

Direct Funding Agreement

between the

**Government of Australia as represented by the Australian Agency for International Development
and**

**Government of Vanuatu as represented by Ministry of Health
in relation to**

The Ministry of Health Sector Program

General

1. This Agreement expresses understandings between the Government of Vanuatu as represented by Ministry of Health hereafter referred to as the "Partner Government" and the Government of Australia as represented by the Australian Agency for International Development hereafter referred to as "GOA", hereafter referred to collectively as "the Parties".
2. This Agreement is made pursuant to the terms of the Memorandum of Understanding (MOU) between the Government of Australia and the Government of Vanuatu on Development Cooperation affected on 15 December 2005. This Agreement constitutes a Subsidiary Arrangement under **paragraph 7.1** of the MOU.
3. The terms of the MOU between GOA and the Partner Government apply to this Agreement.
4. This agreement is consistent with the Vanuatu Australia Partnership for Development signed on 27 May 2009.
5. This Agreement represents the understanding of the respective responsibilities and contributions of both Parties with regard to the provision of The Ministry of Health Sector Program ("the Program").

Acronyms

6. In this Agreement, the following acronyms are used:

Government of Australia (GOA)

Government of Vanuatu (GOV)

Ministry of Health (MoH)

Comprehensive Reform Program (CRP)

Priority Action Agenda (PAA)

Health Sector Strategy 2010-2016 (HSS)

Joint Partnership Arrangement (JPA)

Vanuatu-Australia Partnership for Development (P4D)

Prime Minister's Office (PMO)

Ministry of Finance and Economic Management (MFEM)

Implementation Arrangements and responsibilities

7. The Partner Government will be fully responsible for the implementation of the Program and for the management of the GOA financial contributions.
8. The Partner Government will provide quarterly (3 monthly) financial statements in accordance with an identified and applicable financial reporting framework – International Public Sector Accounting Standards (IPSAS) or other mutually acceptable standards (national or international). The financial statements will show all sources of funding, with sufficient breakdowns of data to permit identification of individual Development Partner sources of funds and disbursements on major activities or types of expenditure as requested.
9. The Partner Government will immediately inform GOA in writing of any circumstance which may interfere or threaten to interfere with the successful implementation of the Program and, with a view to resolving the issue, will consult with the GOA on remedial action to be taken.
10. In matters pertaining to the implementation of this Agreement, the Partner Government Ministry with overall responsibility for implementing the Program will be Ministry of Health.

Implementing Principles

11. The Parties agree that the implementation of the Program under this Agreement will be based on a partnership approach, guided by the Ministry of Health's Joint Partnership Arrangement (JPA) to which AusAID will be a signatory. Capitalised terms used in this Agreement but not defined in this Agreement have the meaning given in the JPA.

Goal and Strategic Objectives

12. The overall goal of the Program is to support the Partner Government in the implementation of the Health Sector Strategy 2010-2016.
13. The key strategic objectives of the Program are as defined in the Health Sector Strategy 2010-2016 and the Vanuatu Australia Partnership for Development Priority Outcome 2: Improved Health.
14. A summary outline of the Program is attached as **Annex 1**.

Duration of Program

15. The duration of the Program is from the date of signature of this Agreement by the Parties until 31 December 2014.
16. This Agreement will take effect from the date of its signature by the Parties and will conclude when all responsibilities and obligations of the Parties have been fulfilled unless the Agreement is terminated earlier.
17. Any changes to the the Program including changes to the funding as shown in **Table 1** or duration will be subject to the mutual agreement of the Parties and a formal amendment of this Agreement.

GOA Funding

18. Subject to annual parliamentary appropriations, the GOA will contribute up to a maximum of **AUD8.0 million** through direct funding support to the Partner Government for agreed Program activities.

