

FUNDING AGREEMENT DEED

BETWEEN

COMMONWEALTH OF AUSTRALIA

represented by the Australian Agency for International Development
(AusAID)

ABN 62 921 558 838

and

THE ASIA FOUNDATION

FOR

**STRATEGIC PARTNERSHIP WITH US-BASED NONPROFIT ORGANISATION COMMITTED TO
DEVELOPMENT (ASIA-PACIFIC REGION)**

2012 – 2014

DEED made 29 day of May [2012]

BETWEEN:

COMMONWEALTH OF AUSTRALIA represented by the Australian Agency for International Development (“AusAID”) ABN 62 921 558 838 of the Department of Foreign Affairs and Trade

AND

THE ASIA FOUNDATION, USA Employer Identification Number 94-1191246 of 465 California St., 9th Floor San Francisco, CA 94104 U.S.A (the “Organisation”).

RECITALS:

- A. AusAID wishes to provide the Organisation with Funds to undertake an Activity.
- B. The Organisation wishes to accept the Funds subject to the terms and conditions in this Deed.

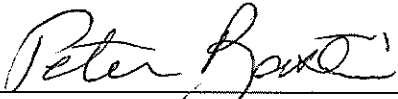
OPERATIVE:

AusAID and the Organisation promise to carry out and complete their respective obligations in accordance with this Deed including the Deed Conditions, schedules and any annexes contained herein.

IN WITNESS whereof this Deed has been executed by the Commonwealth, by an authorised officer, and has been executed by the Organisation by its authorised officer.

SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA
represented by the Australian Agency
for International Development by:

in the presence of:



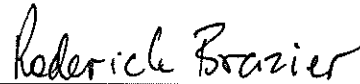
Signature of FMA Act 844 Delegate

Peter Baxter

Director General, AusAID



Signature of witness



Name of witness

(Print)

SIGNED for and on behalf of
THE ASIA FOUNDATION by:



David Arnold

President, The Asia Foundation

Signature

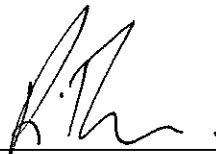
By executing this Deed the signatory warrants that he/she is duly authorised to execute this Funding Agreement Deed on behalf of the Organisation.

in the presence of:



Name of witness

(Print)



Signature of witness

DEED CONDITIONS

1. INTERPRETATION

1.1 Definitions

In this Deed, including the recitals unless the context otherwise requires:

“Activity” means the activity described in the Activity Proposal for which the Funds are provided.

“Activity Proposal” means the specific tasks and budget associated with the Activity included as **Schedule 1** to this Agreement.

“Agreement” means this Deed including all Parts and any schedules and annexes.

“Agreement Material” means all material created or required to be developed or created as part of, or for the purpose of undertaking the Activity, including documents, equipment, information data, sounds and images stored by any means.

“Business Day” means a day on which AusAID is open for business.

“Commonwealth” means Commonwealth of Australia or AusAID, as appropriate.

“Deed” means this Agreement comprising these Deed Conditions, schedules and any annexes.

“Fraudulent Activity”, “Fraud” or “Fraudulent” means dishonestly obtaining a benefit by deception or other means.

“Funds” means the amount of money as specified in clause titled ‘Funds and Payment’ of this Agreement that has been approved by AusAID and paid to the Organisation subject to the conditions outlined in this Agreement for the Activity.

“Independently Audited” means financial records audited by a certified financial professional that is in no way linked or associated with the Activity or the Parties to this Agreement.

“Partner Government” means the Government of the Partner Country.

“Partner Country” means the country or countries in which the Activity is to be undertaken in whole or in part.

“Party” means AusAID or the Organisation.

“Personnel” means including Personnel, whether employed by the Organisation or engaged by the Organisation on a sub-contract basis or agents or volunteers of the Organisation, engaged in the provision of the Activity.

“Prior Material” means all material developed by the Organisation or a third party independently from the Activity whether before or after commencement of the Activity.

“Relevant List” means the lists of terrorist organisations made under Division 102 of the *Criminal Code Act 1995* (Cth) and the *Charter of the United Nations Act 1945* (Cth) posted at: <http://www.nationalsecurity.gov.au/agd/www/nationalsecurity.nsf/AllDocs/95FB057CA3DECF30CA256FAB001F7FBD?OpenDocument> and http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html#3

“Similar List” means any similar list to the World Bank List maintained by any other donor of development funding.

