASE FROM LIABILITY IN CONNECTION

WITH TRAVEL BY THIRD PARTIES ON UN-PROVIDED AIRCRAFT

I, the undersigned, hereby recognize that my travel on the aircraft provided by the United Nations that is scheduled to depart from _____ for _____ on _____200___ is solely for my own convenience and benefit or that of my employer and may take place in areas or under conditions of special risk. In consideration of being permitted to travel on such means of transport, I hereby:

(a) Acknowledge that:

(i) this flight is operated by an independent operator for the official business and purposes of the United Nations, and is not offered as a commercial service or as a service for the general public;

(ii) this flight is operated in an area of possibly hazardous conditions, including hostilities;

(iii) the operating conditions and facilities for this flight may not meet ICAO or other international or national standards, which could pose special risks for the flight;

(iv) no charge has been imposed or paid in relation to my travel on this flight and no "ticket" as understood under the terms of the Warsaw Convention, and/or the Montreal Convention, or related authorities has been issued; and

(v) my travel on this flight is not covered by the Warsaw Convention and/or the Montreal Convention, or related authorities;

(b) Recognize that the officials, employees and agents of the United Nations shall not be responsible for any loss, damage, injury or death that may be sustained by me during such travel;

(c) Assume all risks and liabilities during such travel arising out of the conditions under which the flight is operated referred to in sub-paragraphs (a)(i), (ii) and (iii) above, and recognize that the United Nations shall not be responsible for any loss, damage, injury or death that may be sustained by me due to such conditions;

(d) Agree, for myself as well as for my dependents, heirs and estate, that in the event that I sustain any loss, damage, injury or death during such travel for which the United Nations otherwise may be found to be liable, such liability, if any, shall be subject to the terms of paragraphs 8 and 9 of General Assembly resolution 52/247 of 17 July 1998, whether or not the flight is operated in the context of peacekeeping operations and whether or not such terms are otherwise directly applicable by virtue of that resolution. □

_____

□ In paragraphs 8 and 9 of its resolution 52/247 of 17 July 1998, the General Assembly:

□ In paragraphs 8 and 9 of its resolution 52/247 of 17 July 1998, the General Assembly:

"8. *Decides* that, where the liability of the Organization is engaged in relation to third-party claims against the Organization resulting from peacekeeping operations, the Organization will not pay compensation in regard to such claims submitted after six months from the time the damage, injury or loss was sustained, or from the time it was discovered by the claimant, and in any event after one year from the termination of the mandate of the peacekeeping operation, provided that in exceptional circumstances, such as described in paragraph 20 of the report of the Secretary-General (A/51/903), the Secretary-General may accept for consideration a claim made at a later date;

"9. *Decides also*, in respect of third-party claims against the Organization for personal injury, illness or death resulting from peacekeeping operations, that:

(a) Compensable types of injury or loss shall be limited to economic loss, such as medical and rehabilitation expenses, loss of earnings, loss of financial support, transportation expenses associated with the injury, illness or medical care, legal and burial expenses;
(b) No compensation shall be payable by the United Nations for non-economic loss, such as pain and suffering or moral anguish, as well as punitive or moral damages;
(c) No compensation shall be payable by the United Nations for homemaker services and other such damages that, in the sole opinion of the Secretary-General, are impossible to verify or are not directly related to the injury or loss itself;
(d) The amount of compensation payable for injury, illness or death of any individual, including for the types of loss and expenses described in subparagraph (a) above, shall not exceed a maximum of 50,000 United States dollars, provided, however, that within such limitation the actual amount is to be determined by reference to local compensation standards;
(e) In exceptional circumstances, the Secretary-General may recommend to the General Assembly, for its approval, that the limitation of 50,000 dollars provided for in subparagraph (d) above be exceeded in a particular case if the Secretary-General, after carrying out the required investigation, finds that there are compelling reasons for exceeding the limitation;"

2

(Date)

_____	_____
(Print name of passenger)	(Signature of passenger)
_____	_____
(Print name of witness)	(Signature of witness

"8. *Decides* that, where the liability of the Organization is engaged in relation to third-party claims against the Organization resulting from peacekeeping operations, the Organization will not pay compensation in regard to such claims submitted after six months from the time the damage, injury or loss was sustained, or from the time it was discovered by the claimant, and in any event after one year from the termination of the mandate of the peacekeeping operation, provided that in exceptional circumstances, such as described in paragraph 20 of the report of the Secretary-General (A/51/903), the Secretary-General may accept for consideration a claim made at a later date;

"9. *Decides also*, in respect of third-party claims against the Organization for personal injury, illness or death resulting from peacekeeping operations, that:

(a) Compensable types of injury or loss shall be limited to economic loss, such as medical and rehabilitation expenses, loss of earnings, loss of financial support, transportation expenses associated with the injury, illness or medical care, legal and burial expenses;
(b) No compensation shall be payable by the United Nations for non-economic loss, such as pain and suffering or moral anguish, as well as punitive or moral damages;
(c) No compensation shall be payable by the United Nations for homemaker services and other such damages that, in the sole opinion of the Secretary-General, are impossible to verify or are not directly related to the injury or loss itself;
(d) The amount of compensation payable for injury, illness or death of any individual, including for the types of loss and expenses described in subparagraph (a) above, shall not exceed a maximum of 50,000 United States dollars, provided, however, that within such limitation the actual amount is to be determined by reference to local compensation standards;

(e) In exceptional circumstances, the Secretary-General may recommend to the General Assembly, for its approval, that the limitation of 50,000 dollars provided for in subparagraph (d) above be exceeded in a particular case if the Secretary-General, after carrying out the required investigation, finds that there are compelling reasons for exceeding the limitation;"

3

ANNEX C

GENERAL RELEASE FROM LIABILITY IN CONNECTION WITH UN-PROVIDED MEDICAL CARE

GENERAL RELEASE FROM LIABILITY IN CONNECTION WITH

UN-PROVIDED MEDICAL CARE

I, the undersigned, hereby recognize that all medical care that may be provided to me by the UN is solely for my own convenience and benefit, and may take place in areas or under conditions of special risk. In consideration of receiving such medical care, I hereby:

(a) Assume all risks and liabilities in connection with the provision of such medical care;

(b) Recognize that neither the United Nations nor any of its officials, employees or agents is liable for any loss, damage, injury or death that may be sustained by me during or as a result of the provision of such medical care;

(c) Agree, for myself as well as for my dependents, heirs and estate, to hold harmless the United Nations and all its officials, employees and agents from any claim or action on account of any such loss, damage, injury or death;

(d) Agree, for myself as well as for my dependents, heirs and estate, that in the event that I sustain any loss, damage, injury or death during or as a result of the provision of medical care for which the United Nations otherwise may be found to be liable, such liability, if any, shall be subject to the terms of paragraphs 8 and 9 of General Assembly resolution 52/247 of 17 July 1998, whether or not the medical care is provided in the context of peacekeeping operations and whether or not such terms are otherwise directly applicable by virtue of that resolution□;

(e) Agree that my medical records or any information relating to my health status may be released or transferred to any treating physician(s), and/or medical institution(s) that may be involved in providing or assisting in the medical care.

_____

(Date)

_____ _____

(Print name of individual) **(Signature of individual)**

_____ _____

(Print name of witness) **(Signature of witness)**