

Guidelines: How to use Hawala in Somalia

Prepared by the Cash Based Response Working Group

Purpose: Money transfer companies, also known as Hawala, are an increasingly popular partner chosen by humanitarian agencies to distribute cash in Somalia. This brief will explain what Hawala are, how they operate, and provide some brief guidelines on how agencies can partner with them to deliver cash transfers in Somalia.



INTRODUCTION

Globally, aid agencies implementing cash transfer programs can choose from a number of cash distribution mechanisms: direct distribution (hand-to-hand), bank accounts, smart cards, post office transfers and even payment through the mobile phone network. In most parts of Somalia, however, these mechanisms are not available or not practical due to insecurity. The main distribution methods used by agencies are money transfer companies, also known as Hawala. Hawalas are also used frequently in Afghanistan and Pakistan.

Using private money transfer companies like Hawala enables safe and quick disbursement of money to beneficiaries in a project area. This opportunity is increasingly exploited by aid agencies operating in complex situations like Somalia where the weak local administration and the security risk undermine humanitarian response. The money transfer companies form a trusted link between the local population and the rest of the world, enabling the transfer of much-needed assistance in times of need. These companies are also able to distribute cash at minimal risks. In each location they employ individuals trusted by local communities, who in turn work closely with agency staff. There are approximately 10 major Hawala companies that have the scale and network coverage needed to undertake cash transfers throughout Somalia. There are also smaller traders and small companies from the communities that are willing and able to take on cash payments, often at reduced cost.

HAWALA BACKGROUND

What are Hawala?

Hawala are informal money transfer companies that transfer funds both domestically and internationally. This type of system was originally developed to facilitate trade between distant regions where conventional banking institutions were either absent, weak or unsafe. They operate parallel to – and usually independently from – regular banks. Transactions are fast, safe and cost-effective, and are often used by Diaspora abroad to remit money home to relatives.

Main Hawala Companies

There are many Hawala companies operating in Somalia. Here is a list of several companies, as well as the location of their headquarters:

Hawala Company	Headquarters
Amaana Express	Dubai, United Arab Emirates
Amal Express	Ras-el-Khimah, United Arab Emirates
Barwaqo Financial Services	Dubai, United Arab Emirates
Cidgal	Djibouti, Republic of Djibouti
Dahabshil	Hargeisa, Somaliland
Kaah Express	Nairobi, Kenya
Al-Mustaqbal	Dubai, United Arab Emirates
Qaran Express	Dubai, United Arab Emirates
Salama Money Express	London, United Kingdom
Tawakal Express	Dubai, United Arab Emirates

How do Hawala operate?

Hawala remittance systems involve the transfer of money without physically moving it. It usually involves the following steps:

1. A customer gives a Hawala agent a sum of money to be transferred to someone in another city or country. Often, a migrant worker is hoping to send money to a far-away relative. In our case, an agency is sending money to a destitute beneficiary or to a project team operating in a remote area.
2. The Hawala contacts another agent in that particular city or country by phone, fax or e-mail. Agents often run a business in addition to financial services and have a broad network of contacts all over the world.
3. The agent instructs his contact, normally a business person that he has an agreement with, to deliver the funds to the beneficiary. To do so, he provides the amount, name, address and telephone number of the recipient and promises to settle the debt at a later stage. The customer is given an identification code for the transaction.
4. The Hawala agent in the recipient city or country contacts the beneficiary and delivers the funds. The recipient can receive the funds using the identification code, rather than identity documents.
5. The Hawala agent that delivered the funds to the beneficiary recovers the money from the first agent. Sometimes a courier brings the money, or the banking system is used to settle the informal debt. More often, the system uses alternative methods.