“World Bank List” means a list of organisations maintained by the World Bank in its “Listing of Ineligible Firms” or “Listings of Firms, Letters of Reprimand” posted at: <http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984>

1.2 Deed prevails

If there is any inconsistency (whether expressly referred to or to be implied from this Deed or otherwise) between the provisions of the Deed Conditions and those of the schedules and any annexes, the schedules and any annexes are to be read subject to the Deed Conditions and the provisions of the Deed Conditions prevail to the extent of the inconsistency.

2. TERM OF THE AGREEMENT

- 2.1 The term of this Agreement commences upon execution by both parties being the date indicated at the front of this Agreement and continues until all obligations have been fulfilled under this Agreement, unless terminated earlier in accordance with this Agreement.
- 2.2 The Organisation must commence the Activity no later than 15 December 2011 and must complete the Activity by 15 December 2014.
- 2.3 AusAID may, at its sole and absolute discretion, seek to extend this agreement to 15 December 2015, subject to funding availability.

3. NOTICES

- 3.1 For the purpose of serving notices to either Party of this Agreement, a notice must be in writing and shall be treated as having been duly given and received:

when delivered (if left at that Party’s address);

on the third Business Day after posting (if sent by pre-paid mail); or

on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and no intimation having been received that the notice had not been received, whether that intimation comes from that Party or from the operation of facsimile machinery or otherwise).

3.2 For the purposes of this Agreement, the address of a Party is the address set out below or another address of which that Party may give notice in writing to the other Party:

AusAID:

To: Andrew Cumpston
A/g ADG Asia Strategy & Partnerships Branch

Postal Address: Australian Agency for International Development
GPO Box 887
CANBERRA ACT 2601 AUSTRALIA

Street Address: 255 London Circuit
CANBERRA ACT 2601 AUSTRALIA

Facsimile: +61 2 6206 4880

Organisation

To: Gordon Hein
Vice President of Programs

Postal Address: PO Box 193223
San Francisco, CA 94119-3223
U.S.A

Street Address: 465 California St., 9th Floor
San Francisco, CA 94104
U.S.A

Facsimile: +1-415-392-8863

4. **GENERAL CONDITIONS**

- 4.1 The Organisation must carry out the Activity in accordance with the Activity Proposal and the terms and conditions of this Deed.
- 4.2 The Organisation must advise AusAID immediately of any difficulties or delays in implementation of the Activity.
- 4.3 The Organisation shall acknowledge in writing to AusAID receipt of the Funds immediately on its receipt.
- 4.4 The Funds and any interest earned or exchange rate gains must be used diligently and for the sole purpose of the Activity outlined in **Schedule 1** of this Agreement. Any interest earned or exchange rate gains made on the Funds must only be expended on the Activity.

- 4.5 The Organisation acknowledges that Funds provided by AusAID to the Organisation for this Activity does not entitle the Organisation to any other or further funding.
- 4.6 The Organisation shall acknowledge AusAID funding assistance provided under this Deed where appropriate and advise AusAID of matters relating to any publicity and media relations, prior to any publication or media release.
- 4.7 The Organisation must not represent itself and must ensure that its Personnel participating in the Activity do not represent themselves as being employees, partners or agents of the Commonwealth of Australia.
- 4.8 The Organisation will use its best endeavours to ensure that in its performance of the Activity all Personnel and their dependents, while in the recipient country, respect the laws and regulations in force in the recipient country.
- 4.9 The Organisation is responsible for the security of all of its Personnel and for taking-out and maintaining all appropriate insurances.
- 4.10 The Organisation must not assign its interest in this Agreement without first obtaining the consent in writing of AusAID.
- 4.11 No delay, neglect or forbearance by either Party in enforcing against the other any term or condition of this Agreement shall be deemed to be a waiver or in any way prejudice any right of that Party.
- 4.12 This Agreement is governed by, and is to be construed in accordance with, the law of the Australian Capital Territory and the Parties submit to the exclusive jurisdiction of the courts of the Australian Capital Territory and any court hearing appeals from those courts.

5. DEED AMENDMENTS

- 5.1 AusAID or the Organisation may propose amendments to this Agreement at any time for the purpose of improving the delivery of the Activity, the efficiency, cost-effectiveness and development impact of the Activity.
- 5.2 Changes to this Agreement (including to **Schedule 1** and any annexes) shall only be effected if agreed in writing and signed by both Parties in the form of a Deed of Amendment.