19. The indicative annual funding to be provided by GOA are shown in **Table 1**.
20. As per the indicative total amount as shown in **Table 1**, GOA will also provide up to an estimated AUD4.6 million for medical specialists and other technical assistance related support for the implementation of the Program either through a separate Agreement with a contracted service provider and/or by direct contracting by AusAID.
21. Any technical assistance to be provided is to be demand driven and the Partner Government is responsible for requesting specific technical assistance and providing an outline of the justification, purpose and estimated duration of the assistance.
22. The Partner Government agrees to use the GOA funding provided solely for the implementation of the Program and in accordance with expenditures as detailed in the Annual Work Program unless the GOA provides written advice to the contrary.
23. In the event that GOA funding is not used in accordance with **Paragraph 22** above and/or there is a finding of fraudulent or corrupt practice in respect of the Program, GOA may reduce or suspend its funding until such time as both Parties agree a mutual resolution.
24. The Partner Government agrees that GOA funds will not to be used for recurrent administrative costs including salaries of permanent staff, housing allowances or office costs.

Partner Government Contribution and funding

25. The indicative funding (including GOA and Partner Government funding) for the Program is shown in **Table 1**.

Table 1: Indicative Program Funding (AUD, millions)

Year/Funding	2011	2012	2013	2014	Total
GOA(Direct Funding)	2.2	2.8	3	TBA	8.0
GOA technical assistance support (not subject to this Agreement)	1.7	1.5	1.4	TBA	4.6
Partner Government (Budget) ¹	17.9	18	18	TBA	53.9

26. In addition to its financial contribution, the Partner Government undertakes to provide such human resources, office accommodation and logistical support as is required to ensure the successful implementation of the Program.

Deposit and Disbursement of GOA funds

27. The schedule for payments by GOA to the Partner Government are detailed in **Annex 2: Payment of GOA funds**. In summary, tranche payments will be triggered by the achievement of agreed specific performance milestones. These performance milestones will

¹ These estimates are based on MoH figures for the Corporate Plan 2011-13 and are as per calendar year (using the Exchange Rate as at 15 November 2010 1 AUD = 89.0651 VUV).

relate to policy and planning, budget management, procurement and accountability. Over time, as health information systems improve, this will be revised to include outputs and outcomes. The milestones for 2011 and 2012 are detailed in **Annex 2 and 3**. The milestones for 2013 will be further negotiated and confirmed in writing as part of finalisation of the 2013 Business Plan at the Annual Joint Review.

- 28.** GOA contributions will be deposited in the agreed Government of Vanuatu Development Fund (2 or 4) Account in tranche payments.
- 29.** The local currency equivalent of the GOA contribution will be calculated on the basis of the exchange rate on the date of transfer of the funds by GOA.
- 30.** The Ministry of Finance and Economic Management will immediately acknowledge receipt of the funds, in writing, to GOA and the local currency equivalent.
- 31.** Any interest income attributable to the GOA contribution(s) may be utilised by the Partner Government solely for the implementation of the Program.
- 32.** Any interest income attributable to the GOA contribution will be reported to the Steering Group identified in the JPA on an annual basis.

Management Arrangements

- 33.** The Parties acknowledge that regular consultation between the Parties is critical to the effective implementation of the Program.
- 34.** Coordination between the Parties will be achieved through the establishment of a Health Sector Steering Group as per the Joint Partnership Arrangement to ensure ongoing consultation, planning, coordination and implementation of the Program.
- 35.** Additional consultation meetings may be requested by the Partner Government or GOA on any subject relevant to the implementation of this Agreement.
- 36.** Reporting, and monitoring and evaluation of progress against the Program objectives will be carried out in accordance with the JPA.

Program Risk Management

- 37.** The Partner Government will develop a Program Risk Management Plan (RMP) with support of the GoA for endorsement by the Steering Group identified in the JPA within 6 months of this Agreement taking effect. Once endorsed by the Steering Group the RMP will be annexed to this Agreement at **Annex 5**.
- 38.** The RMP is to be reviewed annually by the Program Steering Group and updated as required.