Such systems assume that the Hawala agent is connected to a network of other agents to arrange the payments in the recipient location. These networks are often based on family ties, as the closer the relationship, the easier the settlement process. Trust and extensive use of connections, such as family relations and regional affiliations, are the components that distinguish this from other remittance systems. Records of individual transactions are kept, and a running tally of the amount owed by one agent to another is maintained. Settlements of debts between Hawala agents can take a variety of forms, many that are not direct cash transactions. For example, a trader in Somalia who is an agent for a Hawala with offices in Dubai will ask the Hawala to settle the bill by shipping him merchandise that is needed to Somalia. They usually advertise services for countries and cities where their connections exist.

Hawala agents operate openly and are registered with governments in countries all over the world, providing the system with global reach. The only limits to the transaction are the risk involved for the recipient to carry cash and the receiving agent's capacity to cover the transaction.

Hawalas are legal institutions registered in the countries they operate in, and more of them are improving their organizational and financial systems.

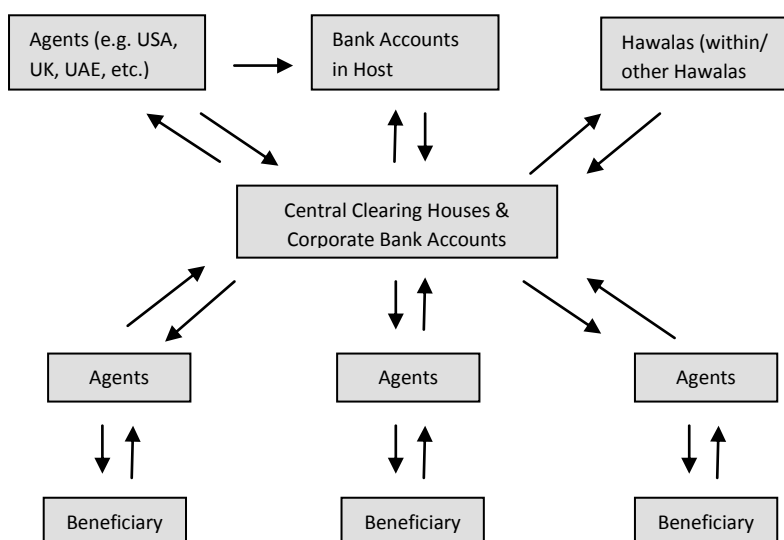
Management of Hawala

The management of remittance companies is usually highly decentralized and is a modified form of franchising. Most of the remittance companies are owned and operated by shareholders, with the exception of Dahabshil which is family-owned.

Hawala companies are generally represented by independent agencies. However, in big cities where there are Hawala offices, the agent likely works directly for the parent company as a salaried employee or on commission. Agents are responsible for office management, including registration with local authorities, payment of their running costs and hiring local staff. In addition, they are responsible for complying with all necessary rules and regulations including the reporting requirements of the host government. However, in crisis situations, the remittance company provides legal and other support to its agents.

Flow of Funds in Remittance Process

The process of remitting funds is simple. This simple graphic demonstrates how funds are moved within the Hawala system.



Advantage for Agencies

The speed, cost-effectiveness, cultural acceptability, safety and potential anonymity of Hawala transactions contribute to widespread use, making them a rational choice for the poorest segments of the population.

Cost Effective	Hawala agents take a commission and their exchange rates are often more competitive than the official rates.
Safe and Secure	In politically insecure locations like Somalia, using Hawala is one of the most convenient and safe ways to move funds around. Unlike projects using many contractors and sub-contractors to transport goods, using Hawala means the money passes through fewer hands – translating to a decreased risk of money diversion. It also helps avoid security risks associated with staff handling cash.
Efficient and Reliable	A Hawala remittance transaction for one individual takes place within one or two days. The system is based on trust and there are no reported instances of customers being cheated in the literature.
Flexible	For agencies, the role of the Hawala can vary depending on the needs of different programs – they can travel to rural areas, for example, or deliver payments from an urban office.
Geographic Reach	The system is particularly convenient for populations that are out of reach of the formal financial sector. Often, they live in poor and remote areas where it is not profitable to open local banking branches.
Capacity	Because Hawala transfer large sums of money from abroad to Somalia – mostly in remittances – they already have the capacity to participate in a large cash program.
Compliance	The majority of the Hawalas that operate in the US and European countries have been vetted for compliance with anti-terrorism and money laundering laws. Hawalas have strong understanding that this is a compelling incentive to not engage with certain groups, or divert resources.

