

**OFFICIAL
DOCUMENTS**

CREDIT NUMBER 5765-KE

Financing Agreement

(Devolution Support Program)

between

REPUBLIC OF KENYA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated *15TH APRIL*, 2016

CREDIT NUMBER 5765-KE

FINANCING AGREEMENT

AGREEMENT dated 15TH APRIL, 2016, entered into between REPUBLIC OF KENYA ("Recipient") and INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association"). The Recipient and the Association hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II — FINANCING

- 2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a credit in an amount equivalent to one hundred forty-four million four hundred thousand Special Drawing Rights (SDR 144,400,000) (variously, "Credit" and "Financing"), to assist in financing the program described in Schedule 1 to this Agreement ("Program").
- 2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement.
- 2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.
- 2.04. The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.
- 2.05. The Payment Dates are April 15 and October 15 in each year.
- 2.06. The principal amount of the Credit shall be repaid in accordance with the repayment schedule set forth in Schedule 3 to this Agreement.
- 2.07. The Payment Currency is Dollar.

ARTICLE III — PROGRAM

- 3.01. The Recipient declares its commitment to the objective of the Program. To this end, the Recipient shall carry out the Program in accordance with the provisions of Article IV of the General Conditions.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Program is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV — REMEDIES OF THE ASSOCIATION

- 4.01. The Additional Event of Suspension consists of the following, namely that the Program has been modified or suspended so as to affect materially and adversely the ability of the Recipient to achieve the objective of the Program.
- 4.02. The Additional Event of Acceleration consists of the following, namely that the event specified in Section 4.01 of this Agreement occurs.

ARTICLE V — EFFECTIVENESS; TERMINATION

- 5.01. The Additional Conditions of Effectiveness consist of the following:
 - (a) The Recipient has prepared and adopted the Program Operations Manual in accordance with the provisions of Section I.D.4 of Schedule 2 to this Agreement.
 - (b) The Recipient has established the KDSP Secretariat, KDSP Technical Committee, and KDSP JSC, in accordance with the provisions of Section I.D.2 of Schedule 2 to this Agreement.
- 5.02. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.
- 5.03. For purposes of Section 8.05(b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty years after the date of this Agreement.

ARTICLE VI — REPRESENTATIVE; ADDRESSES

- 6.01. The Recipient's Representative is its Cabinet Secretary at the time responsible for Finance.

6.02. The Recipient's Address is:

The National Treasury
Treasury Building
P.O Box 30007-00100
Nairobi, Kenya

6.03. The Association's Address is:

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

Cable:

Telex:

Facsimile:

INDEVAS
Washington, D.C.

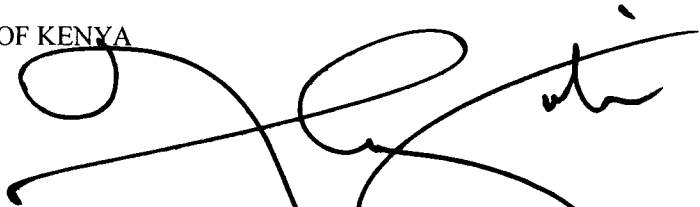
248423 (MCI)

1-202-477-6391

AGREED at Nairobi, Kenya, as of the
day and year first above written.

REPUBLIC OF KENYA

By



Authorized Representative

Name:

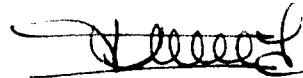
Henry Rotich

Title:

CABINET SECRETARY
NATIONAL TREASURY

INTERNATIONAL DEVELOPMENT ASSOCIATION

By



Authorized Representative

Name:

Davidoon Gaye

Title:

Country Director

SCHEDULE 1

Program Description

The objective of the Program is to strengthen the capacity of the Recipient's core national and county institutions to improve delivery of devolved services at the county level.

The Program consists of the following:

1. Provision of capacity and performance grants to counties for the carrying out of development and capacity-building activities by counties.
2. Carrying out a series of activities to expand the capabilities of national level agencies to provide support for counties, including inter alia, the timely audits of county financial statements, and scaled-up capacity building of counties.

