
GRANT NUMBER 0042-PNG(SF)

GRANT AGREEMENT
(Special Operations)

(HIV/AIDS Prevention and Control in Rural Development Enclaves Project)

between

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

and

ASIAN DEVELOPMENT BANK

DATED 05 June 2006

GAS:PNG 39033

**GRANT AGREEMENT
(Special Operations)**

GRANT AGREEMENT dated 05 June 2006 between THE INDEPENDENT STATE OF PAPUA NEW GUINEA (hereinafter called the Recipient) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) the Recipient has applied to ADB for a grant for the purposes of the Project described in Schedule 1 to this Grant Agreement;

(B) the Recipient has applied to the Australian Agency for International Development (hereinafter called AusAID) for a grant of three million five hundred thousand dollars (\$3,500,000) for the purposes of partly funding Component 2(ii) of the Project;

(C) the Recipient has applied to the New Zealand Agency for International Development (hereinafter called NZAID) for a grant of three million five hundred thousand dollars (\$3,500,000) for the purposes of partly funding Component 2(ii) of the Project; and

(D) ADB has agreed to provide a grant to the Recipient from ADB's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All provisions of the Special Operations Grant Regulations of ADB dated 7 February 2005 (the Grant Regulations) are hereby made applicable to this Grant Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. The definitions set forth in the Grant Regulations are applicable to this Grant Agreement unless the context requires otherwise. In addition, the following terms have the following meanings:

- (a) "AIDS" means acquired immunodeficiency syndrome;
- (b) "AusAID Cofinancing Agreement" means the agreement or arrangement entered into between, inter alia, the Government of Australia, represented by AusAID, and ADB with regard to the AusAID Grant;
- (c) "AusAID Grant" means the grant for the purposes of the Project referred to in Recital (B) of this Grant Agreement;

- (d) "CBO" means a community-based organization;
- (e) "CCM" means the Country Coordinating Mechanism, by which the Global Fund ensures local ownership and participatory decision-making with regard to projects supported by the Global Fund, and comprises representatives from both the public and private sectors, including government, multilateral and bilateral agencies, NGOs, academic institutions, private businesses and people living with HIV/AIDS, tuberculosis or malaria;
- (f) "Cofinanciers" means AusAID and NZAID;
- (g) "DNPRD" means the Department of National Planning and Rural Development of the Recipient, and any successor thereto;
- (h) "economic operator" means any core private industry in a rural development enclave, usually a single dominant mining operation, plantation, fisheries plant, logging operation, or other such activity;
- (i) "FBO" means a faith-based organization;
- (j) "Global Fund" means the Global Fund to Fight AIDS, Tuberculosis and Malaria, a partnership between governments, civil society, the private sector and affected communities, whose purpose is to attract, manage and disburse resources to fight AIDS, tuberculosis and malaria;
- (k) "HIV/AIDS" means the human immunodeficiency virus/acquired immunodeficiency syndrome;
- (l) "HSIP" means the health sector improvement program of the Recipient;
- (m) "HSIP Trust Account" means the trust account operated through the HSIP under the oversight of NDOH and the Recipient's development partners;
- (n) "Kina" or the sign "K" each means the lawful currency of the Recipient;
- (o) "NAC" means the National AIDS Council of the Recipient;
- (p) "NACS" means the NAC Secretariat;
- (q) "NDOH" means the National Department of Health of the Recipient, and any successor thereto;
- (r) "NGO" means a nongovernment organization;
- (s) "NHASP" means the National HIV/AIDS Support Project being carried out by the Recipient with support from AusAID;

(t) "NSP 2004-2008" means the Recipient's National Strategic Plan on HIV/AIDS for the period 2004 to 2008, which contains the following seven focus areas: (i) treatment, counseling, and care and support; (ii) education and prevention through behavior change; (iii) epidemiology and surveillance; (iv) social and behavior change research; (v) leadership, partnership, and coordination; (vi) family and community support; and (vii) monitoring and evaluation;

(u) "NZAID Cofinancing Agreement" means the agreement or arrangement entered into between, inter alia, the Government of New Zealand, represented by NZAID, and ADB with regard to the NZAID Grant;

(v) "NZAID Grant" means the grant for the purposes of the Project referred to in Recital (C) of this Grant Agreement;

