

CONFORMED COPY

CREDIT NUMBER 3440-KE

Development Credit Agreement

(Decentralized HIV/AIDS and Reproductive Health Project)

between

REPUBLIC OF KENYA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated March 7, 2001

CREDIT NUMBER 3440-KE

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated March 7, 2001, between REPUBLIC OF KENYA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project;

(B) the Association has received the following documents, namely, the Borrower's Health Policy Framework of 1994, the National Reproductive Health Strategy of 1996 and the Sessional Paper on HIV/AIDS of 1997, part of which describes a program of actions, objectives and policies designed to implement activities under the Borrower's National Health Sector Strategic Plan 1999-2004 (the said documents being hereinafter referred to as the Program) and declaring the Borrower's commitment to the execution of the Program;

(C) the Borrower intends to obtain from the Department for International Development (DFID) of the United Kingdom a grant (the DFID Grant) in an amount equivalent to \$39,490,000 to assist in financing the Project on the terms and conditions set forth in an agreement (the DFID Grant Agreement) to be entered into between the Borrower and DFID;

(D) the Borrower intends to obtain from the Swedish International Development

Agency (SIDA) a grant (the SIDA Grant) in an amount equivalent to \$8,400,000 to assist in financing the Project on the terms and conditions set forth in an agreement (the SIDA Grant Agreement) to be entered into between the Borrower and SIDA; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985 (as amended through October 6, 1999), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

(a) A new paragraph (12) is added to Section 2.01 to read as set forth below, and the existing paragraphs (12) through (14) of said Section are accordingly renumbered as paragraphs (13) through (15):

"12. 'Participating Country' means any country that the Association determines meets the requirements set forth in Section 11 of Resolution No. 194 of the Board of Governors of the Association, adopted on April 8, 1999; and 'Participating Countries' means, collectively, all such countries."; and

(b) The second sentence of Section 5.01 is modified to read:

"Except as the Borrower and the Association shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a Participating Country or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "AIDS" means the Acquired Immune Deficiency Syndrome;

(b) "CBO" means community based organization;

(c) "District Health Management Team" means the technical team headed by a District Medical Officer of Health with responsibility for the management and supervision of health services delivery in the whole district as provided for in the Public Health Act, Cap. 242 Laws of Kenya [To come from the Kenyan Delegation];;

(d) "Districts" means the local government districts of the Borrower participating in Phase I of the Program and referred to in Part A of the Project;

(e) "Eligible Categories" means categories (1) through (3) in the table in Part A.1 of Schedule 1 to this Agreement;

(f) "Eligible Expenditures" means the expenditures for goods and services referred to in Section 2.02 (a) of this Agreement;

(g) "Eligible Work Plan" means a provincial or district work plan to be carried out by Provinces (as hereinafter defined) or Districts (as hereinafter defined) which, having met the eligibility criteria set out in the Project Implementation Plan (as hereinafter defined) and the provisions of Schedule 4 to this Agreement, is a work plan that is eligible for financing, on a grant basis, in accordance with the provisions of the Project Implementation Plan;

(h) "Grant" means each of the the grants to be provided under the Project to finance Eligible provincial or district Work Plans (as hereinafter defined) prepared

for purposes of the Project;

(i) "Grant Agreement" means the agreement entered into between a District or a Province and [MOH? TTL please confirm], referred to in paragraph 3 (b) of Schedule 1.A of this Agreement;

(j) "Health Facility Team" means [To come from the Kenyan Delegation][Note: such term was not used again!];

(k) "Health Sector Reform Secretariat" means the Health Sector Reform Secretariat of the Borrower's Ministerial Reform Committee referred to in paragraph 2 (b) of Schedule 4 to this Agreement;

(l) "HIV" means the Human Immuno-Deficiency Virus;

(m) "Hospital Management TeamBoard" means [To come from the Kenyan Delegation];the institutional management team headed by a Medical Superintendent or a Medical Officer in charge and with the responsibility for the day to day management and delivery of hospital based care;