SCHEDULE 2

Program Execution

Section I. Implementation and Institutional Arrangements

A. Program Fiduciary, Environmental and Social Systems

Without limitation on the provisions of Article IV of the General Conditions, the Recipient shall carry out the Program, or cause the Program to be carried out, in accordance with financial management, procurement and environmental and social management systems acceptable to the Association (“Program Fiduciary, Environmental and Social Systems”) which are designed to ensure that:

1. the Financing proceeds are used for their intended purposes, with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability; and
2. the actual and potential adverse environmental and social impacts of the Program are identified, avoided, minimized, or mitigated, as the case may be, all through an informed decision-making process.

B. Anti-Corruption

Without limitation on the provisions of Part A of this Section, the Recipient shall carry out the Program, or cause the Program to be carried out, in accordance with the provisions of the Anti-Corruption Guidelines.

C. Action Plan

Without limitation on the generality of Part A of this Section I, the Recipient shall carry out the Action Plan, in accordance with the schedule set out in the said Action Plan in a manner satisfactory to the Association. Except as the Association may agree after consultation with the Recipient, the Recipient shall not amend, waive, suspend, terminate or abrogate said Action Plan or any provision thereof.

D. Additional Arrangements

1. The Recipient shall ensure that:
 - (a) the MODP, at the national level, shall be responsible for the overall management of Program activities, ensuring coordination and providing technical support to the Eligible CGs;

- (b) the NT shall be responsible for the overall financial aspects of the Program, including the timely transfers of necessary funding: (i) to national government level agencies to execute their roles envisioned under the Program; and (ii) to County governments; and
 - (c) the NT shall, by no later than June 30, 2016, provide the Association with evidence of the Recipient's system for tracking Program expenditures.
- 2. For the purpose of providing oversight to the Program, the Recipient shall
 - (a) maintain a KDSP Joint Steering Committee (JSC): (i) to be co-chaired by the MODP and a representative of the governors of the Eligible counties, and comprising National Treasury, and any other members who may be co-opted by the JSC; and (ii) to be vested with the responsibility of overseeing the progress and effectiveness of the Program, monitoring the achievement of results, ensuring adequate budget provision for the full duration of the Program, and providing policy direction;
 - (b) maintain the Program Technical Committee: (i) to be chaired by the MODP, and comprising a representative of the Eligible counties and representatives of the NT, the Recipient's Commission on Revenue Allocation, Controller of Budget, Intergovernmental Technical Relations Committee, Kenya School of Government, and any other members who may be co-opted by the JSC; and (ii) to review and approve the Terms of Reference for and results of the Annual Capacity and Performance Assessment (ACPA), review complaints and make recommendations on Program funds release to Counties, advise on modifications to the ACPA Manual; and
 - (c) maintain the KDSP Secretariat with a composition, mandate, terms of reference and resources satisfactory to the Association, to support the execution and operation of the Program.
- 3. Without limitation on the generality of Part A of this Section I, the Recipient shall maintain, throughout the implementation of the Program, the offices, units, agencies and departments, and ensure that they are assigned with technical, social and environmental safeguards, fiduciary and other responsibilities for implementing the Program, all with powers, functions, institutional capacity and staffing acceptable to the Association and with resources adequate to fulfill their respective functions under the Program.

Program Operational Manual

- 4. The Recipient shall:
 - (a) prepare and furnish to the Association for its review: (i) a Program Operational Manual containing detailed institutional, administrative, financial, technical and operational guidelines and procedures for the implementation of the Program, and including: (A) the Capacity and Performance Assessment Manual containing a description of the Minimum Access Conditions, Minimum Performance Conditions and the

Performance Measures and arrangements, policies and procedures for the carrying out of the Annual Capacity and Performance Assessment; (B) the Capacity and Performance Grant Manual containing a description of the systems, policies and procedures for the management and execution of the Capacity and Performance grants to counties and including, inter alia, a description of the system for assessing potential environmental and social impacts of the grant financed investments and designing appropriate mitigation, management, and monitoring measures in respect of said impacts; and (C) a Capacity Building Manual containing, inter alia, guidelines for the preparation of the annual Capacity Building Plans to be undertaken by the MODP, DPSM, NT, KSG and counties, and a description of the methodology for calculating the Capacity Building Plan Implementation Rate of each Capacity Building Plan; and (ii) thereafter adopt and carry out the Program in accordance with such Program Operational Manual.