Performance Assessment Framework

- 39.** The Performance Assessment Framework (PAF) for the Program will be the PAF finalised and agreed by the Partner Government and the Funding Development Partners and included as Schedule 6 to the JPA. The PAF will, as far as possible, reflect the draft PAF attached as **Annex 4**.

Review and Evaluation

40. Review and evaluation of the Program will be carried out in accordance with the JPA.

Procurement

41. Procurement will be carried out in accordance with the JPA.

42. Both Parties agree that a sample of major procurements may be audited periodically either independently or by the Office of the Auditor General.

43. The Partner Government may request the GOA to undertake specific procurement action on behalf of the Program.

44. Both Parties agree that the GOA will provide a Procurement Specialist to support the Ministry of Health to develop Partner Government procurement capacity for an initial period of 12 months. The initial period for the deployment of the Procurement Specialist may be extended with the agreement of the JPA Steering Group.

45. The Procurement Specialist shall be responsible for:

- a. The development of Ministry of Health staff capacity in procurement;
- b. Provide specialist procurement advice to the Ministry of Health;
- c. The oversight of major procurement tender documentation;
- d. Oversight of the selection process and associated documentation;
- e. Review small scale procurement practices and provide advice for improvement as required;
- f. Review existing procurement process and recommend improvements if required; and
- g. Develop a Procurement Manual aligned with existing or proposed Government of Vanuatu rules, procedures and legislation;

Audit

46. The Partner Government will keep accounts and undertake audits in accordance with the JPA.

47. The Partner Government agrees that AusAID may commission independent audits of the Program and acknowledges that it will cooperate fully with any such audits.

48. AusAID agrees to provide the Partner Government with a copies of any independent audit reports.

Fraud

49. Fraudulent activity' or 'fraud' means: Dishonestly obtaining a benefit by deception or other means.

50. The Parties are committed to preventing and detecting fraud.

51. The Partner Government is responsible for preventing and detecting fraud involving or relating to the Program.

52. The Partner Government must immediately report in writing to GOA any detected, suspected, or attempted fraudulent activity involving or relating to the Program.
53. The Partner Government is required to investigate any alleged fraud and must undertake an investigation in accordance with its own procedures and standards or, where requested by the JPA Steering Group, in accordance with procedures and standards as directed by the JPA Steering Group.
54. Following the conclusion of an investigation, where the investigation finds identifies acts of a fraudulent nature, the Partner Government will:
 - a. initiate recovery action in accordance with recovery procedures, including if appropriate civil litigation, available in the Partner Country; and
 - b. referring the matter to the relevant Partner Country police or other authorities responsible for prosecution of fraudulent activity; or
 - c. where a Partner Government employee is involved in fraudulent activity, take the relevant disciplinary procedures in accordance with relevant Code of Conduct or similar Partner Government provisions where these exist.

Anti-Corruption

55. The Parties are committed to preventing and detecting corruption and bribery. Both Parties through their employees, agents or representatives will not make or cause to be made, nor will they 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 or any arrangement or provision of funds in relation to the Program. The Parties will use their best endeavours to ensure that their respective employees, agents, representatives or other entities involved in the Program will also adhere to this provision.
56. For the purposes of the above paragraph, the term "corrupt" includes (but is not limited to) any action or practice which would warrant disciplinary procedures being taken against an individual under applicable laws.
57. In the event of alleged misuse of Program funds involving fraudulent or corrupt behaviour as defined above, AusAID may reduce or suspend its funding until such time as the matter is mutually resolved by the Parties.

Status of Agreement

58. This Agreement serves only as a record of the Parties' intentions and does not constitute or create (and is not intended to create) rights or obligations under domestic or international law and will not give rise to any legal process and will not be deemed to constitute or create any legally binding or enforceable rights or obligations (expressed or implied).