6. PROCUREMENT OF GOODS

- 6.1 The Organisation must not use the Funds to acquire any asset, apart from those detailed in the Activity Proposal without obtaining AusAID's prior written approval. Subject to the requirements of this clause, the Organisation shall own the assets acquired with the Funds unless specified otherwise in the Activity Proposal.
- 6.2 If the Funds are being used to procure goods or services, the Organisation must implement procedures so that procurement is undertaken in a manner consistent with the Australian Commonwealth Procurement Guidelines (<http://www.finance.gov.au/publications/fmg-series/procurement-guidelines/index.html>), in particular the core principle of achieving value for money and the supporting principles of:

encouraging competition by ensuring non-discrimination in procurement and using competitive procurement methods;

promoting use of resources in an efficient, effective and ethical manner; and
making decisions in an accountable and transparent manner.

6.3 If the Funds are being used to procure goods, the Organisation must also ensure in its procurement of goods that:

the goods to be procured are of a satisfactory quality; and

the goods shall be delivered in good order and condition and in accordance with the Activity timetable.

6.4 If the Funds are being used to procure goods, the Organisation must maintain a Register of Activity Assets. The Register shall record non-consumable items funded under this Agreement or supplied by AusAID to the Activity which have a value of AUD1,000 (or equivalent) or more. In addition non-consumable items of a portable and attractive nature with a value of less than AUD1,000 (or equivalent) shall also be recorded. The Register shall show date of receipt of the asset at the Activity site, the cost, the purchase/payment document date and reference number, a description and identification number, and the location of the asset. Disposal or write-off of AusAID funded or provided assets shall be as agreed in writing by AusAID. The Register and other relevant documents such as import papers and manufacturers' warranties relating to the assets shall be available for audit as required by AusAID. The Register shall be reconciled with Activity assets at least every twelve months and the results of that reconciliation included in the Annual Reports required in clause titled 'Reports' in this agreement.

7. MONITORING AND EVALUATION

7.1 The Organisation must, if required by AusAID, permit AusAID to monitor and/or evaluate the Activity and/or use of the Funds. AusAID shall give the Organisation at least two (2) weeks notice of its intentions prior to commencing such a review. In that event, the Organisation must cooperate fully with any request for assistance pursuant to any such study.

7.2 AusAID and the Organisation will monitor and evaluate the performance of the partnership according to the Partnership Performance Framework set out in Schedule 3. The Organisation will submit an annual report to AusAID against this Framework at least 20 working days ahead of the scheduled meeting of the Joint Working Group in March. If the March Joint Working Group or the Annual Leaders Meeting does not occur in a particular year, the annual report will be provided on a date agreed between AusAID and the Organisation. The Framework will be updated by the Organisation once a year and these updates will be approved by AusAID through the Joint Working Group.

7.3 There will be an independent review of the progress of the Partnership at the end of the second year of this Agreement.

8. INDEMNITY

8.1 The Organisation must at all times indemnify AusAID, its employees, agents and contractors (except the Organisation) ("**those indemnified**") from and against any loss or liability whatsoever suffered by those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused or contributed to in any way by any wilfully wrongful, unlawful or

negligent act or omission of the Organisation, or any of the Organisation's Personnel in connection with this Agreement.

- 8.2 The Organisation agrees that AusAID may enforce the indemnity in favour of the persons specified in **Clause 8.1** above for the benefit of each of such persons in the name of AusAID or of such persons.
- 8.3 The indemnity in this **Clause 8** is reduced to the extent that the loss or liability is directly caused by AusAID, its employees, agents or contractors (except the Organisation), as substantiated by the Organisation.
- 8.4 This indemnity shall survive termination or expiration of this Agreement.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 The title to all intellectual property rights in or in relation to Agreement Material created during the course of the Activity shall vest in AusAID upon its creation. AusAID shall grant to the Organisation a permanent, world-wide, irrevocable, non-exclusive, royalty-free licence to use the material.
- 9.2 **Clause 9.1** does not affect the ownership of intellectual property in any Prior Material incorporated into the Agreement Material, but the Organisation grants to AusAID a permanent, irrevocable, royalty-free worldwide, non-exclusive licence to use, reproduce, adapt and otherwise exploit such Prior Material in conjunction with the Agreement Material. The licence granted under this **Clause 9.2** includes the right of AusAID to sub-licence any of its employees, agents or contractors to use, reproduce, adapt and otherwise exploit the Prior Material incorporated into the Agreement Material for the purposes of performing functions, responsibilities, activities or services for, or on behalf of, AusAID.