- (b) The Recipient shall not amend, abrogate or suspend, or permit to be amended, abrogated or suspended any provision of the Program Operational Manual without the prior written agreement of the Association.
- (c) Notwithstanding the foregoing, if any provision of any of the manuals referred to in (a) above is inconsistent with the provisions of this Agreement, the provisions of this Agreement shall prevail.

Program Participation Agreements

- 5. (a) Without limitation on the generality of Part A of this Section I, the Recipient may, enter into a Program Participation Agreement (PPA), as approved by the Association, with any county, and shall not disburse funds to any county that has not signed such an agreement. Such PPA shall provide details on the mutual responsibilities for the implementation of the Program, such terms and conditions to include the obligation of the County to: (i) carry out its activities under the Program with due diligence and efficiency and in accordance with the Program Operational Manual; (ii) maintain policies and procedures adequate to enable it to monitor the progress of its activities under the Program and the achievement of the Program's objectives; (iii) enable the Recipient and the Association to inspect the Program activities within the county's jurisdiction, its operation and any relevant records and documents; and (iv) prepare and furnish to the Recipient and the Association all such information as the Recipient or the Association may reasonably request relating to the foregoing.

- (b) The Recipient shall exercise its rights and perform its obligations under each Program Participation Agreement in such manner as to protect the interests of the Recipient and the Association and to accomplish the purposes of the Financing. Except as the Association shall otherwise agree, the Recipient shall not assign, amend, abrogate or waive any Program Participation Agreement or any of its provisions.

E. Annual Performance Assessment

Without limitation on the provisions of Part A of this Section I, the Recipient shall, for each Eligible CG and for each FY throughout the period of implementation of the Program:

1. Carry out or cause to be carried out, in accordance with the Annual Capacity & Performance Assessment Manual, an assessment covering said FY to determine:
 - (a) whether the Eligible CG has met the Minimum Access Conditions for said FY;
 - (b) whether the Eligible CG has met the Minimum Performance Conditions for said FY; and
 - (c) the Eligible CG's Performance Score for said FY.
2. Furnish said assessment, to the Association as per the process described in the Annual Capacity & Performance Assessment Manual.
3. For purposes of carrying out each such assessment, engage independent consultants, not later than August 31 of each FY, with terms of reference, qualifications, and experience satisfactory to the Association.

F. Value for Money Audits

Without limitation on the provisions of Part B of Section III, the Recipient shall, unless otherwise agreed in writing between the Recipient and the Association, in each Fiscal Year beginning in FY 2017/2018, carry out under terms of reference satisfactory to the Association, and consistent with its Public Finance Management Act, a value for money audit of a sample of activities implemented by counties and ensure that the findings are incorporated into the ACPA Report.

G. Midterm Review

The Recipient shall:

- (a) carry out not later than 31 December, 2018, a midterm review to assess the overall progress in implementation of the Program;
- (b) prepare and furnish to the Association, at least three (3) months prior to such review, a progress report on the implementation of the Program, of such scope and in such detail as shall be acceptable to the Association; and

- (c) review, jointly with the Association, the report referred to in paragraph (b) above and thereafter take all measures required to ensure the efficient completion of the Program and the achievement of the objectives thereof, based on the conclusions and recommendations of said report and the Association's views on the matter.

Section II. Excluded Activities

The Recipient shall ensure that the Program shall include no activities which:

- (a) in the opinion of the Association are likely to have significant adverse impacts that are sensitive, diverse, or unprecedented on the environment and/or affected people; or
- (b) involve procurement of: (i) works, estimated to cost \$50,000,000 equivalent or more per contract; (ii) goods, estimated to cost \$30,000,000 equivalent or more per contract; (iii) Information Technology systems and non-consulting services, estimated to cost \$20,000,000 equivalent or more per contract; and (iv) consultants' services, estimated to cost \$15,000,000 equivalent or more per contract.

