

## MEMORANDUM OF UNDERSTANDING

This is an Agreement Between the Government of the Republic of Zambia as one party, (Here-in referred as Government) and the HIPC Tracking and Monitoring Team as the other party, (Here-in referred as the Team)

It is hereby this .....day of.....the year.....

Agreed that

'That pursuant to the appointment of the HIPC Tracking and Monitoring team from the greater civil society by the Minister of Finance and National Planning in honouring the pledge out of the letter of intent of the year 2000 to the International Monetary Fund to ensure greater transparency and accountability in the utilisation of HIPC resources to empower the poor socially and economically, the Team will execute its mandate according to the Terms of Reference set out in the schedule of this agreement attached here-to, as Appendix I and that the Government will provide the necessary access to information pertaining to the HIPC resources and financial support, as set out in the schedule of this agreement attached here-to as Appendix II, to finance the capital and operating budgets of the team as PERCENTAGE of the HIPC resources to enable the Team carry out its operations effectively and efficiently.'

### 1. **THE TEAM'S FUCTIONS**

The Team's functions/services are as detailed in Annexure 1 attached hereto.

### 2. **FIELD WORK/SITTING ALLOWANCES AND PAYMENT**

2.1 The government will utilize a PERCENTAGE of the HIPC resources to pay The Team fees to circumvent the opportunity cost of the time and professional involvement as follows:

Chairman	ZMK 450,000/day
Team Members	ZMK 400,000/day

The payments will be effected as and when the team sits or goes in the field or undertakes activities that contribute to the effectiveness of the tracking and monitoring activities.

2.2 Fees due to The Team under the provisions of this Agreement shall not be used in violation of any laws of which The Team is aware.

2.3 Unless otherwise agreed in writing and priorly, Fees do not cover any expenses incurred by The Team in fulfilling its obligation under Agreement (such as telephone, telex, office, travel expenses, etc).

### **3.0 CONFIDENTIALITY**

3.1 The Team undertakes for an unlimited duration of the agreement keep secret and confidential any information (documents, technical features, prices....) transmitted to The Team by THE GOVERNMENT. The Team undertakes not to disclose this confidential information to any third Party. Furthermore, The Team agrees to use the information obtained from THE GOVERNMENT solely for the purpose of performing its responsibilities and obligations under this Agreement.

### **4.0 INDEPENDENCE PROVISION**

4.1 The Team shall perform its responsibilities under this Agreement as independent monitors and shall not be the agent or employees of the government for any purpose whatsoever.

4.2 The Team shall have no right or authority to make any promise, warranty, or representation, to execute any Contract or otherwise to assume any obligation or responsibility in the name or on behalf of THE GOVERNMENT unless authorized in writing by an authorized official of THE GOVERNMENT

4.3 THE GOVERNMENT shall not be bound by or liable to The Team or any third person for any act, obligation, or debt incurred by The Team, except to the extent agreed to in writing by an authorized official of THE GOVERNMENT.

### **5.0 USE OF THE GOVERNMENT TRADEMARKS AND NAMES**

5.1 This Agreement does not give The Team any right to use THE GOVERNMENT's trademarks or trading names. The Team undertakes not to use THE GOVERNMENT' trademarks or trading names unless The Team has first obtained THE GOVERNMENT's prior written consents. In such case The Team shall use THE GOVERNMENT's trademarks, trade names or other symbols for the only purpose of identifying themselves and in THE GOVERNMENT's and stakeholder's sole interest.

5.2 The parties agree to consider as substantial the condition of use THE GOVERNMENT's trademarks or trading names by The Team.

5.3 The Team hereby agrees neither to register, nor have registered, any trademark, trade names or symbols of THE GOVERNMENT (or which are confusingly similar

to those of THE GOVERNMENT), in the Territory or elsewhere. The right to use THE GOVERNMENT's trade marks, trade names or symbols, shall cease immediately for The Team, on the expiration or termination, for any reason, of this Agreement.

5.4 When The Team becomes aware of any potential or actual infringement by the third party of THE GOVERNMENT's trademarks, trade names or symbols, it shall immediately notify THE GOVERNMENT in writing.

## **6.0 Indemnity**

The government indemnifies the Team and holds it harmless against all costs, expenses, damages, loss or liability, collectively 'indemnifies losses' of what ever nature, which maybe suffered by the Team as a result of its responsibilities under this letter, save to the extent that the indemnified losses;

- A** are attributable to the default or gross negligence of the Team
- B** was marred otherwise than as a result of a breach by the Team of its obligation under this letter.