10. COMPLIANCE WITH LAWS, GUIDELINES AND POLICIES

- 10.1 The Organisation and its Personnel must have regard to and comply with, relevant and applicable laws, guidelines, regulations and policies, including those in Australia and in the Partner Country. A list, as amended from time to time, of Australian laws and guidelines that may apply to the delivery of developmental aid to foreign countries can be found on the AusAID website: <http://www.ausaid.gov.au/business/contracting.cfm>. This list is not exhaustive and is provided for information only. The provision of this list does not relieve the Organisation from complying with the obligations contained in this clause headed 'Compliance with Laws, Guidelines and Policies'.
- 10.2 The Organisation must have regard to and comply with the Statement of International Development Practice Principles located at **Schedule 2** to this Agreement.
- 10.3 The Organisation and its Personnel must comply with:

AusAID's *Child protection policy*

(<http://www.ausaid.gov.au/publications/pubs.cfm?Type=PubPolicyDocuments>) and particularly the child protection compliance standards at Attachment 1 to the policy. AusAID may audit the Organisation's compliance with AusAID's *Child protection policy* and child protection compliance standards. The Organisation must participate cooperatively in any reviews conducted by AusAID;

The strategy 'Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014' (http://www.ausaid.gov.au/publications/pdf/FINAL%20AusAID_Disability%20for%20All.pdf), and in particular the strategy's six guiding principles; and

Family Planning and the Aid Program: Guiding Principles (August 2009), accessible on AusAID's website (<http://www.ausaid.gov.au/keyaid/health.cfm>).

10.4 The Organisation must use its best endeavours to ensure:

that individuals or organisations involved in implementing the Activity are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism; and

that Funds provided under this Agreement are not used in any way to provide direct or indirect support or resources to organisations and individuals associated with terrorism.

10.5 The Organisation must have regard to the Australian Government guidance "Safeguarding your organisation against terrorism financing: a guidance for non-profit organisations," available at <http://www.nationalsecurity.gov.au/npo>.

10.6 If, during the course of this Agreement, the Organisation discovers any link whatsoever with any organisation or individual listed on a Relevant List it must inform AusAID immediately.

10.7 If, during the course of this Agreement, the Organisation is listed on a World Bank List or Similar List it must inform AusAID immediately.

10.8 The Organisation agrees that:

The Organisation and its employees, agents, representatives or its subcontractors must not engage in any Fraudulent Activity. The Organisation is responsible for preventing and detecting Fraud.

The Organisation must report in writing within five (5) working days to AusAID any detected, suspected, or attempted Fraudulent Activity involving the Activity. AusAID may direct the Organisation to investigate the alleged Fraud and the Organisation must undertake an investigation at the Organisation's cost and in accordance with any directions or standards required by AusAID.

Following the conclusion of any investigation which identifies acts of a Fraudulent nature, the Organisation shall:

- (i) make every effort to recover any AusAID Funds, the subject of Fraudulent Activity;
- (ii) refer the matter to the relevant police or other authorities responsible for prosecution of Fraudulent Activity; and
- (iii) be liable for the repayment of any Funds amounts misappropriated by the Organisation, its agents, representatives or subcontractors.

The obligations of the Organisation under paragraphs 10.8(b) and 10.8(c) above shall survive the termination or expiration of this Agreement.

The Organisation warrants that the Organisation shall not make or cause to be made, nor shall the Organisation receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement. In addition, the Organisation shall not bribe public officials and shall ensure that its delivery organisations comply with this provision. Any breach of this clause shall be grounds for immediate termination of this Agreement by notice from AusAID.

11. TERMINATION

11.1 If the Organisation:

- (a) becomes, or AusAID considers there is a reasonable prospect of the Organisation becoming bankrupt, insolvent, deregistered or no longer able to undertake the Activity to a standard acceptable to AusAID;
- (b) makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors;
- (c) fails to commence, or in the opinion of AusAID, fails to make satisfactory progress in carrying out the Activity and such failure has not been remedied within the time specified in a written request from AusAID to remedy the failure;
- (d) assigns its interest in this Agreement without the consent in writing of AusAID;
- (e) is, during the term of this Agreement, listed on a World Bank List, Relevant List or Similar List; or
- (f) breaches any term of this Agreement and such breach has not been remedied within the time stipulated in a written request notice from AusAID to remedy the breach;

then in every such case AusAID shall be entitled to terminate this Agreement forthwith but without prejudice to any of its other rights.