(n) "IAPSO" means the Inter-Agency Procurement Services of the United Nations;

(o) "IEC" means information, education and communication;

(p) "IMCI" means the integrated management of childhood illnesses;

(q) "Implementing Agencies" means the following agencies within MOH; (i) the Health Sector Reform Secretariat; (ii) NASCOP; (iii) the District Health Management Teams; and (iv) the Health Facility Team [Note: This term is not used in the body of the Agreement. I propose to delete it];

(r) "Initial Deposit" means the initial deposit referred to in Section 3.02 (ii) of this Agreement;

(s) "Kenya Medical Training College" means the parastatal under the[To come from the Kenyan Delegation]; Ministry of Health, set up under Cap. 446 Laws of Kenya with the mandate to train diploma and certificate health workers currently deployed in public and private hospitals, health centers, dispensaries and clinics;

(t) "MOH" means the Borrower's Ministry of Health;

(u) "NASCOP" means the Borrower's National AIDS and STD Control Program, including the AIDS Control Unit of MOH, established pursuant to the Borrower's means [To come from the Kenyan Delegation] [Note: This term is not used again!];

(v) "National AIDS Strategic Plan" means the National AIDS Strategic Plan of the Borrower dated [To come from the Kenyan Delegation]; [Note: This term is not used again!]

(w) "NGO" means a non-governmental organization registered under the laws of the Borrower, such term to include a religious organization;

(x) "Project Account" means the account to be opened pursuant to Section 3.02 of this Agreement;

(y) "Project Implementation Plan" means the Project Implementation Plan referred to in paragraph 1 (a) of Schedule 4 to this Agreement;

(z) "Project Management Report" means each report prepared in accordance with Section 4.02 of this Agreement;

(aa) "Project Year" means the 12- month period beginning from the Effective Date and ending 12- months thereafter and each successive 12 month period following thereafter;

(ab) "Provinces" means the provinces located in the territory of the Borrower participating in Phase I of the Program and referred to in Part A of the Project;

(ac) "Rural Health Facility CommitteeTeam" means [To come from the Kenyan Delegation];the institutional management team headed by either a Clinical Officer or an Enrolled Community Nurse and with responsibility for the day-to-day management and

delivery of primary health services at a health center or a dispensary;

(ad) "Special Account" means the account referred to in Part B of Schedule 1 to this Agreement; and

(ae) "STD" means sexually transmitted diseases.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to thirty eight million three hundred thousand Special Drawing Rights (SDR 38,300,000).

Section 2.02. The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for: (i) expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit; and (ii) amounts paid (or, if the Association shall so agree, amounts to be paid) by the Borrower on account of withdrawals made to meet the reasonable cost of goods, works and services required for any Eligible Work Plan in respect of which the withdrawal from the Credit Account is requested.

Section 2.03. The Closing Date shall be June 30, 2005 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or canceled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semi-annually on January 1 and July 1 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each January 1 and July 1, commencing January 1, 2011 and ending July 1, 2040. Each installment to and including the installment payable on July 1, 2020 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and

approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the repayment of installments under paragraph (a) above by: (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(d) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall carry out the Project through MOH with due diligence and efficiency and in conformity with appropriate administrative, financial and public health practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

Section 3.02. The Borrower shall: (i) open and thereafter maintain, until completion of the Project, a Project Account in a commercial bank acceptable to the Association into which the Borrower shall deposit its counterpart contributions to the costs of the Project; (ii) deposit an initial amount equivalent to \$[50,000] [To be confirmed by the Kenyan Delegation] (the Initial Deposit) into the Project Account; and (iii) thereafter during each following quarter deposit into the Project Account the amounts required to cover the Borrower's counterpart contributions for each such quarter, as determined by the Borrower and the Association.

Section 3.03. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.04. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan designed to ensure the future achievement of the objectives of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Association, consistently applied, in a format acceptable to the Association adequate to reflect its the operations and financial condition and to register separately the operations, resources and expenditures related to the Project.

