

MEMORANDUM OF UNDERSTANDING

between the

Roll Back Malaria Partnership

and

the World Health Organization

Concerning Hosting, Secretariat and Administrative Services

Preamble

Whereas:

The Roll Back Malaria Partnership (the "Partnership") is a global health initiative composed of hundreds of public sector and private sector partners, united in efforts to scale up anti-malaria interventions at country level and to reach populations not normally covered by anti-malaria programs;

The World Health Organization is the UN technical agency for health. In its role as the leading world organization setting norms and standards in the field of health and in providing technical assistance to Member States, WHO is a key multilateral development partner within the Partnership and a founding member of the Partnership;

In view of WHO's core function as the directing and coordinating authority on international health work and at the request of the Board, WHO and the Roll Back Malaria Partnership (also collectively referred to as the "Parties") have agreed that WHO will provide hosting arrangements for the Partnership Secretariat and administrative and fiduciary support and facilities.

The Parties recognize the desirability of clearly setting out in a Memorandum of Understanding (MoU) their basic understanding of (i) the intended objectives and functions of the Partnership, especially in relation to the consistency between the Partnership's contemplated activities and the mission of WHO and (ii) their mutual expectations and respective roles, responsibilities and undertakings with reference to the functioning of the Partnership and WHO's role in providing hosting arrangements (distinct from its capacity as a partner in the Partnership). To that end, they have agreed as follows:

ARTICLE 1 GOALS AND STRUCTURE

1.1 Composition and Aims. The Partnership will primarily act as a convening and coordinating mechanism for actors from across the malaria spectrum, including public sector,

private sector and civil society organizations. A major goal of the Partnership is to raise awareness and increase available resources for malaria control on the global stage.

1.2 Structure. The Partnership's structure will be flexible and responsive to community needs and will be evaluated on an ongoing basis by the Board. The structure may change over time as the Partnership evolves.

1.3 Board. The Board provides leadership and direction to the Partnership, and monitors the implementation of its agreed policies, plans and activities. A summary of its operating guidelines, decision making procedures and functions is set forth in the By-Laws of the Partnership. The Parties anticipate that the Board will establish a conflict of interest policy with reference to the activities of partners, including the participation of industry.

ARTICLE 2 HOSTING ARRANGEMENT

2.1 Hosting Arrangement. The Partnership is a global health initiative, which aims to achieve its mission by the collaborative efforts of its members, and is not a separate legal entity. For this reason and mindful of WHO's mandate as global coordinating agency for public health, WHO hereby agrees to provide hosting arrangements for the Partnership Secretariat, administrative and fiduciary support and facilities. Such a hosting arrangement enables the Partnership Secretariat as part of the WHO Secretariat, to enter into contracts, acquire and dispose of property and, if necessary, institute legal proceedings for the benefit of the Partnership. It enables the Partnership to make optimal use of its resources to fulfill its mission. It also provides an accountability framework which ensures safeguards and due diligence in the management of Partnership resources and activities. In the implementation of this MoU, WHO will provide the services described in this MoU, including the provision of staff to the Partnership Secretariat, as WHO actions for the benefit of the Partnership.

2.2 WHO Rules. The hosting arrangement and the operations of the Partnership Secretariat shall in all respects (including but not limited to recruitment, operations, delegation of authority to the Executive Director and financial matters) be conducted and administered in accordance with the WHO Constitution, WHO's Financial and Staff Regulations and Rules, Manual provisions, and applicable policies, procedures and practices (the "WHO Rules") and with the terms of this MoU.

2.3 Modifications to Rules. It is understood that the WHO Rules may be updated or revised by WHO from time to time as is necessary or appropriate and in accordance with mechanisms established by WHO for that purpose. WHO shall endeavor to keep the Board regularly informed of any new or revised WHO regulation or rule that would materially impact the operations of the Partnership Secretariat.

2.4 Consistency. While the Partnership Secretariat is responsible for implementing the strategies and work plan approved by the Board and must report to the Board on the achievement of those activities and on the appropriate use of resources, and while it is also expected that the Board will provide guidance to the Partnership Secretariat on achieving the objectives of the Partnership, all such activities shall be performed under the supervision of the Executive Director under a delegation of authority from the WHO Director

General and shall be conducted in accordance with the WHO Rules. It is understood that nothing in or related to this MoU shall be or shall be construed as a derogation of WHO's constitutional requirements.