Hawala companies are engaged in international remittance of funds, usually by Diaspora to families in different countries. In comparison with Western Union and MoneyGram, their rates are much more cost effective. Similarly, the use of a Bank to undertake a transfer in rural location can be more expensive than the Hawala. For example, in Kenya, Equity Bank's commission rate is 7% per transfer while a Somali Hawala is transferring at 4% including their pre-financing of the grants, with a shorter lead time for the Hawala in starting their work.

IMPLEMENTATION

Procedure for selecting a Money Transfer Company

The following section describes the procedure used for selecting a money transfer company. Money transfer companies should be contracted on the basis of their flexibility, professionalism, network coverage, reputation and capacity to carry out the distribution of the cash grants to the registered beneficiaries. At a minimum, agencies should assess the possibility of working with a local Hawala company – or using another third party such as a local trader or local businessman with financial capacity – rather than making direct payments to reduce risk of fraud. Depending on the rules of the donor and size of the project, an open tender should be considered.

Selection Criteria:

1. **Professionalism and network coverage:** The number and locations of geographic reach and its staff composition may help agencies assess the company.
2. **Trust among the community:** Determined through informal discussions with the communities.
3. **Administrative and financial viability:** Ideally, the company should be registered on the UNDP or international list of accredited financial companies. A thorough assessment should be conducted to ensure that bankruptcy risks are minimal, and that the company has the capacity to undertake the project. The following criteria should help:
 - *Company Objective:* Companies may transfer cash although they are registered for other purposes.
 - *Registration Location:* The company should ideally be registered in a country where the rule of law is effective.
 - *Legal Compliance:* Whether the company abides by anti-money laundering and anti-terrorist legislation.
4. **Management Structure:** Companies should have a demonstrated ability to coordinate the required activities at headquarter and field level, and to provide logistical support (security, communication, and transport) to its staff.
5. **Working Capital:** The audited and financial statements of the company should demonstrate adequate levels of cash flows, or the capacity to transfer large sums of money. To protect the agency's money, the company should be required to pre-finance payments and work on a reimbursable basis. Other options should be a cash guarantee or bond against the amount of cash payments to be paid to beneficiaries. In contexts where companies have limited documentation, providing a cash guarantee ensures that the company has the financial capacity to meet the project requirements.
6. **Risk Strategy:** The company must indemnify the agency against any claims in regards to cash loss including robbery and taxation from local authorities that may arise during the transfer, transport and/or distribution of the cash.
7. **Commission Rates / How to determine an appropriate commission:** The company will need to be paid a commission for their work. Commission rates are usually lower – less than 2% – where the company has a main or sub-branch, often in larger cities or towns. The commission enables companies to travel directly to the target villages to reduce travel times for beneficiaries. However, if the company is required to distribute the cash grant in rural locations where they incur transport, security and other costs, the commission will increase (see Hawala Fees). It is recommended that agencies operating in the same environment jointly negotiate on commission rates with the company. The percentage of the commission may then be negotiated downwards.

Signing a Contract

Once the agency has picked a Hawala, the two parties must sign a contract outlining their respective roles and responsibilities. It should include the organization's code of conduct so that Hawala staff understand how they are expected to interact with beneficiaries. For example, some agencies instruct Hawala to "treat all beneficiaries with respect and dignity throughout the process of money distribution."

Note that money transfer companies are contracted to assume full liability for all related money, covering both lost and stolen funds. This includes responsibility for transport, handling of funds, and provision of security were contracted to cash transfer companies.