(b) The Borrower shall:

(i) have its the records, accounts and financial statements referred to in paragraph (a) of this Section (balance sheets, statements of income and expenses and related statements) and the records and accounts for the Special Account for each fiscal year audited, in accordance with auditing standards acceptable to the Association, consistently applied, by independent auditors acceptable to the Association;

(ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year, (A) certified copies of the financial statements referred to in paragraph (a) of this Section, for such year as so audited, and (B) an opinion on such statements and report of such audit, by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

(iii) furnish to the Association such other information concerning such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of Project Management Reports or statements of expenditure, the Borrower shall:

(i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and separate accounts reflecting such expenditures;

(ii) retain, until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

(iii) enable the Association's representatives to examine such records; and

(iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the Project Management Reports or statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, the Borrower shall carry out a time-bound action plan acceptable to the Association for the strengthening of the financial management system referred to in paragraph (a) of said Section 4.01 in order to enable the Borrower, not later than 18 months after the Effective Date, or such later date as the Association shall agree, to prepare quarterly Project management reports acceptable to the Association, each of which:

(i) (A) sets forth actual sources and applications of funds for the Project, both cumulatively and for the period covered by said report, and projected sources and applications of funds for the Project for the six-month period following the period covered by

said report, and (B) shows separately expenditures financed out of the proceeds of the Credit during the period covered by said report and expenditures proposed to be financed out of the proceeds of the Credit during the six-month period following the period covered by said report;

- (ii) (A) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and (B) explains variances between the actual and previously forecast implementation targets; and
- (iii) sets forth the status of procurement under the Project and expenditures under contracts financed out of the proceeds of the Credit, as at the end of the period covered by said report.

(b) Upon the completion of the action plan referred to in paragraph (a) of this Section, the Borrower shall prepare, in accordance with guidelines acceptable to the Association, and furnish to the Association not later than 45 days after the end of each calendar quarter, a Project Management Report for such period.

ARTICLE V

Remedies of the Association

Section 5.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional events are specified:

(a) that a situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out;

(b) subject to paragraph (c) of this Section:

- (i) the right of the Borrower to withdraw the proceeds of any grant or loan made to the Borrower for the financing of the Project shall have been suspended, canceled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor; or
- (ii) any such loan shall have become due and payable prior to the agreed maturity thereof; and

(c) paragraph (b) of this Section shall not apply if the Borrower establishes to the satisfaction of the Association that: (i) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and (ii) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional event is specified, namely that the event specified in paragraph (b) (ii) of Section 5.01 of this Agreement shall occur, subject to the proviso of paragraph (c) of that Section.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the Borrower has adopted a Project Implementation Plan in form and substance satisfactory to the Association;

(b) the Project Account has been opened and the Initial Deposit paid into the Project Account;

(c) the Borrower has established an accounting and a financial management system for the Project, satisfactory to the Association for the Project; and

(d) the Borrower has approved the MOH's decentralization implementation plan, including the rationalization of the MOH non-salary recurrent budgets for Districts

which are to include no more than nine budget line items; and for the Phase I decentralization Districts

(e) the Borrower shall prepare and furnish to the Association a template for resource based and outcome oriented Eligible Work Plans as well as a performance appraisal system, in form and substance satisfactory to the Association.

Section 6.02. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance and Planning
P.O. Box 30007
Nairobi
Kenya

Cable address:	Telex:	Facsimile:
FINANCE Nairobi	22921 MINIFIN-KE	254 2 330426

For the Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423 (MCI) or 64145 (MCI)	(202) 477-6391

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Nairobi, Kenya as of the day and year first above written.