(w) "Papua New Guinea" or "PNG" means the Independent State of Papua New Guinea;

(x) "Project Executing Agency" for the purposes of, and within the meaning of, the Grant Regulations means NDOH which is responsible for the carrying out of the Project;

(y) "Project facilities" means the health centers and aid posts to be rehabilitated and refurbished under the Project;

(z) "rural development enclave" means a particular area in a rural setting that has a significant private sector investment employing a relatively large number of people, has become a cash economy amongst a generally subsistence rural economy in the surrounding communities, and typically has become the major, or only, economic driver in the area;

(aa) "STI" means a sexually transmitted infection;

(bb) "UNAIDS" means the Joint United Nations Programme on HIV/AIDS;

(cc) "VCT" means voluntary counselling and testing; and

(dd) "WHO" means the World Health Organization.

ARTICLE II

The Grant

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources on terms and conditions set forth in this Grant Agreement an amount of fifteen million dollars (\$15,000,000).

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. The Recipient shall cause the proceeds of the Grant to be applied to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement.

Section 3.02. The goods and services and other items of expenditure to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant among different categories of such goods and services and other items of expenditure shall be in accordance with the provisions of Schedule 2 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Except as ADB may otherwise agree, all goods and services to be financed out of the proceeds of the Grant shall be procured in accordance with the provisions of Schedule 3 and Schedule 4 to this Grant Agreement.

Section 3.04. Withdrawals from the Grant Account in respect of goods and services shall be made only on account of expenditures relating to

- (a) goods which are produced in and supplied from and services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement, and
- (b) goods and services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 July 2010 or such other date as may from time to time be agreed between the Recipient and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Grant Agreement.

Section 4.02. (a) The Recipient shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than six (6) months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including

the auditors' opinion on the use of the Grant proceeds and compliance with the financial covenants of this Grant Agreement as well as on the use of the procedures for imprest account/statement of expenditures under the HSIP Trust Account), all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) The Recipient shall enable ADB, upon ADB's request, to discuss the Recipient's financial statements for the Project and its financial affairs related to the Project from time to time with the auditors appointed by the Recipient pursuant to Section 4.02(a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of the Recipient unless the Recipient shall otherwise agree.

Section 4.03. The Recipient shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Grant, and any relevant records and documents.

ARTICLE V

Effectiveness

Section 5.01. The following is specified as an additional condition to the effectiveness of this Grant Agreement for the purposes of Section 9.01(e) of the Grant Regulations: each of the AUSAID Cofinancing Agreement and the NZAID Cofinancing Agreement, or their equivalent, in form and substance satisfactory to ADB, shall have been duly executed and delivered, and all conditions precedent to their effectiveness (other than a condition requiring the effectiveness of this Grant Agreement) shall have been fulfilled or arrangements satisfactory to ADB shall have been made for the fulfillment thereof within a period of time satisfactory to ADB.

Section 5.02. A date ninety (90) days after the date of this Grant Agreement is specified for the effectiveness of the Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Secretary of the Department of Treasury of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

Secretary
Department of Treasury
Vulupindi Haus
P.O. Box 710
Waigani
Papua New Guinea

Facsimile Numbers:

(675) 328-8804

(675) 328-8808

For ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

29066 ADB PH (RCA)

42205 ADB PM (ITT)

63587 ADB PN (ETPI)


Facsimile Numbers:

(632) 636-2444

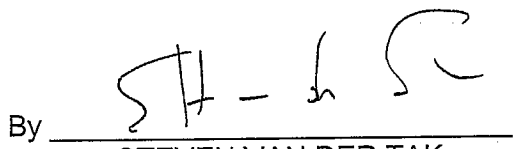
(632) 636-2445.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

THE INDEPENDENT STATE OF PAPUA
NEW GUINEA

By 
HON. PATRICK PRUITCH
Authorized Signatory

ASIAN DEVELOPMENT BANK

By 
STEVEN VAN DER TAK
Country Director
Papua New Guinea Resident Mission

SCHEDULE 1

Description of the Project

1. The Project will assist in strengthening government leadership and the implementation of strategies to contain the spread of HIV/AIDS, with a focus on rural populations. The Project's four components were designed in close coordination with ongoing and planned HIV/AIDS initiatives under the Global Fund (through NDOH), the NACS, and the main development partners active in Papua New Guinea. Many activities under the Project are consistent with or directly support the NSP 2004-2008.