11.2 In addition, either Party may terminate this Agreement by giving to the other a notice to terminate in writing stating the reasons for termination.

11.3 AusAID may terminate this Agreement immediately by notice in writing to the Organisation if the Organisation breaches any of its obligations under **Clause 10**.

11.4 In the event of any termination, the Organisation must provide an Independently Audited statement of expenditure of the Funds within thirty (30) days of the date of the notice to terminate, signed by the head of the Organisation, and return any uncommitted unspent Funds to AusAID.

- 11.5 In the event that a notice to terminate is given by either Party the Organisation must:
immediately and forthwith do everything possible to prevent and mitigate all losses, costs and expenses arising in consequence of the termination of this Agreement and shall in a prompt and orderly manner cease expenditure of any uncommitted Funds for the Activity; and
refund any uncommitted part of any tranche or Funds already paid by AusAID, together with any uncommitted or unspent interest, within thirty (30) days of the date of the notice to terminate.
- 11.6 In the event that a notice to terminate is given by either party AusAID shall not be liable to pay compensation in an amount which, in addition to any amounts paid or due or becoming due to the Organisation under this Agreement, together would exceed the amount of the total financial limitation of this Agreement, as specified in clause headed 'Funds and Payment'.

12. ACCOUNTS AND RECORDS

- 12.1 The bank account used by the Organisation must be in the name of the Organisation and must not be a personal bank account.
- 12.2 The Organisation must maintain a sound administrative and financial system capable of verifying all statements of acquittal. In addition, the Organisation must:
keep proper and detailed accounts, records and assets registers along with adequate Activity management records providing clear audit trails in relation to expenditure under this Agreement;
afford adequate facilities for audit and inspection of the financial records referred to in this Agreement by AusAID and its authorised representatives at all reasonable times and allow copies and extracts to be taken;
the accounts and records must be held by the Organisation for the term of this Agreement and for a period of seven (7) years from the date of expiry or termination of this Agreement;
if requested by AusAID, provide an acquittal, certified by the senior financial officer or the head of the Organisation, of Funds spent to date against the budget in the Activity Proposal; and
if reasonably requested by AusAID, provide an Independently Audited statement of Activity expenditure by an auditor nominated by AusAID at no cost to AusAID.

13. AusAID USE OF AGREEMENT INFORMATION

- 13.1 AusAID may disclose matters relating to this Agreement, including this Agreement, and other relevant information, except where such information may breach the *Privacy Act 1988* (Cth), to Commonwealth governmental departments and agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament, including responding to requests for information from Parliamentary committees or inquiries. In addition, AusAID may publicly report information regarding this Agreement. This Clause shall survive termination or expiration of this Agreement.

14. REPORTS

14.1 The Organisation shall submit the following reports:

A copy of the Organisation's Annual Report;

A copy of the annual report against the Partnership Performance Framework

A copy of the Organisations annual workplan or equivalent document for the Activity for the period covered by this Agreement;

Updates on key activities and events which concern areas of mutual interest with AusAID;

Provision of country reports and issues / sector analysis as requested by AusAID;

(e) A final report.

14.2 Within sixty (60) days of completion of the Activity the Organisation shall submit a final report which provides an outline of the completed Activity and in more detail covers key outcomes compared with objectives, development impact, sustainability and lessons learned.

14.3 Attached to the final report will be a statement acquitting all of the Funds ('final Funds acquittal'). The statement must acquit the Funds against the budget referred to in the Activity Proposal and must be signed by the senior financial officer or the head of the Organisation, indicating that the Funds have been spent in accordance with the terms of this Agreement. Any unspent Funds, interest earned or exchange rate gains must be repaid to AusAID with the final report and final Funds acquittal. The final Funds acquittal must include details of any interest earned or exchange rate gains on the Funds. The final Funds acquittal acquitting all Funds shall be subject to the internal and external auditing procedures laid down in the rules and regulations applicable to the Organisation and must also be Independently Audited and certified. The cost of an independent external audit required by this clause may be payable from the Funds.