REPUBLIC OF KENYA

By /s/ Chrysanthus B. Okemo

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Harrold E. Wackman

Acting Regional Vice President

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

A. General

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit, the allocation of the amounts of the Credit to each Category and the percentage of expenditures for items so to be financed in each Category:

A. General

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Goods (including equipment, pharmaceuticals and medical supplies)	[\$940,000]	100% of foreign expenditures and 90% of local expenditures
(2) Consultants' services and training	[\$68,600,000]	100%
(3) Eligible Work Plan Grants disbursed	[\$137,500,000]	100% of amounts
(4) Unallocated	[\$3,960,000]	
TOTAL	[\$38,300,000]	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) payments made for expenditures prior to the date of this Agreement;

(b) expenditures for Grants unless the Grant in question has been made in accordance with the procedures, guidelines and other provisions set out or referred to in the Project Implementation Plan and this Agreement; and (ii) the Grant in question has been made in accordance with a Grant Agreement, in form and substance satisfactory to the Association;

(c) payments for expenditures for goods and services supplied under a contract which any national or international financing institution or agency, other than the Association, shall have financed or agreed to finance under any other credit or grant.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures for: (i) works under contracts costing less than \$20,000 equivalent each; (ii) goods under contracts costing less than \$100,000 equivalent each; (iii) consulting services costing less than: (A) \$100,000 equivalent each for consulting firms; and (B) \$530,000 equivalent for individual consultants; and (iiiv) all training workshops and study tours, under such terms and conditions as the Association shall specify by notice to the Borrower.

B. Special Account

1. The Borrower shall open and maintain in dollars a separate special deposit

account in a commercial bank, on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure and attachment.

2. After the Association has received evidence satisfactory to it that a Special Account has been opened, withdrawals from the Credit Account of amounts to be deposited into the Special Account shall be made as follows:

(a) until the Association shall have received: (i) the first Project Management Report referred to in Section 4.02 (b) of this Agreement; and (ii) a request from the Borrower for withdrawal on the basis of Project Management Reports, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule 1; and

(b) upon receipt by the Association of a Project Management Report pursuant to Section 4.02 (b) of this Agreement, accompanied by a request from the Borrower for withdrawal on the basis of Project Management Reports, all further withdrawals shall be made in accordance with the provisions of Annex B to this Schedule. 1.

3. Payments out of the Special Account shall be made exclusively for Eligible Expenditures. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for Eligible Expenditures.

4. Notwithstanding the provisions of Part B.2 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(a) if the Association determines at any time that any Project Management Report does not adequately provide the information required pursuant to Section 4.02 of this Agreement;

(b) if the Association determines at any time that all further withdrawals should be made by the Borrower directly from the Credit Account; or

(c) if the Borrower shall have failed to furnish to the Association within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of (A) the records and accounts for the Special Account; or (B) the records and accounts reflecting expenditures with respect to which withdrawals were made on the basis of Project Management Reports.

5. The Association shall not be required to make further deposits into the Special Account in accordance with the provisions of Part B.2 of this Schedule if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to Section 6.02 of the General Conditions. Upon such notification, the Association shall determine, in its sole discretion, whether further deposits into the Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Borrower of its determination.

6. (a) If the Association determines at any time that any payment out of the Special Account was made for an expenditure which is not an Eligible Expenditure, or was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association, provide such additional evidence as the Association may request, or deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment. Unless the Association shall otherwise agree, no further deposit by the Association into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association determines at any time that any amount outstanding in the Special Account will not be required to cover payments for Eligible Expenditures during the six-month period following such determination, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Borrower may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Association made pursuant to sub-paragraph (a), (b) or (c) of this paragraph 6 shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the provisions of the Development Credit

Agreement.

Annex A to SCHEDULE 1

Operation of Special Account When Withdrawals Are
Not Made On the Basis of Project Management Reports

1. For the purposes of this Annex, the term "Authorized Allocation" means an amount equivalent to \$3,000,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 2 of this Annex; provided, however, that, unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$2,000,000 until the aggregate amount of withdrawals from the Credit Account, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall equal or exceed the equivalent of SDR 4,000,000.

2. Withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the Special Account of an amount or amounts which in the aggregate do not exceed the Authorized Allocation. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as the Borrower shall have requested.