2.5 Governance. In case of inconsistency between the terms of this MoU and the Partnership's Operating Framework and By-Laws, the terms of this MoU shall govern the respective roles, responsibilities and undertakings of the Parties within the remit of the MoU.

2.6 Reservation. In the event that the WHO Director General shall, after consultation with the Board (either as a whole or through its Chair), consider that the implementation of a decision under consideration by the Board would be inconsistent with WHO Rules or could give rise to inappropriate liability for WHO, the WHO Director-General shall notify the Board thereof and WHO (and any staff member of WHO including those assigned to the Partnership Secretariat) shall refrain from implementation of such decision.

2.7 Hosting Arrangement Assessment. The Parties agree to undertake a re-evaluation of the hosting arrangement at the time of the first anniversary of this MoU and, if renewed pursuant to paragraph 9.1 below, annually thereafter at the end of February.

ARTICLE 3 OPERATIONS OF THE PARTNERSHIP SECRETARIAT

3.1 The Partnership Secretariat. WHO will employ staff to support the activities of the Partnership, which staff will be known collectively as the "Roll Back Malaria Partnership Secretariat" (also referred to herein as the "Partnership Secretariat"). The role of the Partnership Secretariat is to support the Partnership in terms of administration and operations in pursuit of the Partnership's goals and objectives. The Partnership Secretariat shall be subject to, and its activities shall be conducted in accordance with, the WHO Rules.

3.2 Partnership Secretariat as WHO staff. All staff assigned to the Partnership Secretariat, including staff seconded to WHO for assignment to the Partnership Secretariat, shall be staff members of WHO and will be considered by WHO as WHO officials for the purpose of the application of the privileges and immunities accorded under international law for the free exercise of their functions. In this regard, WHO will provide, or will request the United Nations to provide, the same travel and identification documents to the Partnership Secretariat staff that are provided to all WHO staff.

3.3 Organization. It is anticipated that the Partnership Secretariat will be comprised of an Executive Director and technical and administrative staff.

3.4 Executive Director Functions. The Executive Director shall provide overall management and leadership to the Partnership Secretariat, shall be responsible for the administration, direction and guidance of its work, and shall provide advice to the Board in setting policies and developing strategies for the Partnership. The duties of the Partnership Secretariat staff will be determined by the Executive Director.

3.4.1 The Executive Director will establish an organizational structure and staffing plan to meet the goals and objectives of the Partnership, in consultation with

the Board, and will have responsibility for overseeing the implementation of the Partnership Secretariat's work plan and budget.

3.4.2 The Executive Director will be provided with a delegation of authority from the Director-General of WHO in accordance with the WHO Rules that will permit him or her to exercise the functions of the position. The Executive Director will report to the Assistant Director-General, HIV/AIDS, TB and Malaria.

3.5 Functions of the Partnership Secretariat. Subject to funding availability and the WHO Rules, the Partnership Secretariat will perform the functions set forth below to facilitate Partnership activities. The Parties recognize that some of the Secretariat's functions are actively under consideration and may be revised. Also, as the malaria field evolves, some of these functions might become redundant or need to be revised; alternatively, new functions might need to be added. In such cases the Board will recommend the changes to WHO and, as mutually agreed and accepted, the Parties will amend the MoU in accordance with Section 9.7, below.

- Support development and follow-up of Partnership strategy;
- Facilitate Partner involvement in country program design and planning in line with "three-ones" approach;
- Support Partners in identifying actions and resources required in countries;
- Facilitate Partner alignment behind country plans;
- Support development and dissemination of working group consensus publications on lessons learnt and best practices for scale-up;
- Advocate for new sources of support;
- Communicate targets, strategies and progress to the global community;
- Foster collaboration between Partners to address specific supply issues (including supply needs and how to fulfill them);
- Partnership administrative and development support (e.g., manage and coordinate Secretariat efforts in Board and working group meeting preparation and arrangement, arrange Global Partnership Forum);
- Partnership Secretariat internal support; and
- Execute memoranda of understanding, grant agreements, service agreements, contracts and other legal arrangements (to be entered into by WHO for the benefit of the Partnership) as is necessary to support its goals and priorities, as approved by resolutions of the Board and pursuant to such authority as is delegated by the WHO Director General. (The Board may, in turn, delegate and re-assign its authority to approve such agreements, contracts and arrangements under such appropriate conditions and safeguards as it shall determine.)