Section III. Program Monitoring, Reporting and Evaluation; Audits

A. Program Reports

The Recipient shall monitor and evaluate the progress of the Program and prepare Program Reports in accordance with the provisions of Section 4.08 of the General Conditions. Each Program Report shall cover the period of one calendar year, and shall be furnished to the Association not later than three months after the end of the period covered by such report.

B. Program Financial Audits

Without limitation on the generality of Section I.A of this Schedule 2 and Section 4.09 of the General Conditions, the Recipient shall have the Financial Statements audited in accordance with the provisions of Section 4.09(b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the Association not later than twelve months after the end of such period.

Section IV. Withdrawal of Financing Proceeds

A. General

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional

instructions as the Association may specify from time to time by notice to the Recipient to: (a) repay the Preparation Advance; and (b) finance the Program Expenditures, on the basis of the results (“Disbursement Linked Results” or “DLRs”) achieved by the Recipient or the Program Implementing Entity, as measured against specific indicators (“Disbursement Linked Indicators” or “DLIs”); all as set forth in the table in paragraph 2 of this Part A.

2. The following table specifies each category of withdrawal of the proceeds of the Financing (including the Disbursement Linked Indicators as applicable) (“Category”), the Disbursement Linked Results for each Category (as applicable), and the allocation of the amounts of the Financing to each Category:

Category (including Disbursement Linked Indicator as applicable)	Disbursement Linked Result (as applicable)	Disbursement Calculation Formula	Amount of the Financing Allocated (expressed in SDR)
<p>(1) DLI #1: OAG submits audit reports on time and in compliance with ISSAI for all counties that have submitted financial statements in compliance with the PFMA and prevailing accounting standards</p>	<p>DLR#1.1 OAG submits said audit for FY2014/15</p> <p>DLR#1.2 OAG submits said audit for FY2015/16</p> <p>DLR#1.3 OAG submits said audit for FY2016/17</p> <p>DLR#1.4 OAG submits said audit for FY2017/18</p> <p>DLR#1.5 OAG submits said audit for FY2018/19</p>	<p>DLR1.1: SDR 720,000 if submitted by 31st May; SDR 540,000 if submitted by 30th June</p> <p>Other DLRs: SDR 720,000 if submitted by 31st January; SDR 540,000 if submitted by 28th February</p>	<p>3,610,000</p>
<p>(2) DLI #2: Introduction and timely implementation of Annual Capacity & Performance Assessments by MODP</p>	<p>DLR#2.1 MODP has undertaken sensitization of all counties as per the POM</p> <p>DLR#2.2 MODP has engaged consultants to enable the completion of ACPA in time for inclusion of grant allocations in County Allocation of Revenue Act for FY2016/17</p> <p>DLR#2.3 MODP has engaged consultants to enable the completion of ACPA in time for inclusion of grant allocations in County Allocation of Revenue Act for FY2017/18</p>	<p>DLR 2.1: SDR 720,000</p> <p>DLR 2.2 – 2.3: SDR 1,590,000 if ACPA includes Value for Money Assessment; SDR 1,225,000 if no Value for Money Assessment included</p>	<p>5,840,000</p>