2. The four components are:

Component 1: Establish Public-Private Partnerships in Rural Development Enclaves

- (i) establish public-private sector partnerships with rural economic operators to extend and improve rural health service delivery and HIV prevention and care;
- (ii) rehabilitate existing rural health infrastructure for primary health care and upgrade facilities required for HIV prevention, testing, and care activities;
- (iii) collaborate with WHO, NDOH, the NACS and other bilateral and multilateral partners in establishing protocols and providing training; and
- (iv) develop leadership for HIV/AIDS advocacy.

Component 2: Foster Community Behavior Change, and Institute the Social Marketing of Condoms

- (i) develop the competency of community and civil society organizations to address issues related to the HIV epidemic that lead to sustainable behavior change; and
- (ii) develop the social marketing of condoms on a country-wide basis.

Component 3: Strengthen and Expand the Surveillance System for HIV/AIDS

- (i) facilitate the transfer of the surveillance system from the NACS to NDOH;
- (ii) establish an HIV/AIDS surveillance unit within the disease control branch of NDOH to focus on sero-surveillance, and provide capacity building for NDOH to perform HIV/AIDS surveillance;
- (iii) review the current surveillance system and prepare and implement a comprehensive plan for expanding the system in a phased manner to cover all provincial hospital-based antenatal clinics, STI clinics, blood banks, selected district hospitals and health centers, and participating rural development enclaves;
- (iv) adopt ways to collaborate with WHO's in-country health surveillance activities and international networks;
- (v) provide the necessary training and equipment to hospitals, health centers, blood banks, and rural development enclaves to conduct HIV/AIDS surveillance;
- (vi) develop protocols and reference manuals;

- (vii) assist the Recipient's National Research Institute to conduct behavioral surveillance related to HIV and STIs, including through the provision of equipment and resources; and
- (viii) support the implementation of the Recipient's national strategic plan for monitoring and evaluation, 2006-2010.

Component 4: Project Management

Provide consultancy services to strengthen Project management and implementation, including (i) coordination and management support, (ii) support for a project performance monitoring and evaluation system, (iii) procurement support, (iv) field supervision, and (v) accounting support.

3. The Project is expected to be completed by 31 January 2010.

SCHEDULE 2
Allocation and Withdrawal of Grant Proceeds

General

1. The table attached to this Schedule sets forth the Categories of goods, services and other items to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant to each such Category (hereinafter called the Table). Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category.

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories listed in the Table shall be financed out of the proceeds of the Grant on the basis of the percentages set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Grant proceeds set forth in the Table,

(a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Recipient, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures; and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Grant then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Recipient, reallocate such excess amount to any other Category.

HSIP Trust Account

4. (a) Except as ADB may otherwise agree, all proceeds of the Grant not required for Component 2 of the Project may be disbursed through the HSIP Trust Account. All proceeds of the Grant thus deposited in the HSIP Trust Account shall be managed, replenished and liquidated in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and detailed arrangements agreed upon between the Recipient and ADB. The initial amount to be deposited into the HSIP Trust Account shall be based on the estimated expenditure for the first six months of Project implementation, subject to a ceiling of \$1,000,000.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the HSIP Trust Account, in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and detailed arrangements agreed upon between the Recipient and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed \$100,000.

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (HIV/AIDS Prevention and Control in Rural Development Enclaves Project)				
CATEGORY				ADB FINANCING
Number	Item	Amount Allocated \$		Percentage and Basis for Withdrawal
		Category	Subcategory	
1	Civil Works	2,592,000		100 percent of total expenditure
2	Equipment	2,122,000		
2A	Computer/Medical		1,380,000	100 percent of total expenditure
2B	Vehicles		742,000	100 percent of total expenditure
3	Social Marketing of Condoms	1,142,000		100 percent of total expenditure
4	Consulting Services	5,135,000		
4A	Behavior Change		2,302,000	100 percent of total expenditure
4B	Other Consulting Services		2,833,000	100 percent of total expenditure
5	Training/Workshops	1,035,000		100 percent of total expenditure
6	Project Management	1,494,000		100 percent of total expenditure
7	Unallocated	1,480,000		
	Total	15,000,000		

SCHEDULE 3**Procurement**

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply in the procurement of goods and services to be financed out of the proceeds of the Grant. In this Schedule and the Attachment hereto, the term "goods" includes equipment and materials; the term "services" does not include consulting services.