## **7.0 ANTI-BRIBERY**

The Team shall not directly or indirectly, offer, pay, promise to pay, or authorise the payment of any money, gift, or other thing or value:

- a) to any person who is an official, agent, employee, or representative of any government or instrumentality thereof or of any private customer or prospective customer of THE GOVERNMENT,
- b) to any political party or official thereof to any political candidate or political party office or,
- c) to any other person while knowing or having reason to know that all or any portion of such money, gift, of thing of value will be offered, given or promised, directly or indirectly, to any such official, agent, employee, representative, political party, political official, or candidate.

## **8.0 WAIVER**

The failure of either party at any time to require the performance of any term or condition of this agreement shall not prevent a subsequent enforcement of such term or condition. Nor shall the waiver by either party of a breach of any provision hereof constitute a waiver of the provision thereof.

## **9.0 SECRECY**

The parties undertake not to divulge to any third the existence and the contents of this Contract and any other information which comes into their possession in the course of their day to day operations.

## **10.0 PREVIOUS AGREEMENT-MODIFICATIONS-SEVERABILITY**

10.1 This Agreement and its Annex contain the entire agreement of the parties relating to the subject matter hereof and supersede all prior oral or written agreement of whatever kind with respect to.

10.2 No addition or modification to this Agreement shall be unless made in writing and signed by both parties.

10.3 If any of the provision of this Agreement shall be or become void or be held invalid, all other provisions shall remain in full force and effect and the void or invalid provisions shall be replaced by other provision to be agreed upon by the parties valid in form and substance and which shall accomplish as precisely as possible the purpose and intent of the void or invalid provision in due course, unless there exist reasons to believe that the parties would not have concluded the Agreement without the invalid provisions or would have concluded the Agreement in a substantially different form.

## **11.0 JURISDICTION**

11.1 This Agreement is governed by and shall be interpreted in accordance with the laws of Zambia.

11.2 All disputes between the Parties in connection with or arising out the existence, validity, construction and performance of the present Agreement (or any term thereof) shall be finally settled by competent Courts of ZAMBIA.

THIS agreement IS MADE IN ..... AND ENTERED INTO ON  
.....

AGREED AND ACCECTED BY:

Signed:.....

Minister of Finance and National Planning  
(On Behalf Of The Government Of Republic of Zambia)

Date:.....

Witness:.....  
(Secretary to Treasury, Ministry of Finance and  
National Planning)

Signed:.....

Chairman,  
(On Behalf Of HIPC Tracking and Monitoring Team)

Date:.....

Witness:.....  
(Member of HIPC Tracking and Monitoring Team)

## ANNEXURE 1

# HIPC TRACKING AND MONITORING TEAM

For

*'Autonomy, Identity, Transparency and accountability'*

### 1.0 INTRODUCTION AND BACKGROUND

Zambia reached a decision point for debt relief under the Highly Indebted Poor Countries initiative (HIPC) in December 2000.

Under this initiative, Zambia is scheduled to receive debt relief totalling US\$3.8 billion over 22 years beginning January 2001.

The savings realised after accession to HIPC will be allocated to programmes and projects that are targeted to socio-economic empowerment of the poor populace.

The programmes and projects supported by HIPC resources are derived by the Ministry of Finance and National Planning (MoFNP) from the Poverty Reduction Strategy Paper (PRSP). The HIPC-funded activities are integrated in the Annual Budget and indeed the recently developed and adopted Transitional National Development Plan (TNDP). In fact, HIPC-related expenditures are identifiable in all budgetary procedures, while HIPC transactions will also be subjected to internal and external audits.

A percentage of the HIPC funds will be retained to finance tracking and monitoring and publicity activities.

The Government of the Republic of Zambia recognises the importance of public accountability and transparency in the use of HIPC resources. In this regard, a system to track and monitor and report on the use of HIPC-related resources was set up in the year 2001. This was after the then Minister of Finance and Economic Development made an undertaking in the letter of intent of 2000 to the International Monetary Fund.

## 2.0 Appointment of The External Monitoring Team

As a requirement by the stakeholders it was deemed prudent that a system of tracking and monitoring the utilisation of HIPC resources be instituted to foster a spirit of Transparency and accountability. In honouring his pledge, the Minister appointed a Non-Governmental Organisation as HIPC expenditure monitors and this comprised a team of eight institutions and later on this number came to seven with two people from each nominated by their institutions and these are:

<u>Institution</u>	<u>Name</u>
1. ZICA	Mr. Chintu Y Mulendema (Chairperson)
2. ZICA	Mr. M. Munyinda
3. ZIM	Mr. Augustine C Seyuba
4. ZIM	Mr. Christopher Chilongo
5. CIPS	Mr. Godfrey Mumba
6. CIPS	Mr. Jones Kalyongwe
7. EAZ	Mrs Matondo Monde Yeta
8. EAZ	Mr. Isaac Ngoma
9. JCTR	Mr. Jack J Zulu
10. JCTR	Ms Charity Musamba
11. ZAPFA	Mr. D.K Mushingi
12. ZAPFA	Mr. Bernard Mungulube
13. NGOCC	Mr. Martin Matabishi
14. CSPR	Mr. Saviour Mwambwa (included in 2002)
15. ZIM	Mr. Samson Sakala (Secretary)

The selection of monitors from the civil society was based on:

- I. The principle of managing the supply chain. This includes societal needs and wants identification and how to satisfy them (marketing). Sourcing and managing supplier contracts and supplies to satisfy the needs and wants (purchasing). Accounting for the funds and other resources and reporting (accounting). Assessment of the impact of public expenditures on peoples lives (statistical surveys/Civil Society Activities).
- II. Professional Institutions were deliberately chosen because they have an obligation to protect society's interests in an impartial and professional predisposition. Other, institutions were incorporated on account of their demonstrable desire to protect public interest long before Zambia qualified for HIPC status.
- III. The monitoring institutions are autonomous and free from government influence.

IV. These institutions already have networks and infrastructure to help them carry out the HIPC expenditure monitoring

The team is in addition to the existing expenditure monitoring mechanism of government.

### **3.0 THE ROLE OF THE MONITORS AND MODUS OPERANDI**

The team's major role is to protect and assist the public in interpreting government disbursement and reporting on HIPC resources. It also serves the purpose of identifying deficiencies and recommending remedial measures early in the value chain, that is, from the time of receipt, through disbursement, utilisation and accounting for the resources in a transparent manner.

The tracking and monitoring activities are purported to comprise financial, institutional and community-beneficiation audits and other social impact analyses, which are augmented by physical inspections of projects and any materials on which HIPC resources are expended. In view of its activities the tracking and monitoring team is mandated to prepare semi-annual reports to the stakeholders and the Government of the Republic of Zambia.

The team will undertake these activities in liaison with the Office of the Accountant General, Central statistical Office and Zambia National Tender Board. These three Government institutions were chosen to assist the team access information relevant for assessing that the allocated funds are utilised for the intended purposes and that the impact of these expenditures is desirable to society.

To conduct the analyses, the team shall on a regular basis obtain financial information from the office of the Accountant - General. This office shall also facilitate access to non-financial information relevant to HIPC monitoring.

The existence of the team is not to duplicate or replace the functions of existing expenditure control institutions.



#### **4.0 TERMS OF REFERENCE**

The teams mandate is broad based and will encapsulate the entire receipt and expenditure processes and procedures as agreed during the Sensitisation Workshop held at the Kafue Gorge Conference facility in April 2002. Specifically, it was agreed that the team would be responsible for:

- I. Drawing up Annual Work Plans.
- II. Reviewing records of HIPC funds – receipts and payments.
- III. Designing a decentralised Management Information System.
- IV. Reviewing process of project identification.
- V. Making inspections to projects.
- VI. Tracking and monitoring HIPC expenditures – whether benefiting recipients from the socio-economic point of view.
- VII. Assessing strengths and weaknesses of the implementation of HIPC projects and programmes.
- VIII. Initiating and recommending remedial measures arising from (V), including demand for prosecution to prevent re-occurrence of abuse of HIPC resources.
- IX. Advising on administrative controls to compliment systems controls.
- X. Making consultations with Permanent Secretaries' Offices and Auditor General's Office.
- XI. Interacting with the Offices of the Accountant General and Controller of Internal Audits on matters of mutual benefit for the HIPC resources.
- XII. Submitting reports to the Multilateral and Bilateral Institutions, Minister of Finance and National Planning and the Secretary to Treasury.
- XIII. Publicising reports to relevant stakeholders including members of parliament, donor agencies, benefiting communities and the general public.
- XIV. Undertaking comparative studies in other counties where HIPC Initiative is being implemented.
- XV. Participate in all Government and externally supported poverty reduction related initiatives and meetings.

## **5.0 GUIDING PHILOSOPHIES**

### **5.1 Mission Statement**

The HIPC Tracking and Monitoring Team shall endeavour to undertake individual and collective responsibility as a non-governmental organisation to participate effectively and efficiently in the process of equitable allocation and utilisation of HIPC resources to the benefit of the intended target population of the Zambian society so as to foster socio-economic development and consequently prosperity  
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### **5.2 Vision**

The Vision of the Team is to be part of the greater partnership between the public and autonomous non-governmental organisations in the creation and pursuit of transparent and accountable methods and processes in the management of public resources to eliminate poverty and ensure social justice and uphold human rights for all Zambians.