Settlement of Disputes

59. Any dispute, controversy, or claim, which arises out of the interpretation or application of this Agreement will not be subject to adjudication or arbitration, but will instead be dealt with through amicable consultations and negotiations as the only method of achieving the peaceful settlement of that dispute, controversy, or claim

Extraordinary Events

60. Neither the Partner Government of the GOA will be responsible for any failure to perform or any delay in performing their obligations under this Agreement where the cause of such failure or delay is beyond that Party's reasonable control (Force majeure). The Party claiming suspension of its obligations due to an extraordinary event will immediately notify the other Party in writing of its intent and the reason(s) for suspension.

Indemnity and Insurance

61. The Partner Government will indemnify AusAID at all times against any actions, claims, liabilities, damages or expenses suffered or incurred by GOA as a result of, or arising from, the implementation of the Program.
62. The Partner Government will be responsible for insurance cover against loss of life, personal accident and illness, loss, theft and damage to personal effects and Program supplies and assets and all Program activities and Program personnel engaged directly by the Partner Government. The GOA will have no responsibility for any insurance cover for the Partner Government personnel, property, assets and supplies or actions.

Use of Agreement Information

63. Both Parties will respect the confidentiality of information provided by the other as "Confidential" or "in-Confidence". Neither Party will disclose such information to a third party without obtaining the written agreement of the other Party unless and except where the disclosure of such information is required by law or government convention.
64. AusAID may disclose matters relating to the Agreement, including the Agreement, to governmental departments and agencies, Ministers and Parliamentary Secretaries of the Commonwealth of Australia, and to the Parliament of the Commonwealth of Australia, including responding to requests for information from Parliamentary committees or inquiries. This paragraph will survive termination or expiration of the Agreement.
65. The Partner Government may disclose matters relating to the Agreement, including the Agreement to its governmental departments and agencies, Ministers and Parliamentary Secretaries, and to the Parliament, including responding to requests for information from Parliamentary committees or inquiries.

Amendment

66. All changes to this Agreement must be mutually agreed in writing by the Parties in the form of a formal amendment to the Agreement.
67. This Agreement may be amended at any time by an Exchange of Letters between the Parties.

Termination

68. Termination of this Agreement may be effected by one Party on giving 90 days written notice and reasons for the termination to the other Party.
69. In the event of any termination the Partner Government will provide an independently audited financial statement of the Program funding for the financial year during which termination occurred.

Provisions to Prevent Financing of Terrorism

- 70. The Partner Government will use its best endeavours to ensure that funds provided by GoA under this Agreement, do not provide direct or indirect support or resources to organisations and individuals associated with terrorism or listed on a 'Relevant List'.
- 71. If, during the course of this Agreement, the Partner Government discovers that an organisation or individual involved in the Agreement is listed on a 'Relevant List' or has any link whatsoever with any organisation or individual associated with terrorism it will inform GOA immediately.
- 72. GOA may terminate this Agreement immediately by notice in writing to the Partner Government if the Partner Government breaches any of its obligations to prevent the financing of terrorism.
- 73. Notwithstanding GoA's right to terminate this Agreement under **Paragraph 72** in the event of a breach, the Partner Government will use its best endeavours to recover an amount equivalent to the relevant funds which are found to have been paid to organisations and individuals associated with terrorism and refund that amount to GOA.
- 74. 'Relevant List' means the lists of terrorist organisations made under Division 102 of the *Criminal Code Act 1995* (Cth) and the *Charter of the UN Act 1945* (Cth) posted at:
<http://www.nationalsecurity.gov.au/agd> and
http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html#3

Exemption from Taxation

- 75. The Partner Government agrees that all the provisions of the MOU apply to this Program including taxation exemptions.

Correspondence

- 76. All correspondence related to the implementation of this Agreement should be addressed to:

GOA:	AusAID Australian High Commission Port Vila Vanuatu Fax +678 22292 Attention: Counsellor, Development Cooperation
Partner Government	Ministry of Health PMB 5042 Port Vila, Vanuatu Fax: +678 27451 Attention : Director General

ANNEXURES to this Agreement form an integral part of it.

IN WITNESS THEREOF, the undersigned have signed this Agreement.