A contract or Memorandum of Understanding (MoU) should include a division of responsibilities, similar to those outlined here:

The money transfer company should:

- Transport the cash to the field;
- *Distribute cash within X days of receiving money in the account;*
- Ensure physical security of the convoys and cash during the distribution;
- Assign field staff at each location to facilitate the distribution;
- Provide receipts in triplicates, one to the beneficiary, one to the agency staff, and one to be kept by the company, as well as monthly statements to the agency on all cash payments;
- Cooperate with implementing agency staff and Village Relief Committees;
- Provide cash in appropriate denominations to the field office for distribution;
- Avail necessary communication, cars and logistical support to their field staff;
- Assume full liability for lost and stolen cash;
- Provide a cash guarantee or bond in equivalent amount of the cash to be distributed
- Not distribute any funds to beneficiaries if Village Relief Committee (VRC) and agency staff are not present at distribution site to verify payments;
- Provide security at distribution points for beneficiaries, agency staff and community at large.

The agency should:

- Provide the company with a payment schedule and beneficiary list in a timely manner;
- Pay the required service fee (usually about 4-8% of cash disbursed, if rural);
- Design cash receipts and train company staff on using these receipts in the field prior to distribution;
- Be present along with at least one Village Relief Committee (VRC) representative during the distribution to confirm the identity of VRC members and beneficiary recipients;
- Inform all beneficiaries of the payment protocol, schedule and who can collect the cash.

Working with Hawala: Agency Checklists

Here are several checklists that can be used by agencies partnering with Hawala for a cash transfer program (Annex II).

Checklist: Pre-Cash Distribution

- Technical Training of implementing staff – Hawala and NGO – in the delivery methodology
- Risk Assessment completed
- Delivery Mechanism assessed
- Prior experience of cash distributions
- Appropriate selection of transfer agent (Hawala):
 - Methodical Tender Process
 - Prior Working Relationship
 - Reimbursement basis (or Bank guarantee / bond in place)
 - Appropriate vetted for anti-terror
 - Fraud checks
- Distribution Security evaluated and Distributions planned accordingly

Checklist: During Cash Distribution

- Provision of agreed beneficiary lists and ID cards, where possible given security concerns
- Individual receipts provided:
 1. Beneficiary copy
 2. NGO copy
 3. Hawala copy
- Signature of register and receipts (Hawala and beneficiary)
- Cash provided in envelopes and in appropriate denominations
- Mechanism for resolving disputes
- Monitoring activities

Checklist: Post-Cash Distribution

- Individual receipts are provided (in triplicate)
- Reconciliation of amounts distributed
- Reconciliation of receipts to beneficiary register
- Reconciliation of Hawala receipts to NGO receipts
- Reconciliation of Hawala invoice to NGO receipts
- Settlement of invoice in line with internal procedures

Hawala Fees

Hawala fees can range from minimal to quite large, depending on a few factors: location and what the contract includes. To provide you with an idea of Hawala fees, here is a table showing the rates paid by NGOs between August and November 2011.

Region	District	Fees
Bakool	Ceel Barde	4 %
Bakool	Rab Dhuure	4 % - 5 %
Bakool	Tayeeglow	3 %
Bakool	Xudur	2.5 %
Bakool	Waajid	4 % - 5 %
Banadir	Mogadishu	0.9 %
Bari	Bandarbayla	6 %
Bari	Iskushuban	8 %
Bari	Qardho	6 %
Bay	Baidoa	2.5 % - 4 %
Bay	Buur Hakaba	4 %
Bay	Diinsoor	4 %
Bay	Qansax Dheere	4 %
Gedo	Belet Xaawo	5 %
Gedo	Ceel Waaq	4 % - 5 %
Gedo	Doolow	5 %
Gedo	Luuq	4 % - 5 %
Hiraan	Belet Weyne	4 % - 7 %
Hiraan	Bulo Burto	4 % - 7 %
Hiraan	Jalalaqsi	4 % - 7 %
Lower Juba	Afmadow	5 %
Lower Juba	Badhaadhe	5 %
Lower Juba	Kismayo	4 %
Lower Juba	Jamaame	4 %
Lower Shabelle	Afgooye	4 %
Lower Shabelle	Baraawe	4 %
Lower Shabelle	Kurtunwaarey	4 %
Lower Shabelle	Marka	4 %
Lower Shabelle	Qoryooley	4 %
Lower Shabelle	Sablaale	4 %
Lower Shabelle	Wanla Weyn	2.5 % - 4 %
Middle Shabelle	Balcad	4 %
Middle Shabelle	Jowhar	4 %
Middle Juba	Bu'aale	4 %
Middle Juba	Jilib	4 %
Middle Juba	Saakow	4 %
Middle Shabelle	Balcad	4 %
Middle Shabelle	Cadale	4 %