2. Procurement of goods and services shall be subject to the provisions of the "Guidelines for Procurement under Asian Development Bank Loans" dated November 2004 (hereinafter called the Guidelines for Procurement), as amended from time to time, which have been furnished to the Recipient.

3. Procurement of goods and services shall be made without any restriction against, or preference for, any particular supplier or contractor or any particular class of suppliers or contractors, except as otherwise provided in paragraphs 6, 7 and 8 below.

International Competitive Bidding

4. (a) Each supply contract for equipment or materials estimated to cost the equivalent of more than \$1,000,000 shall be awarded on the basis of international competitive bidding as described in Chapter II of the Guidelines for Procurement.

(b) For contracts to be awarded on the basis of international competitive bidding, there shall be submitted to ADB, as soon as possible, and in any event not later than 90 days before the issuance of either the first prequalification invitation or the first invitation to bid for the Project, a General Procurement Notice (which ADB will arrange to publish separately) in such form and detail and containing such information as ADB shall reasonably request.

(c) For contracts to be awarded on the basis of international competitive bidding, procurement actions shall be subject to review by ADB in accordance with the procedures set forth in Chapter IV of the Guidelines for Procurement. Each draft prequalification invitation and each draft invitation to bid, to be submitted to ADB for approval under such procedures, shall reach ADB at least 21 days before it is issued and shall contain such information as ADB shall reasonably request to enable ADB to arrange for the separate publication of such invitation.

International Shopping

5. (a) Each supply contract for equipment or materials estimated to cost the equivalent of \$1,000,000 or less (other than minor items) shall be awarded on the basis of international shopping as described in Chapter III of the Guidelines for Procurement.

(b) Each draft invitation to bid and related bid document shall be submitted to ADB for approval before they are issued.

(c) Notwithstanding paragraph 3.03(b) of the Guidelines for Procurement, any award of contract shall be subject to prior ADB approval.

Domestic Preference

6. In comparing bids under international competitive bidding, a margin of preference may be provided, at the option of the Recipient and in accordance with the provisions of the Attachment to this Schedule, for goods manufactured in the territory of the Recipient, provided that the bidder offering such goods shall have established to the satisfaction of the Recipient and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods.

Local Procurement

7. (a) Subject to paragraph 8(a) below, civil works contracts for the rehabilitation and refurbishment of health centers and aid posts may be awarded on the basis of local competitive bidding among prequalified contractors in accordance with the standard procurement procedures of the Recipient and acceptable to ADB.

(b) For the first contract to be awarded on the basis of local competitive bidding, the first draft English language version of the bidding documents shall be submitted for review and approval of ADB irrespective of the estimated contract amount. The approved bidding documents shall be used by the Recipient as a model for the subsequent contracts to be awarded on the same basis.

Direct Procurement

8. (a) In certain circumstances to be agreed in advance with ADB, civil works contracts for the rehabilitation of existing health facilities, where the value of each such contract for each such facility does not exceed the equivalent of \$100,000, may be awarded to the economic operator that will later assume responsibility for the supervision of said facilities.

(b) Certain items of medical and computer equipment which are available from a limited number of qualified suppliers, and estimated to cost, in the aggregate, the equivalent of \$1,500,000, may be procured on the basis of quotations obtained from such suppliers. Prior to such procurement, a list of individual items to be procured, an estimate of their costs, an indication of potential sources of supply and any related documents shall be submitted to ADB for approval. After award, three copies of each contract for such items shall be furnished to ADB.

Industrial or Intellectual Property Rights

9. (a) The Recipient shall ensure that all ADB-financed goods and services procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Recipient shall ensure that all ADB-financed contracts for the procurement of goods and services contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in sub-paragraph (a) of this paragraph.

Preference for Domestically Manufactured Goods

1. In the procurement of goods through international competitive bidding, goods manufactured in the territory of the Recipient may be granted a margin of preference in accordance with the following provisions, provided that the bidder shall have established to the satisfaction of the Recipient and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods. The 20 percent domestic value added applies to the total ex-factory bid price of the goods and not only to one item in a list.

