

**THIRD-PARTY COST-SHARING AGREEMENT
BETWEEN THE AUSTRALIAN AGENCY FOR INTERNATIONAL DEVELOPMENT
(AusAID) AND
THE UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)**

WHEREAS AusAID hereby agrees to contribute funds to UNDP on a cost-sharing basis for the implementation of "Promoting Private Public Partnerships in Sustainable Management of Natural Resources for Sustainable Energy Production and Poverty Alleviation in the Arid Lands of Kenya" project¹. The project document is annexed to this agreement.

WHEREAS this bilateral arrangement 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 Kenya has been duly informed of the contribution of AusAID to the project,

NOW THEREFORE, UNDP and AusAID hereby agree as follows:

Article I. The Contribution

1. (a) AusAID shall, in accordance with the schedule of payments set out below, contribute to UNDP the amount of (US\$100,000). The contribution shall be deposited in the following account:

UNDP Representative in Kenya USD Account
Bank of America, 1401 Elm St., Dallas TX 75202
Account No. 3752191743
ACH Routing Number: 111000012 [to be used only by US-based banks using ACH payment type]
Wire Routing Number: 026009593
SWIFT Address: BOFAUS3N

<u>Schedule of payments</u>	<u>Amount</u>
Upon signature of this agreement	US\$ 100,000.00

- (b) AusAID will inform UNDP when the contribution is paid via an e-mail message with remittance information to contributions@undp.org

¹ The project is described in the project document PIMS 3244: Promoting Private Public Partnerships in Sustainable Management of Natural Resources for Sustainable Energy Production and Poverty Alleviation in the Arid Lands of Kenya"

2. 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 to be consistent with the progress of programme/project delivery.
3. UNDP shall receive and administer the payment in accordance with the regulations, rules and directives of UNDP.
4. All financial accounts and statements shall be expressed in United States dollars.

Article II. Utilization of the Contribution

1. The implementation of the responsibilities of UNDP 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 I 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 AusAID on a timely basis a supplementary estimate showing the further financing that will be necessary. AusAID shall use its best endeavours to obtain the additional funds required.
3. If the payments referred to in Article I, 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 AusAID or other sources, the assistance to be provided to the project under this Agreement may be reduced, suspended or terminated 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 III. Administration and reporting

1. 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 Implementing Partner.
2. UNDP headquarters and country office shall provide to AusAID all or parts of the following reports prepared in accordance with UNDP accounting and reporting procedures.
 - 2.1 For Agreements of one year or less:
 - (a) 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 and impact of activities as well as provisional financial data;

- (b) From UNDP Bureau of Management/Office of Finance and Administration, an annual certified financial statement as of 31 December to be submitted no later than 30 June of the following year;
- (c) 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 project.

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

Article IV. 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 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 project, together with the estimated costs of reimbursement of related support services, shall not exceed the total resources available to the project under this Agreement as well as funds which may be available to the project for project costs and for support costs under other sources of financing.

Article V. Evaluation

All UNDP programmes and projects are evaluated in accordance with UNDP Evaluation Policy. UNDP and the Government of Kenya 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 VI. 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 VII. 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 AusAID.

Article VIII. Completion of the Agreement

1. UNDP shall notify AusAID when all activities relating to the project have been completed.
2. Notwithstanding the completion of the project, UNDP shall continue to hold unutilized payments until all commitments and liabilities incurred in the implementation of the project have been satisfied and project activities brought to an orderly conclusion.
3. If the unutilized payments prove insufficient to meet such commitments and liabilities, UNDP shall notify AusAID and consult with AusAID 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 disposed of by UNDP in consultation with AusAID.

Article IX. Termination of the Agreement

1. After consultations have taken place between AusAID, UNDP and the Government of Kenya, and provided that the payments already received are, together with other funds available to the project, sufficient to meet all commitments and liabilities incurred in the implementation of the project, this

Agreement may be terminated by UNDP or by AusAID. 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 in the 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 disposed of by UNDP in consultation with AusAID.

Article X. Counter-Terrorism

Consistent with UN Security Council Resolutions relating to terrorism, including UNSC Resolution 1373 (2001) and 1267 (1999) and related resolutions, both AusAID and UNDP are firmly committed to the international fight against terrorism, and in particular, against the financing of terrorism. It is the policy of AusAID 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, the recipient undertakes to use all reasonable efforts to ensure that none of AusAID funds provided under this Agreement are used to provide support to individuals or entities associated with terrorism. If, during the course of this Agreement, the recipient discovers a link with any organization or individual associated with terrorism it must inform AusAID immediately.

Article XI. Amendment of the Agreement

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

Article XII. Entry Into Force

1. This Agreement shall enter into force upon signature and deposit by AusAID of the contribution-payment to be made in accordance with the schedule of payments set out in Article 1, 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.

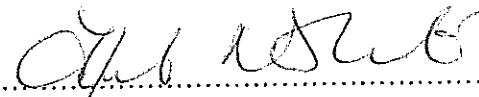
For AusAID:



Matthew Williams
Head of Program in Africa
Counsellor (Development)

Date: 18 . 06 08

For the United Nations Development Programme:



Name: Elizabeth Lwanga
Title: Resident Representative

Date:

18 June 2008