Prepared by Adeso on behalf of the Somalia Cash Based Response Working Group (CBRWG)

Annex 1: Sample Service Contract between Agency X and Money Transfer Company ‘Hawala Agent Y’

Service Contract between Agency XXXXX and Hawala Agent YYYYY for Cash for Programme Somalia

PREAMBLE

This service contract is entered into between YYYYY (hereinafter referred to **The Service Provider**) and XXXXX represented by the situated at, (hereinafter referred to as XXXXX).

WHEREAS, the Service Provider and XXXXX stand for and actively uphold the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief;

WHEREAS, the Service Provider and XXXX have realized that the above-mentioned values can be effectively upheld throughout the project entitled **Cash Programming in regions in South Central Somalia** hereinafter referred to as **the Project**;

WHEREAS, each party has agreed to collaborate for the realization of the Project; and therefore, this contract is entered into on the terms and conditions stated hereunder.

1.0 OBJECTIVE OF SERVICE CONTRACT

1.1 The Service Provider and XXXXX to endorse the contract as the instrument which will establish and clarify the partnership of the two parties to achieve the goal and objectives of the Project.

1.2 To ensure the full coordination of a humanitarian response in the form of cash relief to the vulnerable communities in regions of South Central Somalia; the Service Provider has agreed to undertake specific activities for the implementation of the project.

2.0 RIGHTS AND OBLIGATIONS OF THE SERVICE PROVIDER

The Service Provider agrees to execute the project under the following Terms and Conditions.

2.1 Provide a bank guarantee equivalent to one month cash payment of **USD** in the name of XXXXX as a cash security guarantee.

2.2 Make all payments to the intended recipients when and where required in the agreed currency and notes. All payment will be disbursed within **four days** after receiving the instruction from XXXXX to the villages.

2.3 The local agent of the Service Provider will travel to the registered villages and no beneficiary will be requested to travel more than 20 minutes to collect his/her money by the Service Provider or its local agents.

2.4 To deploy a different local agent for each district to facilitate the payment and reconcile the payment summaries with XXXXX and the local partner at the district level.

2.5 To serve the most destitute and vulnerable people as determined by XXXXX and the Local Authorities despite clan affiliation.

2.6 Provide a full account of payments made at the end of each month together with a certified copy of the reconciliation and payment receipts to XXXXX's office in 4 days after payment completion. The Service Provider should also submit an interim invoice with all the necessary supporting documents (Monthly statement, Copies of Signed payroll and Signed payment receipts) within the same period.

2.7 Provide the required personnel and ensure that the necessary security, logistics (vehicle, driver and fuel) and communication (thuraya or mobile) arrangements are taken care of to ensure that the beneficiaries are paid on time and in a secure environment.

2.8 To print receipt books for the payments in triplicate (3 copies) in which one copy is provided to the beneficiary, one copy to XXXXX and a copy is kept by the Service Provider for their records. A sample of the receipt books to be printed will be provided by XXXXX to the Service Provider and the Service Provider must ensure to comply with this sample.

2.9 To indemnify XXXXX against any claims in regards to cash loss, including robbery and taxation from local authorities that may arise during the transfer, transport and/or distribution of the cash.

2.10 To carry out the project's cash distributions with due diligence and efficiency.

2.11 To be responsible for the security of the funds and provide security, at own expense, during all payment periods on site and provide for reasonable security in the movement of all funds between locations.