14.4 The annual report and final report with attached statement acquitting all Funds should be sent to:

To: Andrew Cumpston
A/g ADG Asia Strategy & Partnerships Branch

Postal Address: Australian Agency for International Development
GPO Box 887
CANBERRA ACT 2601 AUSTRALIA

in the following format:

one bound hard copy; and

one electronic version in PDF (Portable Document Format).

AusAID will nominate an alternate contact if required.

15. FUNDS AND PAYMENT

- 15.1 Funds up to a maximum of **AUD 19,500,000** plus a maximum of 10% for GST (if applicable) over the years 2011-12 to 2013-14 if any shall be payable as an acquittable grant by AusAID in annual tranches divided as follows:

	Indicative Date	Tranche Number	Amount of Funds
2011/12	Refer to Clause 15.2 of this Agreement	1	AUD5,000,000
2012/13	Refer to Clause 15.2 of this Agreement	2	AUD6,500,000
2013/14	Refer to Clause 15.2 of this Agreement	3	AUD8,000,000

- 15.2 Tranche 1 shall be payable by AusAID within thirty (30) days of the date of this Agreement and receipt of a valid invoice. Subsequent tranches shall be payable subject to the provision of a statement of acquittal against the budget in the Activity Proposal, of **80 %** of the previous tranche, a valid invoice and subject to satisfactory progress as determined by AusAID. The statement of acquittal must be signed by the senior financial officer or the head of the Organisation indicating that the Funds being acquitted have been expended, in accordance with the terms of this Agreement.

14. CLAIMS FOR PAYMENT

- 14.1 Invoices must be submitted when due in accordance with this Agreement, in a form identifying this Agreement title and Agreement number. Invoices must also contain the Payment Event number(s) notified by AusAID.
- 14.2 All invoices must be **made to**:
- Chief Finance Officer
Australian Agency for International Development
GPO Box 887
CANBERRA ACT 2601 AUSTRALIA
- 14.3 Invoices should be sent to the above address. Alternatively AusAID will accept electronic invoices. These can be sent to accountsprocessing@ausaid.gov.au
- 14.4 Where Australian GST applies to this Agreement all invoices must be in the form of a valid tax invoice. Invalid tax invoices will be returned to organisations. Information on what constitutes a valid tax invoice can be found at <http://www.ato.gov.au/businesses/content.asp?doc=/content/50913.htm>

**SCHEDULE 1 – ACTIVITY PROPOSAL
TO FUNDING AGREEMENT DEED NUMBER**

1. Summary of organisation

- 1.1 The Asia Foundation is an international non-profit organisation committed to the development of a peaceful, prosperous, just, and open Asia-Pacific region. The Foundation has been supporting programs to help improve governance, law, and civil society; women's empowerment; economic reform and development; and international relations in Asia for over 50 years. The Foundation collaborates with private and public partners to support leadership and institutional development, exchanges, and policy research at both country and regional levels.
- 1.2 The Asia Foundation has seventeen offices in Asia, an office in Washington, D.C., and its headquarters in San Francisco. In 2008, the Foundation provided more than USD87 million in program support and distributed over one million books and educational materials valued at USD41 million throughout Asia under the Books for Asia program.

2. Background to the Partnership Agreement

- 2.1 The Australian Agency for International Development (AusAID) and The Asia Foundation (TAF) have an established operational relationship in a number of countries including Afghanistan, Pakistan, Indonesia, Sri Lanka, Bangladesh, East Timor, Nepal and the Philippines which have worked effectively and to the benefit of both parties.
- 2.2 TAF is an operational organisation implementing high quality programs throughout the Asia-Pacific region. Drawing on six decades of experience in Asia, the Foundation collaborates with private and public partners to support local, national, and regional development. TAF's programming is informed by robust analysis and research. AusAID believes this analysis provides useful insight into the operating environment concerned and is particularly valuable when considering new activities in situations where AusAID has limited experience. TAF's analysis and advice targets two distinct levels: aid policy and practice, drawing on lessons from across the region and international best practice; and local context analysis, including the role of and outreach to local non-state actors.
- 2.3 Both AusAID and TAF have extensive experience in providing development assistance in the Asia-Pacific region. AusAID has experience in working with partner governments and post-conflict reconstruction, particularly in the Pacific whilst TAF has recognised experience in building extensive local knowledge and networks in countries throughout the region. Both organisations are in the process of expanding internal capacity and expertise to play a greater leadership role in international responses to development challenges..
- 2.4 AusAID and TAF believe that a strategic agreement at head office level will improve dialogue between the organisations and lead to better development outcomes. At a country level, TAF's thematic and regional analytical capabilities will enhance the effectiveness of the Australian aid program by informing strategic engagement, policy and programming.