3.6 WHO's Global Malaria Programme. For purposes of clarification and to ensure effective coordination and non-duplication as between the activities of the RBM Partnership Secretariat and the functions of WHO, and for the purposes of this MOU, it is recognized that, in malaria control efforts, subject to further decisions of WHO's governing bodies, WHO's Global Malaria Programme, which includes staff at headquarters, regional and country-level, has primary responsibility for (i) establishing and setting policies, standards and guidelines related to malaria prevention and control; (ii) setting priorities in, coordinating and commissioning research and development relevant to malaria control, and taking evidence from research to policy, both globally and in-country; (iii) contributing to the analysis and forecasting for malaria-related commodities from production to use in country; (iv) surveillance, monitoring and evaluation of malaria control, including regular updates on the malaria situation and progress made in reducing the malaria burden; (v) development of strategies for the implementation of policies and tools to assist countries to achieve country-set targets; and (vi) technical support to countries including capacity building.

3.7 Staff Appeals. WHO will defend any appeal made by a staff member of the Partnership Secretariat to the Administrative Tribunal of the International Labour Organization ("ILOAT"). All costs associated with such appeals will be charged to the Partnership Sub-Account, including a prorated portion of the biannual charge made by the ILOAT to WHO, reflecting the number of appeals by WHO staff members assigned to the Partnership Secretariat heard by the ILOAT.

3.8 Privileges and Immunities. The privileges and immunities enjoyed by WHO and its staff shall apply to the Partnership Secretariat staff, funds, properties and assets supplied to or for the use of the Partnership within the remit of this MoU.

ARTICLE 4

RECRUITMENT OF EXECUTIVE DIRECTOR AND STAFF OF THE PARTNERSHIP SECRETARIAT

4.1. Recruitment of Executive Director. The Executive Director will be appointed by the Director-General of WHO in accordance with procedures established by WHO. The recruitment and selection process will be managed by WHO in active coordination with the Board, it being understood that the following will occur: (i) WHO will work with the Board, through its Chair, to finalize the post description and recruitment profile; (ii) two Board members will participate in the selection panel; (iii) the selection panel will endeavor to reach a consensus and will submit its list of proposed candidates to the Board for consideration; (iv) the Board will submit its recommendations to the WHO Director General, indicating its preferred candidates together with an explanation as to why the candidates are being proposed; and (v) the Director-General, after consultation with the Board, will appoint the Executive Director.

4.2. Recruitment of Other Partnership Secretariat Staff. The organizational structure of the Partnership Secretariat shall be determined by the Executive Director, within the overall Partnership Secretariat budget and in consultation with the Board. Partnership Secretariat staff other than the Executive Director will be selected by the Executive Director, in accordance with WHO Rules and pursuant to such authority as is delegated from the WHO Director General, and will be appointed by WHO. The paramount consideration in the

appointment of Partnership Secretariat staff will be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be given to the importance of WHO's geographical distribution and gender diversity targets.

4.3 Secondments. Staff may be seconded from the Partners or other organizations to the Partnership Secretariat. WHO will establish secondment agreements in accordance with WHO Rules. Any secondments financed by a Donor will be acknowledged as part of such Donor's contribution to the Partnership. Financial statements in respect of such non-reimbursable secondments will be provided to the Board on a yearly basis.

4.4 Temporary Advisors and other Non-staff Members. Temporary advisers and other non-staff members providing services under this MoU may be selected by the Executive Director and engaged by WHO in accordance with WHO Rules.

4.5 Reassignment. All Partnership Secretariat staff recruited pursuant to this MoU, including the Executive Director, will be recruited solely for service with the Partnership Secretariat. Accordingly, such Partnership Secretariat staff will not have any right to reassignment or transfer within WHO.

4.6 Performance Evaluation. WHO and the Board will develop criteria and a mechanism for the performance review of the Executive Director, consistent with the WHO PMDS system, to be carried out at specified time intervals and at least annually. This mechanism will be clearly articulated in the offer of appointment.