	<p>DLR#2.4 MODP has engaged consultants to enable the completion of ACPA in time for inclusion of grant allocations in County Allocation of Revenue Act for FY2018/19</p> <p>DLR#2.5 MODP has engaged consultants to enable the completion of ACPA in time for inclusion of grant allocations in County Allocation of Revenue Act for FY2019/20</p> <p>DLR#2.6 MODP has engaged consultants to enable the completion of ACPA in time for inclusion of grant allocations in County Allocation of the Revenue Act, for FY2020/21</p>	<p>DLR 2.4 - 2.5: SDR 902,500 if ACPA includes Value for Money Assessment; SDR 540,000 if no Value for Money Assessment included</p> <p>DLR 2.6: SDR 865,000 if ACPA includes Value for Money Assessment; SDR 505,000 if no Value for Money Assessment included</p>	
<p>(3) DLI #3: MODP implements annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps</p>	<p>DLR#3.1 MODP has submitted a capacity building plan for FY2015/16</p> <p>DLR#3.2 MODP has submitted a capacity building plan for FY 2016/17 and has implemented at least 70% of the FY2015/16 plan</p> <p>DLR#3.3 MODP has submitted a capacity building plan for</p>	<p>DLR 3.1: SDR 540,000 if the workplan meets all conditions in the POM. The allocation will decrease proportionally if the workplan covers a period of less than 6 months</p> <p>DLRs 3.2: SDR 1,625,000</p> <p>DLRs 3.3– 3.5: SDR 1,080,000</p>	<p>5,415,000</p>

	<p>FY2017/18 and has implemented at least 75% of the FY2016/17 plan</p> <p>DLR#3.4 MODP has submitted a capacity building plan for FY 2018/19 and has implemented at least 80% of the FY2017/18 plan</p> <p>DLR#3.5 MODP has submitted a capacity building plan for FY 2019/20 and has implemented at least 80% of the FY2018/19 plan</p>	<p>If implementation of workplans is below target percentage, the disbursement will be reduced as follows: Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage</p>	
<p>(4) DLI #4: DPSM implements annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps</p>	<p>DLR#4.1 DPSM has submitted a capacity building plan for FY2015/16</p> <p>DLR#4.2 DPSM has submitted a capacity building plan for FY 2016/17 and has implemented at least 70% of the FY2015/16 plan</p> <p>DLR#4.3 DPSM has submitted a capacity building plan for FY 2017/18 and has implemented at least 75% of the FY2016/17 plan</p> <p>DLR#4.4 DPSM has submitted a capacity building plan for FY2018/19 and has implemented at least 80% of the FY2017/18 plan</p>	<p>DLR 4.1: SDR 180,000 if the workplan meets all conditions in the POM. The allocation will decrease proportionally if the workplan covers a period of less than 6 months.</p> <p>DLRs 4.2: SDR 540,000</p> <p>DLRs 4.3– 4.5: SDR 360,000</p> <p>If implementation of workplans is below target percentage, the disbursement will be reduced as follows: Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage</p>	<p>1,805,000</p>

	DLR#4.5 DPSM has submitted a capacity building plan for FY 2019/20 and has implemented at least 80% of the FY 2018/19 plan		
(5) DLI #5: National Treasury implements annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps	<p>DLR#5.1 NT has submitted a capacity building plan for FY 2015/16</p> <p>DLR#5.2 NT has submitted a capacity building plan for FY 2016/17 and has implemented at least 70% of the FY2015/16 plan</p> <p>DLR#5.3 NT has submitted a capacity building plan for FY 2017/18 and has implemented at least 75% of the FY2016/17 plan</p> <p>DLR#5.4 NT has submitted a capacity building plan for FY 2018/19 and has implemented at least 80% of the FY 2017/18 plan</p> <p>DLR#5.5 NT has submitted a capacity building plan for FY 2019/20 and has implemented at least 80% of the FY 2018/19 plan</p>	<p>DLR 5.1: SDR 720,000 if the workplan meets all conditions in the POM. The allocation will decrease proportionately if the workplan covers a period of less than 6 months</p> <p>DLRs 5.2: SDR 2,165,000</p> <p>DLRs 5.3– 5.5: SDR 1,445,000</p> <p>If implementation of workplans is below target percentage, the disbursement will be reduced as follows: Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage</p>	7,220,000
(6) DLI #6: Kenya School of Government	DLR#6.1 KSG has submitted a capacity	DLR 6.1: SDR 360,000 if the workplan meets all conditions in the POM. The	3,610,000