- (a) For application of domestic preference, all responsive bids shall first be classified into the following three categories:

Category I -- bids offering goods manufactured in the territory of the Recipient which meet the minimum domestic value added requirement;

Category II -- bids offering other goods manufactured in the territory of the Recipient; and

Category III -- bids offering imported goods.

- (b) The lowest evaluated bid of each category shall then be determined by comparing all evaluated bids in each category among themselves, without taking into account customs duties and other import taxes levied in connection with the importation, and sales and similar taxes levied in connection with the sale or delivery, pursuant to the bids, of the goods.
- (c) Such lowest evaluated bids shall next be compared with each other and if, as a result of this comparison, a bid from Category I or Category II is found to be the lowest, it shall be selected for the award of contract.
- (d) If, however, as a result of the comparison under subparagraph (c) above, the lowest bid is found to be from Category III, it shall be further compared with the lowest evaluated bid from Category I. For the purpose of this further comparison only, an upward adjustment shall be made to the lowest evaluated bid price of Category III by adding either
- (i) the amount of customs duties and other import taxes which a nonexempt importer would have to pay for the importation of the goods offered in such Category III bid; or
 - (ii) 15 percent of the CIF bid price of such goods if the customs duties and import taxes referred to above exceed 15 percent of the CIF bid price.

If, after such further comparison, the Category I bid is determined to be the lowest, it shall be selected for the award of contract; if not, the lowest evaluated bid from Category III shall be selected for the award.

2. (a) Bidders applying for the preference shall provide evidence necessary to establish the eligibility of a bid for the preference, including the minimum domestic value added.

(b) The bidding documents shall clearly indicate the preference to be granted, the information required to establish the eligibility of a bid for the preference claimed, and the procedures to be followed in the comparison of bids, all as set forth above.

SCHEDULE 4**Consultants**

1. The services of consultants shall be utilized in the carrying out of the Project, particularly with regard to:

- (a) project management;
- (b) establishing a surveillance system;
- (c) promoting community behavior change; and
- (d) the social marketing of condoms.

2. The selection, engagement and services of the consultants shall be subject to the provisions of this Schedule and the provisions of the "Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers" dated January 2005 (hereinafter called the Guidelines on the Use of Consultants), as amended from time to time, which have been furnished to the Recipient.

3. Selection and engagement of the consultants shall be made without any restriction against, or preference for, any particular consultants or any particular class of consultants.

Consultants to be Engaged by NDOH

4. The consultants referred to in paragraphs 1(a) and 1(b) above shall be selected and engaged by NDOH as individual consultants in accordance with the following procedures:

(a) A list of the candidates together with their qualifications and their ranking and a draft contract shall be furnished to ADB for approval before the selection of consultants.

(b) Promptly after each contract is signed, ADB shall be furnished with the evaluation of the candidates and a brief justification for the selection, together with three copies of the signed contract.

(c) If any substantial amendment of a contract is proposed after its execution, the proposed changes shall be submitted to ADB for prior approval.

(d) The terms of reference of the consultants shall be as determined by agreement between ADB and the Recipient.

5. The Recipient shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

Consultants to be Engaged by ADB

6. The consultants referred to in paragraph 1(c) above will be funded entirely out of the proceeds of the Grant. The consultants referred to in paragraph 1(d) above will be funded partly out of the proceeds of the Grant, with the balance being provided by the Recipient and the Cofinanciers. At the request of the Recipient in the case of both groups of consultants, and at the request of the Cofinanciers in the case of the consultants referred to in paragraph 1(d) above, ADB has agreed to manage all activities involving these two groups of consultants (hereinafter together called the Consultants). The terms of reference of the Consultants shall be as determined by agreement between ADB and the Recipient and, in the case of the consultants referred to in paragraph 1(d) above, the Cofinanciers shall be requested to endorse said terms of reference. The Consultants shall be selected and engaged by ADB in consultation with NDOH and the Cofinanciers and in accordance with the provisions of the "Guidelines on the Use of Consultants by Asian Development ADB and Its Borrowers" dated January 2005, as amended from time to time.