ARTICLE 5 FINANCIAL MATTERS

5.1 Financial Commitments. The obligation of WHO to implement any particular aspect of the Partnership Secretariat's operations is subject to WHO Rules, requiring the receipt of all necessary and sufficient funds with respect to the contemplated expenditure.

5.2 Partnership Sub-Account. Contributions and other funds received by WHO for the benefit of the Partnership will be maintained and recorded within the WHO accounting systems, in a separate account or accounts as appropriate for the benefit of the Partnership (also referred to herein as the "Roll Back Malaria Partnership Sub-Account" or "Partnership Sub-Account"), in accordance with the WHO Rules, including those relating to internal and external audit and oversight.

5.3 Currency. Grants from the Partnership Sub-Account and payments made by the Partnership Secretariat may be made in any currency. The accounting unit is the United States dollar. The equivalent in United States dollars of other currencies is established on the basis of the United Nations operational rates of exchange.

5.4 Investments; Interest. WHO shall invest the funds held in the Partnership Sub-Account in accordance with the WHO Rules for the sole and exclusive use of the Partnership. Any interest accruing on the Sub-Account, or income from investment of the funds held in the Sub-Account, shall be used in accordance with WHO Rules.

5.5 Use of Funds. The funds in the Partnership Sub-Account will be used to defray the costs of operating the Partnership Secretariat in accordance with the work plan approved by the Board. All payments from the Partnership Sub-Account, including those resulting from such requests, will be subject to compliance with WHO Rules to ensure appropriate monitoring of the financial accountability of grantees and other recipients and of progress towards program objectives.

5.6. Reporting. WHO shall report all receipts and expenditures in respect of the Partnership Sub-Account in accordance with the WHO Rules. Separate financial statements of income and expenditure will be prepared by the Partnership Secretariat, certified by the Office of the Chief Accountant of WHO, and provided to the Board on an annual basis. The Partnership Secretariat shall have access to WHO financial information systems as is necessary for it to provide interim unaudited financial statements to the Board semi annually.

5.7. Audit. The Partnership Secretariat will be subject to internal audit and external audit review in accordance with normal WHO practice. Audit reports will be addressed to the WHO Director-General with copies to the Executive Director of the Partnership Secretariat.

ARTICLE 6 FEES AND COSTS

6.1 Fee Structure. The amount of Programme Support Costs ("PSC") and other fees to be charged by WHO for its services hereunder, together with the method of its calculation, is set out in Annex A to this MoU.

6.2. Other Services. It is anticipated that day-to-day administrative services will be provided by Partnership Secretariat staff. The Partnership Secretariat will have the flexibility to out-source services, if needed, to provide more tailored or flexible support specific to the needs of the Partnership in accordance with the WHO Rules.

ARTICLE 7 ADAPTATIONS AND EXCEPTIONS

To meet particular needs of the Partnership, WHO will duly consider requests for adaptations of or exceptions to WHO administrative procedures and practices that demonstrably improve the functioning of the Partnership Secretariat in furtherance of the objectives of the Partnership and to the extent that such adaptations or exceptions are allowed under WHO's Rules. Such requests for adaptations or exceptions that have been granted by WHO will be recorded by WHO in a "Log of Administrative Adaptations for the RBM Partnership Secretariat" to be maintained by WHO and the Partnership Secretariat.

ARTICLE 8 DISSOLUTION OF THE PARTNERSHIP

If the Board decides consistent with its bylaws to dissolve the Partnership during the duration of this MoU, the Partnership Secretariat shall, after payment of liabilities and the obligations described in Article 9.2 and 9.3 below, allocate the physical assets of the Partnership and the funds in the Partnership Sub-Account to activities pursuing the objectives of the Partnership, as directed by the Board. Subject to Section 9.5 below, a restitution of assets to the members of the Partnership is not possible.

ARTICLE 9 ENTRY INTO FORCE, EXPIRATION, TERMINATION OR AMENDMENT OF MOU

9.1 Term. This MoU shall enter into force on the 15 day of December 2006 and shall remain in effect for one (1) year from the date of its entry into force. The MoU shall be automatically renewed for additional terms as shall be agreed upon by the Parties, unless notice is provided by either WHO or the Board to the other at least six (6) months prior to the end of its term.