Signed in duplicate on the 14th day of June in the year of 2011 in two (2) originals in

the English language, both of the texts being equally authentic.

FOR THE GOVERNMENT OF AUSTRALIA


.....
(Signature)
.....


Katherine Ruiz-Avilla
AusAID Counsellor
Port Vila
(delegated S44)

FOR THE GOVERNMENT OF VANUATU


.....
(Signature)
.....


Hon. Titongoa Willie Ruben Abel (MP)
Minister for Health

Annex 1: Summary outline of the Program

Vanuatu Health Sector Strategy 2010 -2016

Vanuatu has made some significant achievements in the health sector, yet substantial service delivery challenges and equity issues remain. Despite under-five mortality being reported as decreasing in line with the Millennium Development Goal target, most mortality and morbidity in Vanuatu result from diseases that are preventable or manageable by public health and primary health care services. Infant and under-five mortality rates are higher in rural areas, as well as among those in less wealthy households. Maternal health services vary greatly by province. Skilled birth attendance is estimated at 74% nationwide, reaching 95% in Port Vila, but only 32% in remote Torba province. Immunisation is also an area that is far from universal.

AusAID is committed to helping improve the health status of the people of Vanuatu with accelerated progress by Vanuatu towards the health MDGs, namely reducing child mortality, improving maternal health, controlling and progressively eliminating malaria and combating HIV/AIDS and other diseases. These shared development outcomes, jointly agreed between the Government of Vanuatu and the Government of Australia through the Partnership for Development Process, aims to steadily and significantly assist in the progress towards reaching these MDG targets. The development outcomes also extend to include enhanced access to and quality of health care services, particularly for the rural communities including a strengthened health supply chain, strengthened community of skilled nurses and upgraded facilities. Improved budgeting, financial and expenditure management, as well as a strengthened health information system to track MDG progress and support evidence-based decision making have all been identified by the Government of Vanuatu, and keenly supported by the Government of Australia, as priority areas.

AusAID is working towards a new approach to help facilitate achieving these goals through direct financing and procurement of technical assistance. AusAID has committed approximately **AUD8.0million** from 2011-2014 to go through the Government of Vanuatu's system and approximately AUD4.6 million (not subject to this Agreement) to be used by AusAID for the direct procurement of technical assistance. These figures will be revised over time and informed by policy dialogue and costing work. Throughout this funding period, AusAID will work with the Ministry of Health to encourage and support government-led change in key areas of weakness, thus meeting the performance milestones and overtime achieving the performance outcomes in the Performance Assessment Framework. These outcomes are also consistent with our shared outcomes under the Australia-Vanuatu Partnership for Development.

Direct financing in the Health sector will contribute funding to the agreed priority areas as per the Vanuatu-Australia Partnership for Development and negotiated annually as part of the Ministry of Health's Annual Business Plan and Budget process. The agreed shared outcomes are:

Shared Development Outcomes	
<ul style="list-style-type: none">● Improved health status of the people of Vanuatu, with accelerated progress by Vanuatu toward the health MDGs:<ul style="list-style-type: none">– Reduce child mortality– Improve maternal health– Combat HIV/AIDS, malaria and other diseases.	
<ul style="list-style-type: none">● Enhanced access to, and quality of, health care services, particularly for rural communities, including a strengthened health supply chain, strengthened community nursing, and upgraded facilities● Controlling and progressively eliminating malaria● Improved budgeting, financial and expenditure management● Strengthened health information system to track MDG progress and support evidence-based decision-making.	

AusAID will continue to support the Government in the development of a Program based approach in the Health sector. Significant progress has already been achieved in the development of a Joint Partnership Arrangement among development partners in the sector. This partnership will reduce fragmentation of partner support in the sector through harmonisation of planning, reporting and monitoring. It will also continue to encourage partner alignment with Government of Vanuatu systems.

