

**THIRD-PARTY COST-SHARING AGREEMENT  
BETWEEN THE AUSTRALIAN AGENCY FOR INTERNATIONAL DEVELOPMENT  
(THE DONOR) AND  
THE UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)  
AusAID AGREEMENT No.66998**

WHEREAS the Donor hereby agrees to contribute funds to UNDP on a cost-sharing basis for the execution/implementation of Tonga Governance Programme in Kingdom of Tonga. The programme/project is described in the project document. The project document is formally annexed to this Agreement<sup>1</sup>

WHEREAS this bilateral Agreement between the Donor and UNDP stipulates the terms and conditions of the contribution, and is not an international treaty,

WHEREAS UNDP is prepared to receive and administer the contribution for the execution/implementation of the programme/project,

WHEREAS the Government of Kingdom of Tonga has been duly informed of the contribution of the Donor to the programme/project,

WHEREAS UNDP shall designate an Executing Entity/Implementing Partner<sup>2</sup> for the execution/implementation of the programme/project (the Executing Entity /Implementing Partner),

NOW THEREFORE, UNDP and the Donor hereby agree as follows:

**Article I. Scope and Objective**

1. This Agreement sets forth the terms and procedures for the Donor's contribution to the programme/project as described in the project document (provided at Attachment A).

(a) The Goal of the programme/project is:

UNDAF Outcome 5.1: Regional, national, local and traditional governance systems are strengthened, respecting and upholding human rights, especially women's rights in line with international standards

2. The Objectives of the programme/project are:

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<sup>1</sup>. For UNDP programme activities carried out under the harmonized operational modalities, the project document is comprised of the Country Programme Action Plan and Annual Work Plans.

<sup>2</sup> "Implementing Partner" for UNDP programme activities carried out under the harmonized operational modalities and "Executing Entity" for UNDP programme activities not carried out under the harmonized operational modalities.

- (a) Legislative Assembly strengthened to effectively carry out its oversight, representative and legislative functions.
- (b) Capacity of CSOs, education providers and communities strengthened for increased participation in law making, policy and oversight processes.
- (c) Capacity of Tonga Electoral Commission enhanced to ensure the effective conduct of free and fair national and district elections and national capacity for election monitoring built.
- (d) Programme Efficient and effectively managed.

## Article II. The Contribution

1. (a) The Donor shall, in accordance with the schedule of payments set out below, contribute to UNDP the amount of **Three Million, and Eight Five Thousand Six Hundred and Seventeen Dollars and twenty four cents Only**. The contribution shall be deposited in the following bank account:

UNDP Contributions Account (AU\$)  
 Account #816601  
 Reserve Bank of Australia  
 65 Martin Place  
 Sydney NSW 2000  
 SWIFT: RSBKAU2S

### Schedule of payments

Date payment due	Up to the following Amount	Reporting/documentation to be submitted to Donor prior to payment being approved by Donor
23 April 2013	AU\$961,000.00	On return of signed Cost Sharing Agreement to Donor
27 February 2014	AU\$708,205.75	Annual Programme Report 2013 delivered to Donor by (1 February 2013) for the reporting period (January – December 2013)
27 February 2015	AU\$708,205.75	Annual Programme Report for 2014 delivered to Donor by (1 February 2015) for the reporting period ( January – December 2014)
27 February 2016	AU\$708,205.75	Annual Programme Report for 2015 delivered to Donor by (1 February 2016) for the reporting period (January – December 2015)
<b>Total funding</b>	<b>AU\$3,085,617.24 <sup>3</sup></b>	

<sup>3</sup> Based on the UN exchange rate for the month of Feb 2013 AUD\$1 is equivalent to USD\$ 0.961, therefore, USD\$3,210,840.00 is equivalent to AUD\$ AUD 3,085,617.24

(up to):		
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(b) The Donor will inform UNDP when the contribution is paid via an e-mail message with remittance information to [contributions@undp.org](mailto:contributions@undp.org)