2.12 To make the cash payments in USD to the registered beneficiaries at the villages in the presence of XXXXX and/or a local NGO representative. Payment should be done individually (to the registered beneficiary) and the exact amount of denomination should be given to each registered beneficiary.

2.13 If the Service Provider, for any reason or due to any act of God, is compelled to discontinue the activities covered under this contract, the Service Provider shall return any unspent amount from the Project to XXXXX along with a full financial report of all funds spent.

2.14 The Service Provider shall dedicate a suitable number of employees to the management of the Project. Employees engaged by the Service Provider for the implementation of the Project will be under the sole employment of the Service Provider without any legal relationship whatsoever with XXXXX. XXXXX will be exempt of any claims, damages, expenses or costs incurred by the Service Provider employees.

2.15 XXXXX will be exempt of any claims, damages, expenses or costs incurred by third parties or sub-service providers used by the Service Provider during the implementation of the Project.

2.16 To not erect any billboards or signs or to use the name of XXXXX and any donor for any publicity purpose without written approval from XXXXX. The service provider shall not issue any public statement regarding this project without the approval of

XXXXX. All public statements pertaining to this Project must not create security risks to XXXXX and its partners or their staff and must and without written permission:

- a) Must not mention locations of project or which agency is working where or detailed numbers of beneficiaries in the media.
 - b) Must not mention the involvement of XXXXX in
- 2.17 To comply fully with the terms and conditions of the contract.

3.0 RIGHTS AND OBLIGATIONS OF XXXXX

- 3.1 XXXXX, through authorized representatives, has the right to visit the project area in order to hold discussions with the Service Provider and its agents on project-related concerns. XXXXX will stay fully informed on the progress of the activities.
- 3.2 XXXXX shall cooperate with the Service Provider according to the signed contract.
- 3.3 XXXXX's project-designated finance person will conduct within three (3) working days a final reconciliation after receiving the monthly statement from the Service Provider. If there are any discrepancies, he/she will inform the Service Provider's representative to resolve the issue and amend or issue a final invoice.
- 3.4 XXXXX, within 7 days after the resolutions of any issues, will reimburse the Service Provider% of the cash disbursement made together with the commission/fee. The payment will be made by Swift or cheque from the XXXXX/Donor account in 7 days after all the documentations has been approved internally. The balance of the% will be processed and transfer within 3 days after the service provider confirms receipt of the first transfer and issue an official receipt.
- 3.5 XXXXX shall provide to the Service Provider a list of the recipients including details pertaining to their identity, location and amounts payable.
- 3.6 XXXXX shall pay a commission of% on all transfers for the services provided by the Service Provider in regards to the distribution of cash to the beneficiaries of the project.
- 3.7 The Service Provider will be paid in USD from the XXXXX office. Funds will be transferred to the Service Provider's account. The Service Provider will acknowledge the receipt of payment by issuing an official receipt to that effect as required by XXXXX.
- 3.8 The Service Provider shall make payments to the beneficiaries in accordance to the instruction and the monthly payroll provided by XXXXX, and in accordance with the terms and conditions of this contract.
- 3.9 XXXXX will not reimburse any additional expenses in excess of approved amounts released to the Service Provider.
- 3.10 The Service Provider is fully responsible for the use of funds once funds are received from XXXXX.
- 3.11 The contract duration will be for months starting on ending on