Counterpart Staff

7. Promptly after the Consultants are engaged, the Recipient shall provide, or shall cause NDOH to provide, suitable local counterparts, on a full-time basis where appropriate, to cooperate with and assist the Consultants in carrying out their assignments.

Cooperation

8. The Recipient shall cooperate with ADB and the Consultants to ensure that the contracts of the Consultants are carried out promptly and effectively and, for this purpose, shall issue appropriate instructions to its officials, agents and representatives.

Exchange of Views: Reports

9. The Recipient and ADB shall, from time to time, at the request of either party, exchange views on any matter, and consult on any reports prepared by the Consultants and the implementation of any recommendations made in those reports.

Immunities, Privileges and Exemptions of Consultants

10. The Consultants shall have the status of experts performing missions for ADB and shall be entitled to the privileges, exemptions, and immunities conferred upon such experts by the provisions of the Agreement Establishing the Asian Development Bank. Without limiting the generality of those provisions,

(a) the Consultants shall be immune from legal process with respect to all acts performed by them in their capacity as Consultants except where ADB shall otherwise agree;

(b) the Consultants and their families (if they are not citizens or nationals of Papua New Guinea) shall be exempt from immigration restrictions, alien-registration requirements and national service obligations of Papua New Guinea; and

(c) the Consultants may bring into Papua New Guinea reasonable amounts of foreign currency for the purposes of their assignments or for their personal use and may withdraw from Papua New Guinea similar amounts of foreign currency together with any amounts earned therein by the Consultants in connection with such assignments.

11. The Recipient shall promptly:

(a) provide the Consultants and their families with any entry and exit visas, residence permits, foreign exchange permits and travel documents required for their stay in Papua New Guinea;

(b) provide the Consultants with work permits and any other documents necessary to enable them to perform their work on the assignments for which they were retained; and

(c) clear through customs any equipment, materials or supplies required for each assignment, and any personal effects (including any automobiles if required) and household goods of the Consultants and their families.

12. The Recipient shall exempt the Consultants from, or bear the cost of, any taxes, duties, fees or other impositions levied under the laws and regulations in effect in the territories of Papua New Guinea in respect of:

(a) any payments made to the Consultants in connection with the carrying out of any assignment for which they were engaged under the Project;

(b) any equipment, vehicles, materials and supplies brought into the territories of Papua New Guinea for the purpose of carrying out such assignment which will be consumed therein or withdrawn therefrom or which will become the property of the Recipient; and

(c) any personal effects (including automobiles if required) of the Consultants and their families brought into the territories of Papua New Guinea which will be consumed therein or withdrawn therefrom.

13. If any of the items referred to in paragraphs 12(b) and (c) above are, upon completion of any assignment, not to be withdrawn from Papua New Guinea and not to become the property of the Recipient, the Recipient shall allow such items to be disposed of locally in accordance with any applicable government regulations, or subject to such terms as are agreed upon between the Recipient and the Consultants. If any such items are financed by ADB out of the proceeds of the Grant, they may be transferred by ADB to the Recipient on terms and conditions satisfactory to the Recipient and ADB.

Indemnity by the Recipient

14. The Recipient shall be responsible for dealing with any claims arising out of, or resulting from, any assignment which may be brought by third parties against ADB or any Consultants. The Recipient shall indemnify ADB and the Consultants against any costs, claims, damages or liabilities arising out of, or resulting from, any acts or omissions in connection with any assignment, except where it is agreed by the Recipient and ADB that such acts or omissions amount to gross negligence or willful misconduct of such Consultants.

SCHEDULE 5

Execution of Project and Other Matters

I. PROJECT IMPLEMENTATION

General

1. The Project shall be implemented under the umbrella of the HSIP, the national sector wide approach (SWAp) program for health sector development in Papua New Guinea.

Project Executing Agency

2. NDOH shall be the Project Executing Agency, and as such shall have overall responsibility for the carrying out of the Project. The Project coordinator, to be based within NDOH, shall work in close association with the HSIP in all matters of Project administration, as well as with the CCM.