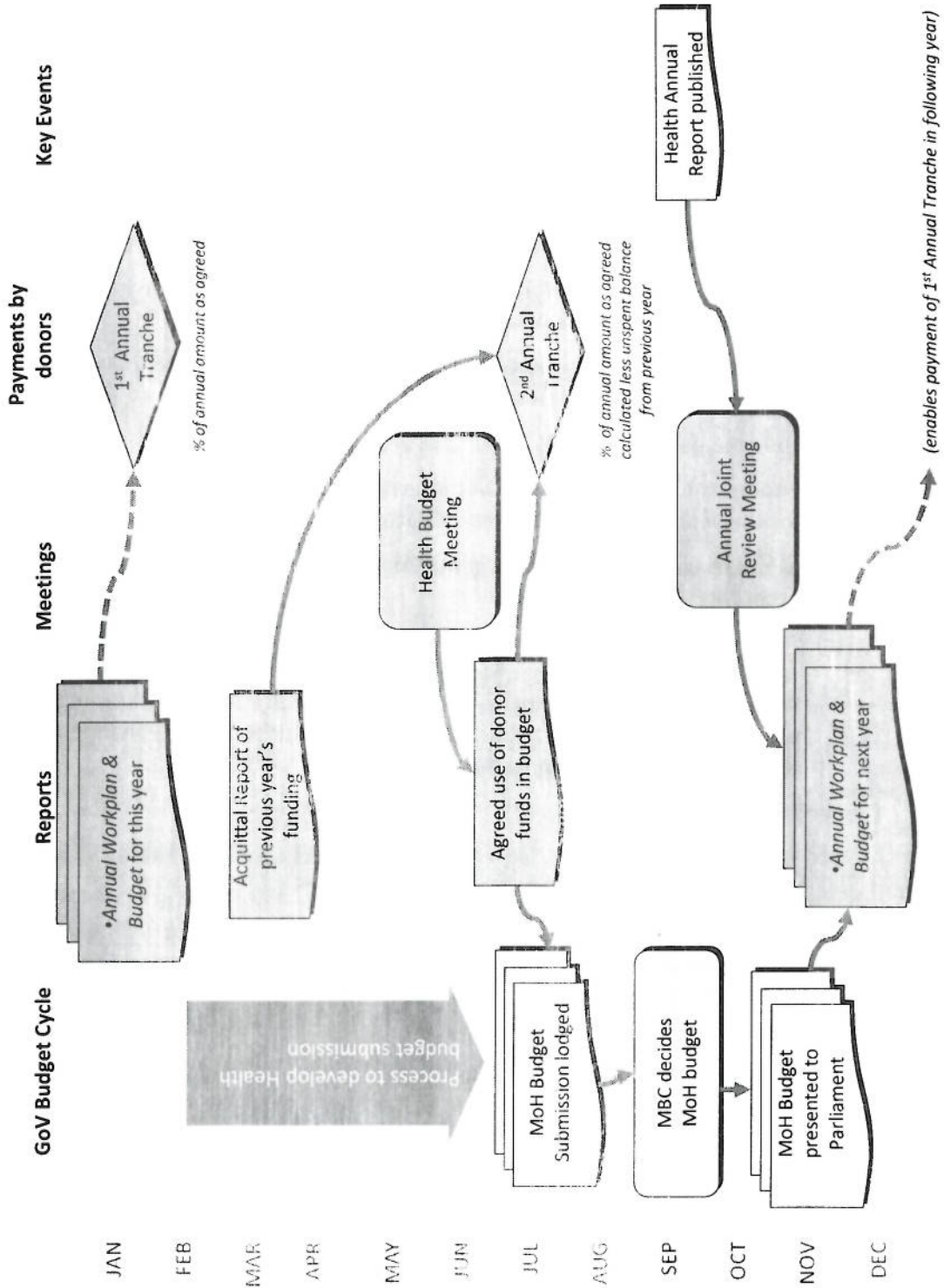
AusAID will continue to provide technical assistance to help strengthen the health system focussing on health system development, human resource management and public expenditure management to help improve service delivery within the sector. In collaboration with the Government of Vanuatu, long and short term TA will be engaged as necessary to provide direct support to core government functions. The needs, sourcing and management of all technical assistance will be closely coordinated with the Health Partners Group to ensure that Vanuatu is receiving the level and quality of support that it both wants and needs in order to operate and improve its health system and service delivery.

