

Letter of Agreement between
AusAID (Australian Agency for International Development)
and
UNAIDS (Joint United Nations Programme on HIV/AIDS)

WHEREAS this Letter of Agreement is made pursuant to the *Sub regional framework agreement between the Government of Australia and UNAIDS on thematic support to priority areas – South Asia*, which was executed on 3 June 2005.

WHEREAS, UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, ILO, UNESCO, WHO, World Bank, UNIFEM (hereinafter referred to collectively as the “Participating UN Organizations”) have developed a joint programme (hereinafter referred to as the “Joint Programme”) as part of their respective development cooperation with the Government of India, as more fully described in the detailed Joint Programme Document on HIV/AIDS Prevention and Care in the North East States of India (hereinafter referred to as the “Joint Programme Document”¹), a copy of which is attached hereto as **ANNEX A**, and have agreed to establish a coordination mechanism (hereinafter referred to as the “Joint Programme Steering Committee”)² to facilitate the effective and efficient collaboration between the Participating UN Organizations and the host Government for the implementation of the Joint Programme;

WHEREAS, the Participating UN Organizations have appointed UNAIDS (hereinafter referred to as the “Administrative Agent” or the “AA”) in a Memorandum of Understanding concluded between the Administrative Agent and Participating UN Organizations on 14 December 2005, to serve as their administrative interface between donors and the Participating UN Organizations for these purposes and to that end the Administrative Agent has established a separate ledger account under its financial regulations and rules for the receipt and administration of the funds received from donors who wish to provide financial support to the Joint Programme through the Administrative Agent (hereinafter, the “Joint Programme Account”);

NOW, THEREFORE, the Administrative Agent and the Donor (hereinafter referred to collectively as the “Parties”) hereby agree as follows:

¹ The Joint Programme document contains at a minimum a common work plan, a budget, the coordination and management mechanism and signatures of all parties to the document.

² The composition of the Joint Programme Steering Committee or other body shall include all the signatories to the Joint Programme Document. The Steering Committee may also have other members in an observer capacity, such as donors and other stakeholders.

Article I
Disbursement of funds to the Administrative Agent and the Joint Programme Account

1. The Donor agrees to make a contribution of AUD Ten Million Dollars [**AUD 10,000,000**] and such further amounts as it may decide (hereinafter referred to as the “Contribution”) to support the Joint Programme. The Contribution shall be a contribution to the Participating UN Organizations to support the Joint Programme in accordance with the Operational Plans to be developed in the first six months, the Preparatory Phase of the Joint Programme³. The Donor authorizes the Administrative Agent to use the Contribution for the purposes of the Joint Programme and in accordance with this Letter of Agreement.

2. The Donor shall deposit the Contribution by wire transfer, in accordance with the schedule of payments set out in **ANNEX B** to this Agreement, in convertible currencies of unrestricted use, to the following account:

UBS

Account number (IBAN): CH31 0024 0240 C016 9920 3

SWIFT code: UBSWCHZH12A

Bank address: UBS, 8 rue du Rhone, CH-1211 Geneva 2, Switzerland

3. When making a transfer to the Administrative Agent, the Donor will notify the Administrative Agent’s Treasury Operations of the following: (a) the amount transferred, (b) the value date of the transfer; and (c) that the transfer is from AusAID in respect of the joint programme in India pursuant to this Letter of Agreement.

4. The value of a contribution-payment, if made in currencies other than United States dollars, shall be determined by applying the United Nations operational rate of exchange in effect on the date of payment. Gains or losses on currency exchanges shall be recorded in the Joint Programme Account by the Administrative Agent.

5. The Joint Programme Account shall be administered by the Administrative Agent in accordance with the regulations, rules, directives and procedures applicable to it, including those relating to interest. The Joint Programme Account shall be subject exclusively to the internal and external auditing procedures laid down in the financial regulations, rules, directives and procedures applicable to the Administrative Agent.

6. The cost of administration and any other expenses incurred by UNAIDS directly relating to the project will not exceed 13%.

7. All financial accounts and statements shall be expressed in United States dollars.

³ The Operational Plans will be in support of the National framework and the State Implementation Plans.