(b) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposit into the Special Account at such intervals as the Association shall specify. Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to Part B.3 of Schedule 1 to this Agreement for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for Eligible Expenditures. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Special Account's Eligible Categories.

3. The Association shall not be required to make further deposits into the Special Account, once the total unwithdrawn amount of the Credit allocated to the Eligible Categories minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions in respect of expenditures to be financed out of the proceeds of the Credit allocated to said Categories, shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to said Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for Eligible Expenditures.

Annex B to SCHEDULE 1

Operation of Special Account When Withdrawals Are
Made On the Basis of Project Management Reports

1. Except as the Association may otherwise specify by notice to the Borrower, all withdrawals from the Credit Account shall be deposited by the Association into the Special Account in accordance with the provisions of Schedule 1 to this Agreement. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Eligible Categories.

2. Each application for withdrawal from the Credit Account for deposit into the Special Account shall be supported by a Project Management Report.

3. Upon receipt of each application for withdrawal of an amount of the Credit, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Association has determined, based on the Project Management Report accompanying said application, is required to be deposited in order to finance Eligible Expenditures during the six-month period following the

date of such report; provided, however, that the amount so deposited, when added to the amount indicated by said Project Management Report to be remaining in the Special Account, shall not exceed the equivalent of \$6,000,000_____.

SCHEDULE 2

Description of the Project

The objectives of the Project are to: (i) slow the increase in HIV prevalence rates in the Borrower's territory; (ii) improve mother and child health through more integrated delivery of HIV/AIDS, child survival and reproductive health services; and (iii) create an enabling environment for decentralized managed delivery of HIV/AIDS, child survival and reproductive health services to and within Districts.

The Project consists of the following Parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A: Decentralization

1. The carrying out in 14 Districts of the Borrower's territory of an intensified and expanded MOH decentralization program through the improvement of the mechanisms for fiscal decentralization, capacity building at provincial, district and sub-district levels, organizational restructuring and systems development, while promoting transparency and accountability for both resource use and performance, including:

(a) the adoption and application of a new set of resource allocation criteria for the distribution of MOH's budgetary resources to the Districts;

(b) the rationalization of the support provided by the Ministry of Finance and Planning to Districts to allow increased discretionary control by the Districts in the allocation and use of resources;

(c) the reform of the Borrower's drug supply system;

(d) the carrying out of capacity building activities at the District and sub-District levels through training of staff of the District Health Management Teams, Hospital Management Boards/Teams and Rural Health Facility Teams/Committees utilizing services to be provided by the Kenya Medical Training College, including training in: (A) financial management; (B) providing the poor with access to health care; (C) drug management; (D) the promotion of community involvement; (E) transparency and results-oriented health delivery management; and (F) improving the appropriateness and transparency of public service delivery including the involvement of, and feedback to, local communities in the management of health services; and

(e) providing policy guidance to the Districts and advising them on technical and managerial issues; and the carrying out of health service reviews.

2. The provision Grants to Districts and Provinces to finance Eligible Work Plans for the promotion of the increased decentralization of planning and management of resources.

Part B: HIV/AIDS

The carrying out of an expanded and intensified program of interventions to prevent and control the HIV/AIDS epidemic, through:

(a) the development and carrying out of HIV/AIDS awareness programs aimed at inducing safe sexual behavior in people, including policies and activities directed at the gender aspects of HIV/AIDS and the specific vulnerability of women, adolescents and the poor;

(b) the prevention of new infections and the mitigation of the impact of HIV/AIDS, including the provision of support for persons infected or affected by HIV/AIDS;

(c) the acquisition of condoms, drugs for opportunistic infections and HIV

test material; and

(d) assisting the Districts, through the provision of Grants, in the preparation and carrying out of District Eligible Work Plans to accommodate, and provide effective responses to, changes in the operational, social and/or epidemiological situation relating to the HIV/AIDS epidemic.