4.0 SPECIAL CONDITIONS

- 4.1 Notwithstanding any other provision of this contract, the Service Provider agrees to apply the highest reasonable standard of diligence to ensure that the supplies and equipment and money provided by XXXXX under this Agreement;
 - a) are not used to provide support to individuals or entities associated with terrorism;
 - b) are not transferred to any individual or entity on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999), available at <http://www.un.org/Docs/sc/committees/1267>; and
 - c) are not used, in the case of money provided by XXXXX, for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. The Bidder acknowledges that, consistent with relevant decisions of the United Nations Security Council and XXXXX's established policies and procedures and other relevant agreements, the funds provided under this agreement are not to be used to make payments or provide financial assets or other economic resources to any entity referred to by the United Nations Security Council under its resolution 1844, and that it will use enhanced due diligence to ensure that this is the case, and will advise XXXXX should this take place.
- 4.2 The Service Provider and its partners (including contractors, grantees, sub-contractors and sub- grantees) agree to exercise enhanced due diligence when undertaking contracted activities and any other project activities on behalf of XXXXX to avoid the accidental, unintentional or incidental provision of such payments or benefits to excluded parties.
- 4.3 The Service Provider agrees that it and/or its partners (including the service providers, grantees, and sub- grantees) will not knowingly and voluntarily make payments or provide any other benefits to any excluded parties, or individuals acting on behalf of any excluded parties. Such payments or other benefits would include:
 - a) Cash facilitation fees or other similar fees at roadblocks, ports, warehouses. Air field or other transit point to excluded parties;
 - b) Purchases or procurement of goods or services from excluded parties; and;
 - c) Payments to excluded parties as the de facto municipal authority;
- 4.4 In the event that the Service Provider or its partners (including the service providers, grantees, and sub- grantees) becomes aware that it made a payment or provided a benefit to excluded parties, the Service Provider shall, in accordance with this contract and within seven days after becoming aware of such payments or provision of benefit, notify of XXXXX at in writing of such payment or provision of benefit. This notification shall include the following information:
 - a) Factual description of each such event;
 - b) Amount of funds expended or other benefit provided for each such event;
 - c) Safeguards and procedures, including management and oversight systems, that were in place to help avoid the occurrence of each event; and
 - d) Explanation of the reasons for each such payment or each such benefit provided, including whether it was made or provided knowingly, voluntarily accidentally, unintentionally, incidentally or forced.

4.5 A variety of monitoring activities will be conducted to independently confirm the validity of the reported disbursements and documentation may be submitted to a competent hand writing and figure print specialist for analysis at the discretion of XXXXX and its donors.

5.0 TERMINATION

- 5.1 This Contract will automatically terminate with immediate effect on the Termination Date.
- 5.2 Notwithstanding Clause 5.1 above, this Contract may be terminated by XXXXX or by the Service Provider giving to the other not less than 14 days notice in writing.
- 5.3 XXXXX shall also be entitled to terminate this Contract at any time if it reasonably believes that there has been a fundamental or serious breach of this Contract by the Service Provider.
- 5.4 XXXXX shall also be able to terminate this Contract at any time if in its reasonable opinion any activity by the Service Provider is likely to bring XXXXX into disrepute.
- 5.5 XXXXX shall also be able to terminate this Contract at any time up to the termination date if an event occurs which makes the start or continuation of the Services impossible. This may include (but is not limited to) conflict, floods, hurricanes, any action of man or an act of God (a “termination event”). Such a termination event will be determined at the absolute discretion of the XXXXX focal person for the project.
- 5.6 The Service Provider will not at any time after the termination date represents her or himself as being in any way still connected with XXXXX.

6.0 MISCELLANEOUS

- 6.1 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.
- 6.2.1 Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties and no party shall have authority to act in the name or on behalf of or otherwise to bind any of the others in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 6.3 This Agreement constitute the whole agreement between the parties relating to its subject matter and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.
- 6.4 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, it shall not affect the other provisions of this Agreement which shall remain in full force and effect.
- 6.5 No term of this Agreement shall be enforceable by a third party.
- 6.6 This Agreement may be executed in any number of copies, each of which, when executed and delivered, shall be an original, and all the copies together shall constitute one and the same instrument. No copy shall be effective until each party has executed it by signing on the copy.

7.0 GOVERNING LAW AND LANGUAGE

- 7.1 This Agreement shall be governed by and construed in all respects in accordance with the laws of Kenya and the parties submit themselves to the exclusive jurisdiction of the Kenyan.
- 7.2 For the purpose of this Contract, English shall be considered the applicable language.