<p>implements annual planned activities to address county capacity gaps</p>	<p>building plan for FY2015/16</p> <p>DLR#6.2 KSG has submitted a capacity building plan for FY 2016/17 and has implemented at least 70% of the FY2015/16 plan</p> <p>DLR#6.3 KSG has submitted a capacity building plan for FY 2017/18 and has implemented at least 75% of the FY2016/17 plan</p> <p>DLR#6.4 KSG has submitted a capacity building plan for FY 2018/19 and has implemented at least 80% of the FY2017/18 plan</p> <p>DLR#6.5 KSG has submitted a capacity building plan for FY 2019/20 and has implemented at least 80% of the FY2018/19 plan</p>	<p>allocation will decrease proportionally if the workplan covers a period of less than 6 months.</p> <p>DLR 6.2 SDR 1,080,000</p> <p>DLRs 6.3– 6.5: SDR 720,000</p> <p>If implementation of workplans is below target percentage, the disbursement will be reduced as follows: Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage</p>	
<p>(7) DLI #7: Counties have undergone annual capacity & performance assessment and met access conditions</p>	<p>DLR#7.1 Counties have complied with Minimum Access Conditions for 2016/17¹</p>	<p>DLR 7.1: sum of allocations to qualifying counties as per formula below:</p> <p>The amount allocated to each qualifying county is as follows: Annual allocation for qualifying county i =</p>	<p>23,826,000</p>

¹ No disbursement in Year 1 of the Program

	<p>DLR#7.2 counties have complied with Minimum Access Conditions for FY2017/18</p> <p>DLR#7.3 counties have complied with Minimum Access Conditions for FY2018/19</p> <p>DLR#7.4 counties have complied with Minimum Access Conditions for FY2019/20</p>	<p>(Average County Level 1 Grant X 0.5)+ (Average County Level 1 Grant X 0.5 X 47) X (equitable share percentage of County i/sum of equitable share percentage of all Counties)</p> <p>DLRs 7.2-7.4: Annual DLR disbursement amount = Average County Level 1 Grant Amount X number of Counties that have met Minimum Access Conditions.</p> <p>This amount is allocated between counties as follows: Annual allocation for qualifying county i = (Average County Level 1 Grant X 0.5)+ (Average County Level 1 Grant X 0.5 X number of Counties that meet Minimum Access Conditions) X (equitable share percentages of County i/sum of equitable share percentage of all Counties that meet Minimum Access Conditions)</p>	
<p>(8) DLI #8: Counties have undergone annual capacity and performance assessment and have met Minimum Access Conditions and Minimum Performance Conditions for grant funding and implemented</p>	<p>DLR#8.1 Counties comply with Minimum Performance Conditions for FY2017/18</p> <p>DLR#8.2 Counties comply with Minimum Performance Conditions for FY2018/19</p> <p>DLR#8.3 Counties comply with Minimum</p>	<p>DLRs 8.1-8.3: Annual DLR disbursement amount = Average County Level 2 Grant Amount X number of Counties that meet the MPCs</p> <p>This amount is allocated between counties as follows: Annual allocation for qualifying county i =</p>	<p>91,694,000</p>

projects according to Program requirements	Performance Conditions for FY2019/20	(Average County Level 2 Grant X number of counties that meet the Minimum Performance Conditions) X ({Performance Factor of county i X equitable share percentage of county i}/ {the sum of [Performance Factor X equitable share percentage] for all counties that meet Minimum Performance Conditions})	
(9) Preparation Advance to be repaid in accordance with Section 2.07(a) of the General Conditions	Not Applicable		1,380,000
TOTAL AMOUNT			144,400,000

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made:
 - (a) for purposes of Section 2.05 of the General Conditions, for payments for Program Expenditures made prior to the date of this Agreement;
 - (b) for any DLR, until and unless the Recipient has furnished evidence satisfactory to the Association that said DLR has been achieved, including verification reports from the Verification Agent, based on reports prepared by the Recipient certifying the achievement of the DLRs in accordance with procedures and arrangements and verification protocols satisfactory to the Association;
 - (c) for any DLR under Categories 7 and 8, unless and until the Recipient has furnished evidence satisfactory to the Association that an aggregate amount equivalent to the amount of the Financing to be withdrawn in respect of said DLR in the previous Fiscal year, was transferred by the Recipient to Eligible CGs in the previous Fiscal Year, in accordance with the disbursement calculation formulae provided in the table in Section IV.A.2; and