Article II
Disbursement of funds to the Participating UN Organizations and a separate ledger
account

1. The Administrative Agent shall make disbursements from the Joint Programme Account in accordance with instructions from the Joint Programme Steering Committee, in line with the Joint Programme Document, as amended in writing from time to time by the Joint Programme Steering Committee. The disbursements will also be made in accordance with the Memorandum of Understanding between the Participating UN Organizations and the AA regarding the Operational Aspects of the Joint Programme. The Administrative Agent shall promptly notify the Donor of any amendment to the budget made by the Joint Programme Steering Committee. The disbursement to the Participating UN Organizations shall consist of direct and indirect costs as set out in the Joint Programme budget.

2. Each Participating UN Organization shall establish a separate ledger account under its financial regulations and rules for the receipt and administration of the funds disbursed to it from the Joint Programme Account. Each Participating UN Organization assumes full programmatic and financial accountability for the funds disbursed to them by the Administrative Agent. That separate ledger account shall be administered by each Participating UN Organization in accordance with its own regulations, rules, directives and procedures, including those relating to interest. That separate ledger account shall be subject exclusively to the internal and external auditing procedures laid down in the financial regulations, rules, directives and procedures applicable to the Participating UN Organization.⁴ “Funds made available by AusAID shall be subject to the auditing procedures provided for in the financial regulations and rules of the UNAIDS Secretariat and Cosponsors”.

3. Where the balance in the Joint Programme Account on the date of a scheduled disbursement is insufficient to make that disbursement, the Administrative Agent shall consult with the Joint Programme Steering Committee and make a disbursement, if any, in accordance with the Joint Programme Steering Committee’s instructions. The Administrative Agent shall promptly notify the Donor in such circumstances and shall advise the Donor of the Joint Programme Steering Committee’s decision in that regard.

⁴ Where the AA is also a Participating UN Organization, it will need to open its own separate ledger account and transfer funds from the Joint Programme Account to its separate ledger account.

Article III
Implementation of the Joint Programme

1. The Participating UN Organizations shall carry out the activities for which they are responsible, in line with the budget contained in the Joint Programme Document, as amended from time to time by the Joint Programme Steering Committee in accordance with the regulations, rules, directives and procedures applicable to it. Accordingly, personnel shall be engaged and administered, equipment, supplies and services purchased, and contracts entered into in accordance with the provisions of such regulations, rules, directives and procedures.
2. The Participating UN Organizations shall commence and continue to conduct operations for the Joint Programme only upon receipt of disbursements as instructed by the Joint Programme Steering Committee.
3. The Participating UN Organizations shall not make any commitments above the budgeted amounts in the Joint Programme Document, as amended from time to time by the Joint Programme Steering Committee.
4. If unforeseen expenditures arise, the Joint Programme Steering Committee will submit, through the Administrative Agent, a supplementary budget to the Donor showing the further financing that will be necessary. If no such further financing is available, the activities to be carried out under the Joint Programme may be reduced or, if necessary, terminated by the Participating UN Organizations. In no event will the Participating UN Organizations assume any liability in excess of the funds provided in the Joint Programme Account.
5. A Programme Co-ordination Committee will be formed to provide overall policy and technical guidance. This Committee will include NACO, States representatives, UN agencies and Donor organizations representatives. UNAIDS will provide the Secretariat to this committee. The Project Coordination Committee shall meet twice a year to provide guidance on substantive policy and technical matters relating to the execution and management of the project.

Article IV
Equipment and supplies

On the termination or expiration of this Agreement, the matter of ownership shall be determined in accordance with the regulations, rules, directives and procedures applicable to such Participating UN Organization, including where applicable its basic agreement with the Government of India.

Article V
Reporting

The Administrative Agent shall provide the Donor and the Joint Programme Steering Committee with the following reports, based on reports provided to the Administrative Agent by each Participating UN Organization prepared in accordance with the accounting and reporting procedures applicable to it, as set forth in the Joint Programme Document:

- (a) Consolidated narrative progress reports every twelve months, to be provided no later than three months after the end of the applicable reporting period;
- (b) Consolidated annual financial reports as of 31 December each year with respect to the funds disbursed from the Joint Programme Account, to be provided no later than five months after the end of the applicable reporting period;
- (c) A final consolidated narrative report and financial report, after the completion of the Joint Programme and including the final year of the Programme, to be provided no later than 30 June of the year following the financial closing of the Programme;
- (d) A consolidation of final certified financial statements, to be provided no later than 30 days after receipt from the Participating UN Organizations of the year following the financial closing of the Programme;
- (e) A financial report and final certified financial statement on its activities as Administrative Agent, to be provided no later than 30 June of the year following the financial closing of the Programme.
- f) In addition to the above, the Administrative Agent shall submit a completed Simplified Monitoring Tool (SMT) spreadsheet to AusAID on an annual basis, and at least two weeks prior to the annual meeting of the Steering Committee established by Regional Support Team pursuant to the Sub-regional Framework Agreement. The spreadsheet should provide relevant information on each funded activity or program. The SMT template to be used is attached to this Subsidiary Agreement.

Article VI
Monitoring and Evaluation

Monitoring and evaluation of the Joint Programme including, as necessary and appropriate, joint evaluation by the Participating UN Organizations, the Administrative Agent, the Donor, the Government and other partners shall be undertaken in accordance with the Joint Programme Document.

The Administrative Agent shall facilitate visits of AusAID officials to projects and programs receiving AusAID's contributions for monitoring purposes, and to enable these officials to ascertain for themselves the impact of this Framework Agreement.

Article VII
Joint Communication

Information given to the press, to the beneficiaries of the Joint Programme, all related publicity material, official notices, reports and publications, shall acknowledge the role of the Government of India, the donors, the Participating UN Organizations, the Administrative Agent and any other relevant parties.

Article VIII
Expiration, modification and termination of the Agreement

1. The Administrative Agent shall notify the Donor when it has received notice from all Participating UN Organizations that the activities for which they are responsible under the Joint Programme have been completed. The date of the last notification received from a Participating UN Organization shall be deemed to be the date of expiration of this Agreement, subject to the continuance in force of paragraph 4 below for the purposes therein stated.
2. This Agreement may be modified only by written agreement between the parties.
3. This Agreement may be terminated by either party on [thirty (30)] days of a written notice to the other party, subject to the continuance in force of paragraph 4 below for the purpose therein stated.
4. Obligations assumed by the Donor and the Administrative Agent under this Agreement shall survive the expiration or termination of this Agreement to the extent necessary to permit the orderly conclusion of activities, the withdrawal of personnel, funds and property, the settlement of accounts between the Parties hereto and the Participating UN Organizations and the settlement of contractual liabilities required in respect of any subcontractors, consultants or suppliers. Any balance remaining in the Joint Programme Account or in the individual Participating UN Organizations' separate ledger accounts shall be used for a purpose mutually agreed upon by the Administrative Agent, the donors and the Joint Programme Steering Committee.

Article IX
Notices

1. Any action required or permitted to be taken under this Agreement may be taken on behalf of the Donor by Andrew Adzic, Head, AusAID or his or her designated representative, and on behalf of the Administrative Agent by Denis Broun, UNAIDS Country Coordinator, or his or her designated representative.

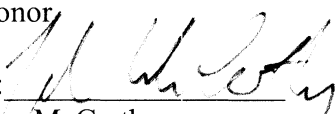
2. Any notice or request required or permitted to be given or made in this Agreement shall be in writing. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, mail, cable or telex to the party to which it is required to be given or made, at such party's address specified below or at such other address as the party shall have specified in writing to the party giving such notice or making such request.

Article X
Entry into force

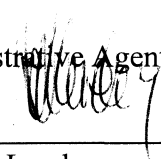
This Agreement shall enter into force upon signature thereof by the Parties and shall continue in full force and effect until it is expired or terminated.

IN WITNESS WHEREOF, the undersigned, being duly authorized by the respective Parties, have signed the present Agreement in English in two copies.

For the Donor

Signature: 
Name: John McCarthy 19-12-05
High Commissioner
Australian High Commission
1/50 G, Shantipath
Chanakyapuri
New Delhi – 110 021
India
Tel :+91 11 5139900

For the Administrative Agent

Signature: 
Name: Deborah Landey
Title: Deputy Executive Director
Address: UNAIDS – 20 avenue Appia –
1211 Geneva 27 - Switzerland
Phone: +41 22 791 4212

Email: john.mccarthy@dfat.gov.au

Email: landeyd@unaids.org

ANNEX A: Joint Programme Document
ANNEX B: Schedule of payments