2. The value of the payment, if made in a currency other than United States dollars, shall be determined by applying the United Nations operational rate of exchange in effect on the date of payment. Should there be a change in the United Nations operational rate of exchange prior to the full utilization by the UNDP of the payment, the value of the balance of funds still held at that time will be adjusted accordingly. If, in such a case, a loss in the value of the balance of funds is recorded, UNDP shall inform the Donor with a view to determining whether any further financing could be provided by the Donor. Should such further financing not be available, the assistance to be provided to the programme/project may be reduced, suspended or terminated by UNDP after written notification to the Donor by UNDP.
3. The above schedule of payments takes into account the requirement that the payments shall be made in advance of the execution/implementation of planned activities. It may be amended in accordance with Article XII to be consistent with the progress of programme/project delivery.
4. UNDP shall receive and administer the payment in accordance with the regulations, rules and directives of UNDP.
5. All financial accounts and statements shall be expressed in United States dollars.

### **Article III. Utilization of the Contribution**

1. The execution/implementation of the responsibilities of UNDP and of the Executing Entity /Implementing Partner pursuant to this Agreement and the project document shall be dependent on receipt by UNDP of the contribution in accordance with the schedule of payment as set out in Article II, paragraph 1, above.
2. If unforeseen increases in expenditures or commitments are expected or realized (whether owing to inflationary factors, fluctuation in exchange rates or unforeseen contingencies), UNDP shall submit to the Donor on a timely basis a supplementary estimate showing the further financing that will be necessary. The Donor shall use its best endeavours to obtain the additional funds required.
3. If the payments referred to in Article II, paragraph 1, above are not received in accordance with the payment schedule, or if the additional financing required in accordance with paragraph 2 above is not forthcoming from the Donor or other sources, the assistance to be provided to the programme/project under this Agreement may be reduced, suspended or terminated by UNDP after written notification to the Donor by UNDP.

4. Any interest income attributable to the contribution shall be credited to UNDP Account and shall be utilized in accordance with established UNDP procedures.

#### **Article IV. Administration and reporting**

1. Programme/project management and expenditures shall be governed by the regulations, rules and directives of UNDP and, where applicable, the regulations, rules and directives of the Executing Entity/Implementing Partner, provided that they do not contravene the regulations, rules and directives of UNDP. In case of contradiction, regulations, rules and directives of UNDP shall prevail.

2. Programme/project management shall be in accordance with UNDP policies and practices in relation to anti-corruption and prevention, detection and investigation of fraud and recovery of funds the subject to fraud.

3. UNDP headquarters and country office shall provide to the Donor all or parts of the following reports prepared in accordance with UNDP accounting and reporting procedures.

- (a) From the country office (or relevant unit at headquarters in the case of regional and global projects) an annual status report of programme/project progress for the duration of the Agreement, as well as the latest available approved budget.
- (b) From UNDP Bureau of Management/Office of Finance and Administration, an annual certified financial statement as of 31 December every year to be submitted no later than 30 June of the following year.
- (c) From the country office (or relevant unit at headquarters in the case of regional and global projects) within six months after the date of completion or termination of the Agreement, a final report summarizing programme/project activities (including progress in achieving activities' goal and objectives) and impact of activities as well as provisional financial data.
- (d) From UNDP Bureau of Management/Office of Finance and Administration, on completion of the programme/project, a certified financial statement to be submitted no later than 30 June of the year following the financial closing of the programme/project.

4. If special circumstances so warrant, UNDP may provide more frequent reporting at the expense of the Donor. The specific nature and frequency of this reporting shall be specified in an annex of the Agreement.

## **Article V. Administrative and support services**

1. In accordance with the decisions and directives of UNDP's Executive Board reflected in its Policy on Cost Recovery from Other Resources, the Contribution shall be subject to cost recovery for indirect costs incurred by UNDP headquarters and country office structures in providing General Management Support (GMS) services. To cover these GMS costs, the contribution shall be charged a fee equal to 7%. Furthermore, as long as they are unequivocally linked to the specific project(s), all direct costs of implementation, including the costs of the Executing Entity or Implementing Partner, will be identified in the project budget against a relevant budget line and borne by the project accordingly.
2. The aggregate of the amounts budgeted for the programme/project, together with the estimated costs of reimbursement of related support services, shall not exceed the total resources available to the programme/project under this Agreement as well as funds which may be available to the programme/project for programme/project costs and for support costs under other sources of financing.