8.0 VARIATIONS

- 8.1 No variation or purported variation to this Agreement shall be effective unless the same is made in writing and signed by all the parties.

9.0 NOTICE

- 9.1 Any notices shall be in writing and shall either be delivered personally, sent by post (if operative) or courier to the address stated in this Agreement or to such other address as may be supplied by the parties or emailed (provided a confirmation is sent by post (if operative) or courier by the end of the next Business Day) and shall be deemed duly served and delivered as follows:
 - a) in the case of a notice delivered personally or by courier, at the time of delivery;
 - b) in the case of a notice sent by post, on the fifth Business Day after the date of dispatch;
 - c) in the case of email:
 - i) if sent during normal business hours (being 9am to 5pm) on a Business Day, then at the time of transmission; and
 - ii) if sent outside normal business hours then on the first Business Day after the date of transmission.

10.0 SIGNATURE

10.1 The following signatures are a representation of all parties understanding and commitment to the aforementioned roles and responsibilities. This contract comes into effect upon signature by all parties below.

Representative from XXXXX

Representative from YYYYY

Signature _____

Signature _____

Name _____

Date _____

Name _____

Date _____

Annex 2: Sample Hawala Agent Interview Form

Staff resources and cash availability:

- Were you able to fulfill the terms of the cash distribution contract for the NGO without any problem?
- Do you have enough staff to handle the work involved in distributing the cash to the beneficiaries and reporting to the NGO?
- Have you had to hire additional staff to handle the workload involved in the cash distribution?
- Have you opened new offices / branches to distribute cash for this programme?
- Have you experienced difficulties in getting enough cash to your offices / distribution sites on time?
- Have you experienced difficulties in getting the right bank notes for distribution?
- Have you experienced difficulties in getting clean bank notes that are not torn or damaged?
- Have you had to delay some of the transfers for your other clients due to the workload / amount of cash required by the programme?
- Were you sometimes not able to transfer money to some of your other regular clients because of the workload / amount of cash required by the programme?

Distribution, security and taxation:

- Was the cash distribution done in an orderly and efficient manner?
- Did some beneficiaries come to collect their money on the wrong day?
- Is it sometimes difficult to confirm the identity of the beneficiary?
- Do some people come to collect cash through the programme that are not on the beneficiary list provided by the NGO?
- Do some people who are on the beneficiary list not come to collect their cash when they are supposed to?
- Are there too many beneficiaries to be able to distribute the cash in the time required?
- Are your existing security measures sufficient to handle the cash for the programme?
- Have you had to hire additional security personnel to handle the cash for the programme?
- Has the local authority increased the rate of tax that you normally pay because of the cash distribution?
- Are there other additional taxes / protection costs that you are obliged to pay due to your role in the cash distribution programme?

Contract and communication with NGO:

- Did your head office negotiate the contract for this programme and then inform this branch / office?
- Was this branch / office consulted or involved in the negotiations regarding the contract for this programme?
- Does this branch / office communicate directly with the NGO regarding the programme?
- Does this branch / office communicate with the NGO through another branch / office?
- Does the NGO provide the information needed for you to make the payments in a timely manner?
- Is the information / beneficiary ID cards provided by the NGO sufficient to identify the beneficiaries easily?
- Is the level of reporting / receipts required by the NGO more than we normally provide?
- Was there initially some confusion about the reporting / receipts required by the NGO?
- Are you able to meet the reporting / receipt requirements of the NGO in a timely manner?
- Are the NGO's expectations regarding reporting / receipts unreasonable?

Overall volume of transfers through this branch

- What is the approximate monthly turnover of this office? (Not including the current cash transfer programme)
- Does the monthly turnover vary according to the season?
- How much or what proportion of the total turnover is accounted for by money being sent INTO this area?
- How much or what proportion of the total turnover is accounted for by money being sent OUT of this area?
- How much does this branch / office handle per month for the cash distribution programme?
- What are the other main Hawala companies operating in this area? (i.e. those with the largest turnover)