### **5.3 Principles**

The HIPC Tracking and Monitoring Team will be guided by the following principles:

- Objectivity
- Leadership
- Hard Work
- Honesty
- Integrity
- Accountability
- Transparency
- Openness
- Co-operation
- Selflessness

### **5.4 Organisation Structure**

The Chair for the Team is occupied by the Zambia Institute of Chartered Accountants as outlined in the appointment of the institutions forming the Tracking and Monitoring Team by the Minister of Finance and National Planning.

The rest of the team are members.

An individual will assist the chairperson and members as a full-time Executive Secretary and will head the Secretariat that will, co-ordinate the activities of tracking and monitoring of HIPC resources. He will be key to the development of policy and liaison with the Government and stakeholders. In addition, there will be independent person with depth in consultancy, monitoring and evaluation expertise, a Project Manager who will be responsible for all aspects of the tracking and monitoring of HIPC projects.

The Executive Secretary and the Project Manager will constitute the Secretariat. The Secretariat, it is envisaged will be the nerve centre, such that it will be of efficacy to members who are part-time.

The Executive Secretary will be assisted by a full-time Personal Secretary cum Office Manager and a full-time Driver.

The actual tracking and monitoring activities from project identification to implementation will be decentralised from national, through the regional to the district levels through mobilising and networking with legally recognised and organised volunteer groups of non-governmental organisations working with communities in poverty alleviation activities.

In addition the provincial and district administration centres of the government will be utilised for procurement of appropriate information requisite for tracking and monitoring activities.

The National HIPC Tracking and Monitoring Team will provide expert advisory services to these mobilised NGOs to enable them participate effectively and efficiently and in so doing finally cultivate a culture of citizens taking individual responsibility in the tracking and monitoring of HIPC resources which are targeted at them.

Nonetheless, the national Tracking and Monitoring Team will undertake to make periodic visits to all points of project implementation.

A memorandum of understanding with each one of those NGOs selected will be put in place to specifically outline the duties and responsibilities of each party.

## 6.0 CAPITAL BUDGET

Tracking and monitoring will require the setting up of infrastructure at the Secretariat. In addition the geographical dispersion of individual projects of individual projects will require massive physical logistical support connoting the need for monetary outlay (capital and operating budgets).

The budget for tracking and monitoring is simply stated as a PERCENTAGE of HIPC resources.

### A. Capital Budget

This will be for basic infrastructure at the Secretariat and will include, but not limited to the following:

- Office space- Four offices for the Executive Secretary, Project Manager, Personal Secretary and Board Room
- 2x 4X4 Station Wagon Vehicles
- 3 Computers with built-in modems and network capacity
- 1 Cassette recorder/radio
- 1 Video cassette reorder
- 1 Television monitor
- 3 Computer printers
- 1 Answering/Fax Machine
- 3 Telephone hand sets
- Board Room furniture (table, chairs and filing cabinet)
- Executive Office furniture (table, chairs, Safe, bookshelf and filing cabinet)
- Secretarial office furniture (table, chairs, filling cabinet)
- 3 Laptop computers for field work
- 1 computer scanner
- Document binding accessories
- 1 industrial photocopying machine
- 2 Mobile phones
- 1 Medium Size refrigerator
- 3 Fans and heaters
- 1 Digital camera
- 1 video camera
- Electric kettle, teacups, glasses

It is proposed that the government through its agencies will facilitate and expedite the procurement of the aforesaid capital items.

## **B. Operating Budget.**

This will principally be for the running of the Secretariat and the logistical support of field operations and will include:

- Personal emoluments of the Secretariat staff –salaries, allowances, overtime, gratuity etc
- Rent, water and electricity
- Office stationery; paper, clips etc
- Computer consumables; diskettes, toners, software etc
- Cleaning materials
- Teas, sugar, soft drinks etc
- Postage and telecommunication, including internet facilities
- Subscriptions to newspapers and other publications
- Statutory contributions
- Fuels and lubricants
- Vehicle road license taxes
- Vehicle repairs and maintenance
- Vehicle and property insurance
- Sitting allowances for the Chairman and Team members
- Boarding and lodging allowances for field operations by Team members

## **7.0 EVALUATION OF HIPC MONITORING TEAM**

The donor community, multilateral and bilateral institutions, the benefiting community and other stakeholders through the management evaluation and control systems will undertake to gauge the impact of the HIPC Tracking and Monitoring Team on the basis of its performance and provide meaningful commentary.