9.2 Termination. Notwithstanding Section 9.1, either WHO or the Partnership may terminate the MoU, for any reason, during the initial term or any additional term as contemplated by Section 9.1 by giving six (6) months prior notice to the other; provided, that no such termination shall be effective prior to the first annual anniversary of the effective date of this MoU. WHO and the Board may agree to extend the effective date of such termination in view of staff-related or other considerations.

9.3. Settlement of Outstanding Obligations. Upon termination or expiration of this MoU, any outstanding obligations for activities commenced by WHO prior to expiration or termination of the MoU, including reimbursement to WHO for all costs incurred in accordance with WHO Rules in relation to the need to terminate the Partnership Secretariat staff and otherwise close down the Partnership Secretariat, shall be fully satisfied by the Partnership.

9.4. Survival of Obligations. In the event of termination or expiration, the obligations assumed by the Parties hereunder shall survive such termination or expiration to the extent necessary to permit the orderly conclusion of activities, the termination or withdrawal of personnel, the return of uncommitted funds and property, the settlement of accounts between the Parties and the settlement of contractual liabilities and staff grievances (including tribunal awards) that are required in respect of any personnel, subcontractors, consultants and suppliers.

9.5 Application of Remaining Funds. After all obligations incurred by WHO prior to termination or expiration have been fully liquidated, any funds remaining to the credit of the Roll Back Malaria Partnership Sub Account shall be applied to the purposes of the Partnership, as directed by the Board.

9.6 Consultation. At the request of either Party, consultations shall take place with reference to the implementation, modification or revision of this MoU.

9.7 Amendments. Any amendment to the present MoU shall be effected by mutual agreement of the Parties through a written document affirming to be an amendment of this MoU.

ARTICLE 10 CHANGE IN HOSTING ARRANGEMENT

It is understood that the Board may decide that it is in the best interests of the Partnership for the Partnership to become established as a separate legal entity or the Partnership Secretariat to be transferred to another Partner or, for any other reason, to terminate the hosting arrangement with WHO. In such an event, the Board will give notice to WHO as provided in Article 9.1 or 9.2 above, and WHO will cease to host the Roll Back Malaria Partnership as from the effective date of termination in accordance with Article 9.1 or 9.2. After obligations incurred by WHO have been satisfied as provided in Articles 9.3 and 9.4, then the funds in the Partnership Account shall be transferred as directed by the Board.

ARTICLE 11 COMMUNICATIONS, WEBSITE, LOGO, AND COPYRIGHT

11.1 Branding. It is understood that the Partnership will wish to develop a distinctive physical depiction of its identity, such as branded colours, graphic elements and a logo which would identify the Partnership to all audiences. In the use of its branding, the Partnership Secretariat agrees to incorporate and clearly reflect the hosting and administrative arrangement with WHO (such as with the phrase, "Hosting arrangements are provided by the World Health Organization"). The use of the Partnership name and emblem is confined to its use by the Partnership Secretariat; Partnership members may not use the name and emblem unless given prior permission by the Partnership Executive Director, but have the right to present themselves as members of the Partnership. WHO undertakes to take necessary actions to seek protection for the Partnership's name and emblem, as it would for WHO's own name and emblem.

11.2 Intellectual Property. The Partnership's website, separate logo, use of WHO emblem, domain, and email address shall be established in accordance with WHO Rules. For avoidance of doubt, it is understood that the Partnership Secretariat's current web site domain name will be maintained. Any copyright notice would appear as follows: "© World Health Organization (providing hosting arrangements for the Roll Back Malaria Partnership) [year]".

11.3 Communications. It is understood that the Partnership Secretariat may conduct communications on issues related to the implementation of the work plan as authorized by the Board (including publications, meetings, circulation of documents and other information such as advocacy products, web or news materials.) Communications by the Partnership Secretariat with WHO offices and staff will be conducted through normal WHO channels, in most cases by the WHO relevant department as partner within the Partnership. With regard to communications endorsed by WHO or in which WHO is a co-author, the Partnership Secretariat will follow the guidelines and administrative procedures established by WHO for such purposes, including requisite clearances and authorizations.