Part C: Reproductive Health

Improving reproductive health, through:

(a) the carrying out of activities, measures and/or programs relating to or concerning family planning, safe motherhood, women's status, child survival and the prevention and control of sexually transmitted infections;

(b) provision of Grants to the Districts to carry out District Eligible Work Plans to ensure improved reproductive health, including training of staff, the conduct of maternal death audits, the conduct of IEC, acquisition of family planning commodities, drugs, equipment and other essential inputs;

(c) the provision of reproductive health services for the particular needs of youth; and

(d) assisting the Borrower in the phased introduction of its IMCI strategy, including improved management of malaria and micro-nutrient related conditions.

* * *

The Project is expected to be completed by December 31, 2004.

SCHEDULE 3

Procurement and Consultants' Services

Section I. Procurement of Good and Works

Part A: General

1. Goods and works shall be procured in accordance with: (a) the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines); and (b) the provisions of the following Parts of this Section I.

2. In paragraphs 1.6 and 1.8 of the Guidelines, the references to "Bank member countries" and "member country" shall be deemed to be references, respectively, to "Participating Countries" and "Participating Country".

Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provisions shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B:

(a) Grouping of contracts

To the extent practicable, contracts for goods shall be grouped in bid packages estimated to cost \$100,000 equivalent or more each.

(b) Preference for domestically manufactured goods

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower.

Part C: Other Procurement Procedures

1. National Competitive Bidding

Goods estimated to cost less than \$100,000 equivalent per contract, up to an aggregate amount not to exceed \$2,500,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. International or National Shopping

(a) Goods estimated to cost less than \$30,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

(b) Where any goods are not available in the local market for procurement under national shopping procedures, such goods in an amount estimated to cost less than \$30,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent, may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

3. Procurement from UN Agencies

Where any goods are not available in the local market for procurement under national shopping procedures, such goods in an amount estimated to cost less than \$30,000 equivalent per contract, up to an aggregate amount not to exceed \$200,000 equivalent, may be procured from IAPSO in accordance with the provisions of paragraph 3.9 of the Guidelines.

4. District Grants

Goods and works required under Part A.2 of the Project shall be procured in accordance with procedures acceptable to the Association, in accordance with the provisions of paragraph 3.15 of the Guidelines.

5. Procurement of Small Works

Works estimated to cost less than \$20,000 equivalent per contract, up to an aggregate amount not to exceed \$500,000 equivalent, may be procured under lump-sum, fixed-price contracts awarded on the basis of quotations obtained from three (3) qualified domestic contractors in response to a written invitation. The invitation shall include a detailed description of the works, including basic specifications, the required completion date, a basic form of agreement acceptable to the Association, and relevant drawings, where applicable. The award shall be made to the contractor who offers the lowest price quotation for the required work, and who has the experience and resources to complete the contract successfully.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to (i) each contract estimated to cost the equivalent of \$100,000 or more; and (ii) the first five contracts for goods and works procured under National Competitive Bidding procedures, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

Part A: General

1. Consultants' services shall be procured in accordance with (a) the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Association in January 1997 and revised in September 1997 and January 1999, subject to the modifications thereto set forth in paragraph 2 of this Part A (the Consultant Guidelines), and (b) the provisions of the following Parts of this Section II.

2. In paragraph 1.10 of the Consultant Guidelines, the references to "Bank member countries" and "member country" shall be deemed to be references, respectively, to "Participating Countries" and "Participating Country".

Part B: Quality- and Cost-Based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provisions shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph. The short list of consultants for services estimated to cost less than \$100,000 equivalent per contract, may comprise entirely of national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.

Part C: Other Procedures for the Selection of Consultants

1. Least-Cost Selection

Services for financial audits and other repetitive services estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$200,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

2. Single Source Selection

Services procured from NGOs and CBOs at the District level under Eligible Work Plans satisfactory to the Association, which are estimated to cost less than \$5,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent, may be procured in accordance with the provisions of paragraphs 3.8 through 3.11 of the Consultant Guidelines.

3. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2 (a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of consulting firms

estimated to cost the equivalent of \$50,000 or more, but less than the equivalent of \$100,000, the procedures set forth in paragraphs 1, 2 (other than the second subparagraph of paragraph 2 (a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(c) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$30,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given.

(d) Services procured from NGOs and CBOs at the District level under Eligible Work Plans, satisfactory to the Association, which are estimated to cost less than \$5,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent, to be procured in accordance with the provisions of paragraphs 3.8 through 3.11 of the Consultant Guidelines (Single Source Selection) shall not require the prior review and approval of the Association.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

SCHEDULE 4

Implementation Program

1. Project Implementation Plan

(a) The Borrower shall prepare and furnish to the Association a Project Implementation Plan in form and substance satisfactory to the Association setting out details of all procedures, guidelines, processes, timetables and criteria for the Project, including criteria for budgetary allocations by MOH to the Districts.

(b) The Borrower shall carry out the Project in accordance with said Project Implementation Plan and, except as the Association shall otherwise agree, shall not amend or waive any provision of the Project Implementation Plan if, in the opinion of the Association, such amendment or waiver may materially and adversely affect the carrying out of the Project or the achievement of the objectives thereof.

2. Decentralization Program

(a) The decentralization program included in Part A of the Project shall include: (i) the strengthening and/or establishment of stakeholder forums at the District level; (ii) intensive monitoring of health expenditures through District health expenditure reviews; (iii) delegation of responsibility for drug procurement; (iv) improved human resource management; (v) the strengthening of referral systems; and (vi) increased autonomy for District hospitals.

(b) To facilitate the monitoring and evaluation of performance under Part A of the Project, the Borrower shall no later than [To be provided by the Kenyan Delegation] prepare and furnish to the Association a template for resource based and outcome oriented Work Plans as well as a performance appraisal system, in form and substance satisfactory to the Association.

(c) The Borrower shall maintain the Health Sector Reform Secretariat of the Borrower's Ministerial Reform Committee in a form, and with functions, staffing and resources satisfactory to the Association.

(d) The Borrower shall open, in a bank acceptable to the Association for each Health Management Team and the Nairobi area Health Facilities Committees participating in the Project, an account to be used exclusively for purposes of the Project.

(e) District Medical Officers of Health shall be responsible for the carrying out of District Eligible Work Plans under the Project.

(f) The District Health Management Teams and the Health Facility Committees shall be responsible for the oversight of Project implementation at the District and

sub-District levels.

(g) MOH shall, with the assistance of its division of Primary Health Care, the Health Sector Reform Secretariat and the AIDS Control Unit (MOH) be generally responsible for the carrying out of central level Project activities (including Project coordination activities, reforms and central procurement).

(h) The Health Sector Reform Secretariat shall in particular be responsible for the coordination of Project activities.

3. Health Reforms

(a) The Borrower shall ensure that the allocations made in MOH's recurrent budget for the Kenya National Hospital shall not exceed: (i) 12% of MOH's recurrent budget by the end of the second Project Year; and (ii) 10% of the said budget by the end of the fourth Project Year.

(b) The Borrower shall, with effect from Fiscal Year 2001-2002, begin to phase in the application of criteria for budgetary allocations to Districts.

4. Reviews

The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in Schedule 5 to this Agreement, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about March 31 and September 30, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date;

(c) review with the Association, by April 30 and October 31, or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter; and

(d) no later than eighteen (18) months after the Effective Date, the Borrower shall carry out, jointly with the Association a mid-term review (the Mid-term Review) of the progress made in carrying out the Project. The Mid-term Review shall cover, among other things, an assessment of: (i) Eligible Work Plans prepared as of the date of the Mid-term Review and the progress made in carrying out the said plans; (ii) training provided under the Project; (iii) procurement under the Project; (iv) the extent to which actions described in the indicators set out in Schedule 5 to this Agreement have been carried out; and (v) plans made or proposed for updating said indicators.