Country Coordinating Mechanism/Project Steering Committee

3. The CCM established to administer the Global Fund in Papua New Guinea shall serve as the steering committee for the Project. The Recipient shall ensure that the CCM at regular intervals reviews progress and guides implementation under the Project, thus ensuring management and resource efficiencies are achieved with the Global Fund. The CCM shall continue to be chaired by the Secretary of NDOH and shall meet on a quarterly basis, or more regularly if required. The CCM shall grant ADB a seat on the CCM and the Project shall contribute to the support of the CCM Secretariat. ADB shall be provided with a copy of the minutes of all CCM meetings. The CCM technical working group for HIV/AIDS shall review and advise on the technical aspects of the Project.

II. MEMORANDA OF AGREEMENT

Economic Operators

4. NDOH shall assume primary responsibility for undertaking negotiations with participating economic operators to establish individual public-private partnerships. In this connection, NDOH shall develop a template memorandum of agreement to define the respective roles and responsibilities, and inputs and expected outputs of the Recipient and the economic operator. Subsidiary public-private relationships may also be included wherever necessary to capture the network of participants involved in the response to HIV/AIDS. The Recipient shall cause the CCM to review and endorse each such memorandum of agreement.

5. Under the terms of each memorandum of agreement to be entered into with the economic operators, rural health facilities in the surrounding communities of the rural development enclaves shall be rehabilitated to provide primary health care services, including HIV prevention, VCT, and the care of people with HIV/AIDS. The economic operators shall provide oversight and manage the partnerships with the public health facilities in their communities and provide health services to their employees and the surrounding communities.

Civil Society Organizations and Others

6. NDOH shall be responsible for entering into memoranda of agreement with civil society organizations and other parties on an as-needed basis covering the respective responsibilities of the Recipient and such organizations and/or parties in relation to Project objectives or Project activities. The Recipient shall cause the CCM to review and endorse each such memorandum of agreement.

III. INTER-AGENCY COLLABORATION

Collaboration among Implementing Agencies

7. In addition to NDOH and the economic operators, the Project shall be implemented by the NACS, provincial and district health offices, hospitals, health facilities, WHO, UNAIDS, provincial AIDS committees, and various local NGOs. NDOH shall be responsible for the implementation of a comprehensive, nationwide HIV/AIDS surveillance system. Promptly after the Effective Date, the NACS shall facilitate a transfer of existing data and files of the current HIV/AIDS surveillance system to NDOH. NDOH and the NACS shall cooperate in the production and distribution of data and analytical information on the evolution of, and response to, the HIV/AIDS epidemic in Papua New Guinea. The NACS shall continue to monitor and evaluate the national response to HIV/AIDS. The Project shall support and contribute to the implementation of the monitoring and evaluation (M&E) system.

Support for NGOs/CBOs/FBOs

8. NDOH and the CCM shall support and/or contract selected NGOs/CBOs/FBOs working in HIV prevention, behavior change and communication, VCT, treatment and care, including home-based care. The Recipient shall ensure that evidence-based performance is used to guide the selection process of NGOs/CBOs/FBOs engaged to assist NDOH and the CCM.

Support for UNAIDS

9. To strengthen the leadership of the Recipient's response to HIV/AIDS, NDOH shall support the in-country UNAIDS office in its efforts to build greater advocacy for HIV/AIDS at all levels of government and to promote the "Three Ones" among central, provincial, and district government agencies, and among all stakeholders.

Collaboration with World Health Organization

10. In matters related to the development of counseling, testing, treatment and care protocols, and adaptation for implementation in one or more PNG contexts, NDOH shall seek the assistance of WHO in establishing standards to be applied under the Project. Similarly, in-service training programs of the above functions will be facilitated by WHO and other partners under the responsibility of NDOH. The Recipient, through NDOH, shall support and make use of NDOH-WHO-NACS competencies in VCT, treatment, and care training, including home-based care.

Support for HIV/AIDS Referral Centers

11. The Recipient shall encourage NDOH, WHO and provincial hospitals to work together under the Project to develop hospital referral centers patterned on the model established by the Heduru Clinic at Port Moresby General Hospital. The Recipient, through NDOH, shall also assist in the development of public-private partnerships between provincial hospitals and the economic operators.

IV. FINANCIAL MATTERS

Annual National Budgets

12. The Recipient, through the Department of Treasury and DNPRD, shall ensure that \$3.9 million (in Kina equivalent), including its own counterpart funds, is allocated in the national budget for fiscal year (FY) 2006 for the Project. The Recipient shall take the required measures at the appropriate times to ensure that the Project's budget is taken into account in the government's annual planning and budgeting process, and included in all national budgets through to and including FY2010.