Schedule 1 to Agreement

This strategic level Partnership Agreement in no way limits or varies existing operational relationships in individual countries or prohibits future such relationships.

- 2.5 In September 2011 AusAID engaged KPMG to undertake a Due Diligence Review of TAF. This review was undertaken to assess TAF's suitability to receive future AusAID funding. The report's findings were very favourable and the findings were used to inform the development of the new partnership agreement

3. *Collaboration*

- 3.1 The partnership will result in increased collaboration between AusAID and TAF, including annual high level meetings between senior AusAID and TAF staff, regular meetings of the Joint Working Group, the development of joint work plans, staff exchanges, and the provision of joint workshops, conferences and training. In addition, the partnership will result in increased dialogue at the country level.

4. *Communication and Consultations*

- 4.1 For the purposes of the Agreement, operational communications between AusAID and TAF will be the responsibility of AusAID's Asia Strategy, Programs and Performance Section and TAF's Programs Unit.
- 4.2 Both focal areas will be responsible for facilitating liaison with other parts of their respective organisations who are stakeholders in the partnership.
- 4.3 A Leaders Meeting between senior AusAID and TAF staff will be held on an annual basis. The purpose of this meeting will be to articulate policy priorities and share perspectives on regional and country-specific challenges of mutual concern.
- 4.4 The AusAID-TAF Joint Working Group will meet biannually to discuss partnership priorities and manage operations under the partnership. Country-level offices will hold annual meetings, based on mutual agreement of our respective in-country offices, to feed into Joint Working Group meetings.
- 4.5 These communications mechanisms are intended to complement, not replace or in any way interfere with, the existing communications arrangements as specified in individual country-level agreements between AusAID and TAF.
- 4.6 AusAID is proposing to provide the following financial support to TAF to facilitate this increased level of engagement:

2011/12	2012/13	2013/14	Total
(A\$)	(A\$)	(A\$)	(A\$)
5,000,000	6,500,000	8,000,000	19,500,000



Engaging Not-for-Profit Organisations: Statement of International Development Practice Principles

June 2009

A Basic Standard for Engagement with Not-For-Profit Organisations

- (i) The Statement of International Development Practice Principles (Attached) has been developed in consultation with the Australian Council for International Development (ACFID). It is **founded on the good development practice and experience of accredited Australian Non-Government Organisations** (NGOs) and other international development agencies over the last three decades.
- (ii) The Statement takes account of the Accra Action Agenda on Aid Effectiveness, and in particular, encourages a participatory approach to development. 'Not for profit' organisations are strongly encouraged to work in partnership with others thereby reducing the burden on communities and governments with whom they work. The Statement seeks to articulate the minimum standards and commitment that AusAID expects from all 'not-for-profit' organisations that it funds. It will form an annex to funding agreements with not-for-profit organisations that are not accredited with AusAID.
- (iii) The Principles are **not aimed at accredited Australian NGOs** which have already undergone a rigorous accreditation process.



Statement of International Development Practice Principles

(iv) This Statement of International Development Practice Principles (The Principles) promotes the active commitment of **all non-accredited, not -for -profit organisations funded by AusAID** to the fundamentals of good development practice, and to conducting their activities with integrity, transparency and accountability.

(v) The Principles are founded on a premise of '**do no harm**' and drawn from good practice principles in the international development not-for-profit sector and international development community more broadly. In line with Aid Effectiveness principles, when planning interventions, not-for-profit organisations are encouraged to consider: what other agencies are doing in the chosen area of focus; where their organisation can add value; and how they can join with others to increase the impact and sustainability of their activities.


(vi) Where relevant, AusAID encourages eligible Australian organisations to work towards becoming Australian Council for International Development (ACFID) Code of Conduct signatories.