## **Article VI. Evaluation**

All UNDP programmes and projects are evaluated in accordance with UNDP Evaluation Policy. UNDP and the Government of [programme country] in consultation with other stakeholders will jointly agree on the purpose, use, timing, financing mechanisms and terms of reference for evaluating a project including an evaluation of its contribution to an outcome which is listed in the Evaluation Plan. UNDP shall commission the evaluation, and the evaluation exercise shall be carried out by external independent evaluators.

## **Article VII. Equipment**

Ownership of equipment, supplies and other properties financed from the contribution shall vest in UNDP. Matters relating to the transfer of ownership by UNDP shall be determined in accordance with the relevant policies and procedures of UNDP.

## **Article VIII. Auditing**

The contribution shall be subject exclusively to the internal and external auditing procedures provided for in the financial regulations, rules and directives of UNDP. Should the biennial Audit Report of the Board of Auditors of UNDP to its governing body contain observations relevant to the contributions, such information shall be made available to the Donor.

### **Article IX. Completion of the Agreement**

1. UNDP shall notify the Donor when all activities relating to the programme/project have been completed.
2. Notwithstanding the completion of the programme/project, UNDP shall continue to hold unutilized payments until all commitments and liabilities incurred, prior to the date of receipt of the notice, in the execution/implementation of the programme/project have been satisfied and programme/project activities brought to an orderly conclusion.
3. If the unutilized payments prove insufficient to meet such commitments and liabilities, UNDP shall notify the Donor and consult with the Donor on the manner in which such commitments and liabilities may be satisfied.
4. Any payments that remain unexpended after such commitments and liabilities have been satisfied shall be refunded to the Donor or may be used by UNDP as agreed in writing with the Donor.

### **Article X. Termination of the Agreement**

1. After consultations have taken place between the Donor, UNDP and the programme country Government, and provided that the payments already received are, together with other funds available to the programme/project, sufficient to meet all commitments and liabilities incurred in the execution/implementation of the programme/project, this Agreement may be terminated by UNDP or by the Donor. The Agreement shall cease to be in force 30 (thirty) days after either of the Parties have given notice in writing to the other Party of its decision to terminate the Agreement.
2. Notwithstanding termination of all or part of this Agreement, UNDP shall continue to hold unutilized payments until all commitments and liabilities incurred, prior to the date of receipt of the notice, in the execution/implementation of all or the part of the project, for which this Agreement has been terminated, have been satisfied and project activities brought to an orderly conclusion.
2. Any payments that remain unexpended after such commitments and liabilities have been satisfied shall be refunded to the Donor or may be used by UNDP as agreed in writing with the Donor.

### **Article XI. Counter-Terrorism**

Consistent with UN Security Council Resolutions relating to terrorism, including UNSC Resolution 1373 (2001) and 1267 (1999) and related resolutions, both the Donor and UNDP are firmly committed to the international fight against terrorism, and in particular, against the financing of terrorism. It is the policy of the Donor to seek to ensure that none of its funds are used, directly or indirectly, to provide support to individuals or entities associated with terrorism. In accordance with this policy, UNDP undertakes to use all reasonable efforts to ensure that none of the Donor funds provided under this

Agreement are used to provide support to individuals or entities associated with terrorism. If, during the course of this Agreement, UNDP discovers a link with any organization or individual associated with terrorism it shall inform the Donor immediately.

**Article XII. Amendment of the Agreement**

The Agreement may be amended through an exchange of letters between the Donor and UNDP. The letters exchanged to this effect shall become an integral part of the Agreement.

**Article XIII. Resolution of Disputes**


Any dispute between UNDP and the Donor over its interpretation or application (or both) shall be resolved amicably between the Parties.

**Article XIV. Entry Into Force**

1. This Agreement shall enter into force upon signature and deposit by the Donor of the first contribution-payment to be made in accordance with the schedule of payments set out in Article II, paragraph 1 of this Agreement and the signature of the project document by the concerned parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement in the English language in two copies.

**For the Donor, Australian Agency for International Development**

  
His Excellency Mr Brett Aldam  
Australian High Commissioner  
Date: 22/4/13



**For the United Nations Development Programme**

  
Mr Knut Ostby  
Resident Representative  
Date: 22/4/2013