Waiver of Import Duties and Taxes

13. The Recipient, through the Internal Revenue Commission, shall ensure that all health hardware items, such as condoms and personal lubricants, for Component 2(ii) of the Project, are imported into PNG free of all taxes and duties, and released promptly to the consultants engaged by ADB to administer this subcomponent.

Recurrent Budget for HIV/AIDS Prevention

14. The Recipient shall ensure that its recurrent allocation for HIV/AIDS prevention in its annual budget increases by 20 percent per year throughout the life of the Project beginning in FY2006.

V. OTHER MATTERS

HIV Surveillance System and Surveillance Personnel

15. The Recipient, through NDOH, shall support and maintain at least the same number of surveillance sites and surveillance personnel as exist at the completion of the Project for a minimum of four years after the Project's completion.

Hospital Referral Centers

16. The Recipient shall roll out three regional referral centers for STIs and HIV at Mt. Hagen Hospital, Angau Memorial Hospital, and Nonga Base Hospital, in addition to Heduru Clinic at Port Moresby General Hospital.

Local Health Facilities and the Private Sector

17. The Recipient shall take all necessary steps to ensure the smooth and timely delivery of all management and supervisory assistance pledged to local health facilities by the economic operators in participating rural development enclaves pursuant to their respective memoranda of agreement with the Recipient.

Environmental Considerations

18. The Recipient, through NDOH, shall ensure that the rehabilitation and operation of all health facilities involved in the Project comply with all applicable laws and regulations of Papua New Guinea and ADB's *Environment Policy (2002)*.

Anticorruption Measures

19. During Project implementation, NDOH shall follow ADB's *Anticorruption Policy*, it being understood that ADB reserves the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project. NDOH shall ensure that (a) periodic inspections of the contractors' activities related to fund withdrawals and settlements are carried out, (b) relevant provisions of ADB's *Anticorruption Policy* are included in all bidding documents for the Project, and (c) all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of NDOH and all contractors, suppliers, consultants and other service providers as they relate to the Project.

Project Performance Monitoring and Evaluation

20. Data collection shall be undertaken to monitor progress in achieving the Project objectives. Specifically, NDOH and the Project coordinator shall jointly develop a project performance monitoring and evaluation system (PPMES) that will provide the Recipient, ADB, and the Cofinanciers with information on: (i) the technical performance of the Project; (ii) measures of Project impact, including social and economic benefits; and (iii) progress towards targets and goals identified in the Project design and monitoring framework and the Recipient's medium term development strategy. All baseline data existing as at the date of this Grant Agreement, such as the quarterly routine case reporting and periodic sentinel surveillance activities, the Report of the 2004 National Consensus Workshop, AIDS Indicator Surveys, the planned 2006 Demographic and Health Survey, NHASP surveys and reports, and reports from the four STI clinics (Mt. Hagen, Port Moresby, Goroka, and Lae), shall be taken into account when assembling the data. Whenever necessary, particularly within the individual rural development enclaves and their surrounding communities, the Recipient shall cause NDOH to conduct baseline surveys within the first year of operations. The Recipient shall also cooperate with the consultants responsible for the social marketing of condoms so as to enable them to conduct their own research to establish baselines and subsequent measures throughout the Project. All reports shall be submitted by NDOH to the CCM, ADB, the Cofinanciers, and other key development partners throughout Project implementation; these reports shall include indicators of Project completion, delivery and benefits.

Project Review

21. The CCM shall include the Project in its own quarterly reviews. In addition, ADB and the CCM will jointly carry out Project supervisory missions every six months. Before each visit, an updated progress report shall be prepared by NDOH. Two years after the commencement of the Project, the CCM shall undertake a comprehensive mid-term review of the Project to (i) examine the scope, design, implementation arrangements, and other relevant issues in light of the Recipient's development of HIV/AIDS strategies and policies; (ii) assess the Project's progress and achievement of its objectives; (iii) identify problems and constraints; and (iv) recommend any required modifications, restructuring, and reallocations. The Recipient shall issue invitations to ADB and the Cofinanciers to participate in the mid-term review.