International Development Principles

(vii) Lessons drawn from best practice NGO and civil society programs recognise the importance of working in partnerships, building creative and trusting relationships with people of developing countries and supporting basic program standards which:

- > give priority to the needs and interests of the people they serve and involve beneficiary groups to the maximum extent possible in the design, implementation and evaluation;
- > promote an approach that includes all people in a community and ensures the most vulnerable, including people with disability, women and children, are able to access, and benefit equally, from, international development assistance;
- > encourage self help and self-reliance among beneficiaries;
- > avoid creating dependency through the facilitation of active participation and contributions (as appropriate) by the most vulnerable;
- > respect and foster all universally agreed international human rights, including social, economic, cultural, civil and political rights;
- > are culturally appropriate and accessible;
- > seek to enhance gender equality;
- > recognise and put in place processes to mitigate against the vulnerability of not for profit organisations to potential exploitation by organised crime and terrorist organisations;
- > have appropriate mechanisms in place to actively prevent, and protect children from harm and abuse;
- > integrate environmental considerations and mitigate against adverse environmental impacts; and
- > promote collaborative approaches to development challenges including through working in partnerships and avoiding duplication of effort.

All non-accredited, not for profit organisations receiving funding from AusAID commit to apply these principles of good development practice, and adhere to the organisational integrity and accountability standards set out on the following page.



Organisational Integrity and Accountability for Development

AusAID funds and resources are designated for the purposes of international aid and development (including development awareness). They can not be used to promote a particular religious adherence, missionary activity or evangelism, or to support partisan political objectives, or an individual candidate or organisation affiliated to a particular political movement. AusAID reserves the right to undertake an independent audit of an organisation's accounts, records and assets related to a funded activity, at all reasonable times.

In all of its activities and particularly in its communications to the public, AusAID expects not-for-profit organisations it works with to accord due respect to the dignity, values, history, religion, and culture of the people it supports and serves, consistent with principles of basic human rights.

(viii) Not-for-profit organisations working with AusAID should:

- > not be a willing party to wrongdoing, corruption, bribery, or other financial impropriety in any way in any of its activities;
- > take prompt and firm corrective action whenever and wherever wrongdoing is found among its Governing Body, paid staff, contractors, volunteers and partner organisations;
- > have internal control procedures which minimise the risk of misuse of funds and processes and systems that ensure funds are used effectively to maximise development results;
- > establish reporting mechanisms that facilitate accountability to members, donors and the public;
- > have adequate procedures for the review and monitoring of income and expenditure and for assessing and reporting on the effectiveness of their aid;
- > have a policy to enable staff confidentially to bring to the attention of the Governing Body evidence of misconduct on the part of anyone associated with the Organisation, including misconduct related to the harm and abuse of children;
- > be aware of terrorism-related issues and use their best endeavours to ensure that funds do not provide direct or indirect support or resources to organisations and individuals associated with terrorism and/or organised crime; and
- > ensure that individuals or organisations involved in implementing activities on behalf of the Organisation are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism and/or organised crime.

AusAID Funding Agreement Requirements

Each AusAID funding agreement also comes with obligations for both AusAID and the Organisation being funded. These are spelt out in detail in the funding agreement. The Principles will not affect or diminish the obligations or liabilities of the Organisation under the funding agreement as outlined in the funding agreement conditions.

Broadly speaking, any Organisation funded by the Australian Government, through AusAID, is required to comply with relevant and applicable laws, regulations and policies, including those in Australia and in the country/ countries in which they are operating. In particular, the Organisation needs to observe the contractual requirements regarding Child Protection and Counter Terrorism.



Additional Information and Related Links

(ix) Further information on AusAID's Child Protection Policy, Counter Terrorism and other applicable laws and policies can be found on AusAID's website at:

(x) http://www.ausaid.gov.au/business/pdf/Lists_of_Laws_and_Guidelines_for_Contractors.pdf
http://www.ausaid.gov.au/publications/pdf/child_protection.pdf

(xi) Further information on terrorist organisations listed under Division 102 of the Criminal Code Act 1995 (Cth) and the DFAT Consolidated List of persons and entities subject to UN sanctions regimes maintained in accordance with the Charter of the United Nations Act 1945 (Cth) can be found at:

(xii) http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html#3
<http://www.nationalsecurity.gov.au/agd/www/nationalsecurity.nsf/AllDocs/95FB057CA3DECF30CA256FAB001F7FBD?OpenDocument>

(xiii) Further information on AusAID Accreditation and the ACFID Code of Conduct can also be found at:

(xiv) <http://www.ausaid.gov.au/ngos/accreditation.cfm>
<http://www.acfid.asn.au/code-of-conduct>

(xv) Further information on Aid Effectiveness can be found at:

(xvi) http://www.oecd.org/department/0,3355,en_2649_3236398_1_1_1_1_1,00.html
http://www.oecd.org/document/18/0,3343,en_2649_3236398_35401554_1_1_1_1,00.html