11.4 Transfer. Upon the termination or expiration of the hosting arrangement, WHO will transfer all rights to any marks or logos pertaining to the RBM Partnership, and to any copyrights, held by WHO as host for the benefit of the Partnership, as well as rights to any derivative works, to the entity directed by the Board, without charge (except for any actual costs incurred), free and clear of any right, title or interest on the part of WHO.

ARTICLE 12 FINAL PROVISIONS


12.1 No Waiver. Nothing in or related to this MoU or the work of the Partnership or the Partnership Secretariat, shall be or shall be construed as, a waiver, express or implied, of the privileges and immunities of WHO, of any member of the Partnership or of any member of the Board.

12.2 Notices in Writing. Any notice or request required or permitted to be given or made under the present MoU shall be in writing.

12.3 Conciliation. Any differences of opinion between the Parties arising out of or related to this MoU shall be resolved through good faith negotiation. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules of the United Nations Commission on International Trade Law (UNCITRAL) then in effect, or according to such other procedure as may be agreed between the Parties, and shall finally settle the dispute.

Agreed and accepted as of the last signature date below, in two originals, by the undersigned duly appointed representative of the Roll Back Malaria Partnership and the World Health Organization respectively, on behalf of the Parties.

For Roll Back Malaria Partnership

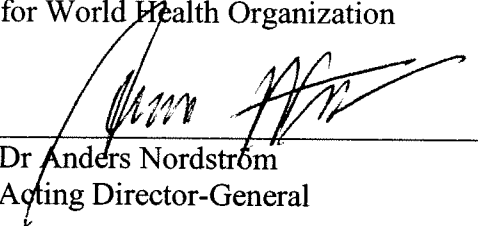
By: 

Professor Eyitayo Lambo
Minister of Health, Federal Republic of Nigeria
and Chair of the Roll Back Malaria Partnership Board

15th December, 2006
Date

and

for World Health Organization



Dr Anders Nordström
Acting Director-General

15.12.2006
Date

Annex A Fee Structure

Set out below is the fee structure that will apply to WHO's agreement to serve as the host organization for the Partnership and provide its Partnership Secretariat, administrative and fiduciary support, and facilities, including programme implementation work, under this MoU. This arrangement will be reviewed by the Parties on or before December 15 of 2007 and each year thereafter, and adjusted by mutual agreement as may be required for the subsequent calendar year.

(A) "One-off" set up costs (e.g., computer, furniture and other (as required) will be invoiced at cost).

(B) Percentage based fees. Programme Support Costs ("PSC") are applied to income received for programme activities at the rate of 13% as set out below.

This amount of PSC would cover the following:

- Normal ongoing services and fixed administrative costs that are incurred in support of the Partnership Secretariat, such as follows: physical space and maintenance; payroll and accounting services; serviced office space; IT support, telecommunications support services and infrastructure (including training and website maintenance within the WHO website); travel administration; travel agent, visa and passport services; salary and entitlement administration; human resources services (e.g., recruitment); medical services; staff health insurance; security and staff services; registry; document storage; routine internal and external audit; and, subject to the parameters set out below, financial management, special audit and legal services. Storage space may be charged separately if demand exceeds normal requirements.

This PSC does not include the following:

- Additional amounts for special project work such as the following services or costs, which will be provided on a reimbursable or cost sharing basis in accordance with existing procedures, based on actual costs incurred: video and communication equipment; office equipment such as computers, calculators etc; use of conference rooms and servicing of meetings; travel and visa expenses; document reproduction services; telecommunication charges and special devices or accessories (e.g., BlackBerries); web development; "special" audit and "special" legal services (see explanation under Note 1 below); any costs, payment orders or awards associated with Partnership Secretariat staff complaints, appeals or grievances (whether in connection with WHO internal appeal and grievance bodies or to the Administrative Tribunal of the International Labour Organization); and any other liabilities arising out of activities performed under this MoU,

including but not limited to claims by suppliers, grantees or recipients of products or services.

Notes:

Any extraordinary work, such as "special" audit or legal work, would be billed at cost. ("Special" audit refers to non-routine external or internal audit work specific to the Partnership. "Special" legal work refers to legal services provided by WHO in a calendar year pursuant to this MoU, when the cost of such services exceeds the equivalent of twenty per cent (20%) of the average remuneration paid to a P4 staff member during the period in question.)