Annex 2: Payment of GOA funds

1. Payment of GOA funds will be made in up to 2 tranche payments per calendar year (See Table below).
2. If two tranches are agreed then the split between the first and second tranche (i.e.60% / 40%)is to be agreed annually in writing once the Annual Business Plan and Budget has been agreed. This will be determined on the basis of Ministry of Health cash flow needs².
3. The first tranche payment in 2011 will be released upon achievement of the following performance milestones:
 - (a) the signing of this Agreement and associated Joint Partnership Arrangement;
 - (b) the agreement on a Performance Assessment Framework to be included as part of the Joint Partnership Arrangement; and
 - (c) endorsement in writing by GOA of the agreed Annual Business Plan and Budget for the year which incorporates GOA contributions.
4. The first tranche payments in 2012 and 2013 will be released upon
 - (a) endorsement in writing by GOA of the agreed Annual Business Plan and Budget for the year which incorporates GOA contributions;
 - (b) Monitoring against indicators in the Performance Assessment Framework in accordance with the JPA; and
 - (c) Achievement of agreed Performance Milestones. For 2012, these milestones relate to the development of a Monitoring and Evaluation Framework and Procurement strengthening as outlined in **Annex 3**. For 2013, these milestones will be agreed in writing as part of the 2011 Annual Joint Review and finalisation of the 2012 Annual Business Plan.
5. The second tranche each year will:
 - (a) Take place around June /July of the year (subject to the conditions for the tranche payment being met);
 - (b) be released upon GOV providing an expenditure to date report showing expenditure against the Business Plan for GOA contributions and GOV providing a monitoring report against Performance milestones and indicators in the Performance Assessment Framework.
 - (c) In 2012 and 2013 be a proportion of the annual approved donor contribution as agreed in writing upon finalisation of the Annual Business Plan, less any unspent funds as at 31 December of the previous year.

² 2011 is considered a transition year and several existing contracts will be phased out during this period.

6. Payment will be made into the Government of Vanuatu's bank account: Fund 4 and/or Fund 2.
7. The split between funds allocated to Fund 4 and Fund 2 is to be agreed in writing prior to payment of the first tranche every year.



Annex 3: Performance Milestones required to trigger 2012 tranche payments

The Ministry of Health, Ministry of Finance and Economic Management and Partners have identified Public Financial Management, Monitoring and Evaluation and Procurement strengthening as the key areas needing major improvements in 2011.

1. In relation to monitoring and evaluation the following performance milestones need to be reached prior to disbursement of funds for 2012:
 - a) Implementation of the Performance Assessment Framework agreed as part of the Joint Partnership Arrangement process;
 - b) MoH and Vila Central Hospital Health Information work units adequately staffed either on Public Service Commission ongoing permanent positions or through contract arrangements;
 - c) An action plan to guide the development of the Health Information System;
 - d) Sanma and Tafea databases synched with National database;
 - e) Reporting forms updated and simplified;
 - f) New reporting forms distributed to all health centres, dispensaries, hospitals, etc; and
 - g) Training held with the relevant staff on new reporting forms.

2. In relation to procurement strengthening the following performance milestones need to be reached prior to disbursement of funds for 2012:
 - a) A Procurement specialist is recruited;
 - b) Adequate staff to work on procurement are identified or recruited;
 - c) A procurement plan for MoH is developed and implemented; and
 - d) Training held with relevant staff on procurement procedures.

3. In conjunction with the Ministry of Finance and Economic Management a draft Public Expenditure Review(PER) for the Health sector is to be made public by 31 December 2011.

Annex 4: Performance Assessment Framework (DRAFT)

Annex 5: Program Risk Management Plan

To be included upon agreement between the Parties