5. Eligibility Criteria for Grants

Without limitation on the provisions of paragraph 1 (b) above, no Grant shall be eligible for financing out of the proceeds of the Credit unless it satisfies the eligibility criteria specified in more detail in the Project Implementation Plan, which shall include the following:

(a) the Grant shall be for: (i) the promotion of the increased decentralization of HIV/AIDS epidemic planning and management of resources; (ii) the carrying out of District Work Plans to accommodate, and provide effective responses to, changes in the operational, social and/or epidemiological situation relating to the HIV/AIDS epidemic; and (iii) improved reproductive health, including training of staff, the conduct of maternal death audits, the conduct of IEC, acquisition of family planning commodities, drugs, equipment and other essential inputs;

(b) the Grant shall be initiated by a duly represented District or Province;

(bc) the activities to be financed by the Grants shall be economically, financially, and technically viable in accordance with the standards specified in the Project Implementation Plan; and

(ce) the activities to be financed by the Grants shall be in compliance with the standards set forth in the applicable laws of the Borrower relating to health, safety, and environmental protection.

6. Terms and Conditions of the Grants

The Grants shall be made pursuant to the Agreements shall, inter alia, include the following terms:

(a) financing to be on a grant basis, allocated in accordance with resource allocation criteria contained in the Project Implementation Plan; and, unless otherwise agreed with the Association, not to exceed the equivalent of \$[25,000] [TTL to provide] per Grant;

(b) the obligation to carry out any activities in accordance with the Project Implementation Plan, with due diligence and efficiency and in accordance with sound technical, financial, environmental, and managerial standards and to maintain adequate records to reflect, in accordance with sound accounting practices, the operations, resources, and expenditures in respect of the activities financed by the Grant;

(c) the requirement that: (i) the goods, works, and services to be financed from the proceeds of the Credit shall be procured in accordance with the procedures set forth in Schedule 3 to this Agreement; and (ii) such goods, works, and services shall be used exclusively in the carrying out of the activities financed by the Grant;

(d) the right of [MOH?] to inspect by itself, or jointly with the Association if the Association shall so request, the goods, works, sites, plants, and construction included in the activities financed by the Grants, the operations thereof, and any relevant records and documents;

(e) the right of [MOH?] to obtain all information as [the MOH?] or the Association shall reasonably request regarding the administration, operation, and financial conditions of the activities financed by the Grants; and

(f) the right of [MOH?] to suspend or terminate the right of the Districts or the Provinces to use the proceeds of the Credit for the Grants upon the failure by the Districts or the Provinces to perform any of its obligations related to under the Grants Agreement.

SCHEDULE 5

Performance Indicators

The performance indicators for the Project shall include the following:

A. Project Implementation Indicators

1. The percentage of the proceeds of the Credit disbursed to finance Eligible Work Plans, compared to the allocations per District.

2. The number of District Eligible Work Plans with substantive input from District Health Management Teams, Rural Health Facility Committees Teams and stakeholder forums.

3. The number of stock-outs of condoms and HIV tests for blood safety, during the Project period.

4. The percentage of health facilities with trained staff in IMCI in the three initial Districts.

5. The percentage of health facilities that are equipped to provide obstetric and family planning services.

B. Process Indicators

1. The percentage of District audits which are qualified.
 2. The proportion of patients satisfied with the kind of health services provided, especially related to HIV/AIDS and reproductive health.
 3. The percentage of user charges that is retained at the level of selected Nairobi area health facilities.
 4. The percentage of all blood units that have been screened for HIV before transfusion.
 5. Condom use by age, marital status, and type of partner (regular or other).
 6. Vaccination coverage statistics, per District.
 7. Antenatal coverage statistics, per District.
 8. The percentage of deliveries that take place in a health facility.
- C. Impact Indicators
1. Prevalence rates of HIV infection, by age group and gender.
 2. Median age at first sexual intercourse.
 3. The percentage of births attended to by qualified health workers.
 4. Contraceptive prevalence rates.
 5. Tuberculosis treatment success rates.
 6. The under-five mortality rate.
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