- (d) for the second tranche for any DLR under Categories 7 and 8: (i) unless the Recipient has furnished evidence satisfactory to the Association that an aggregate amount equivalent to the amount of the Financing withdrawn in respect of said DLR in the first tranche, was transferred by the Recipient to Eligible CGs, in accordance with the disbursement calculation formulae provided in the table in Section IV.A.2; or (ii) unless the Recipient has provided evidence, satisfactory to the Association, that such amounts were not fully transferred as a result of a violation of a law.
- 2. Subject to the provision of sub-paragraphs (c) and (d) in paragraph 1 above, the Association shall disburse the proceeds of DLRs 7 and 8 to the Recipient in two equal tranches, every six months, as specified in detail in the Program Operational Manual.
- 3. Notwithstanding the provisions of Part B.1(b) of this Section, the Recipient may, at any point in time, withdraw the proceeds of the Financing up to an aggregate amount not to exceed the equivalent of twenty-five percent (25%) of the amounts of the Financing proceeds (net of any cancellations), as advance for purposes of achieving one or more DLRs for which the Recipient shall subsequently furnish the evidence referred to in Part B.1(b) of this Section; provided, however, that if by the end of the acceptable period for the verification of DLR(s) the Recipient has withdrawn amounts in excess of the allocated Financing authorized for disbursement in respect of achieved and verified DLRs, the Association shall require the Recipient to refund the amount of such excess to the Association promptly upon notice thereof by the Association, in order for the Association to proceed with its cancellation.
- 4. Notwithstanding the provisions of Part B.1(b) of this Section, if the Association is not satisfied that any of the DLRs under any of the Categories has been achieved by the date by which the said DLR is set to be achieved, and/or the allocated Financing of such DLRs has/ have not been fully withdrawn the Association may, at any time, by notice to the Recipient, decide, in its sole discretion, to:
 - (a) authorize the withdrawal of such lesser amount of the unwithdrawn proceeds of the Financing then allocated to said Category which, in the opinion of the Association, corresponds to the extent of achievement of said DLR, said lesser amount to be calculated in accordance with the formula set out in the third column of the Table above;
 - (b) reallocate all or a portion of the proceeds of the Financing then allocated to said DLR to any other DLR; and/or
 - (c) cancel all or a portion of the proceeds of the Financing then allocated to said DLR.
- 5. The Closing Date is December 31, 2020.
- 6. Notwithstanding the foregoing provisions of this Section IV, if at any time after the Closing Date the Recipient has failed to provide evidence satisfactory to the Association that the Withdrawn Financing Balance does not exceed the total

amount of Program Expenditures paid by the Recipient, exclusive of any such expenditures financed by any other financier or by the Association or the Association under any other loan, credit or grant, the Recipient shall, promptly upon notice from the Association, refund to the Association such excess amount of the Withdrawn Financing Balance. The Association shall cancel the refunded amount of the Withdrawn Financing Balance.

SCHEDULE 3

Repayment Schedule

Date Payment Due	Principal Amount of the Credit repayable (expressed as a percentage)*
On each April 15 and October 15, commencing April 15, 2022, to and including October 15, 2053	1.5625%

* The percentages represent the percentage of the principal amount of the Credit to be repaid, except as the Association may otherwise specify pursuant to Section 3.03(b) of the General Conditions.

APPENDIX

Section I. Definitions

1. “Action Plan” means the Recipient’s Program Action Plan referred to in Section I.C of Schedule 2 to this Agreement, as may be amended from time to time with the agreement of the Association.
2. “Annual Capacity & Performance Assessment” or “ACPA” means each assessment, referred to in Section I.E of Schedule 2 to this Agreement, to be carried out by the Recipient in accordance with the provisions thereof.
3. “Anti-Corruption Guidelines” means the Association’s “Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing,” dated February 1, 2012, and revised July 10, 2015.
4. “Average County Level 1 Grant Amount” means K.Shs 30 million.
5. “Average County Level 2 Grant Amount” means K.Shs 150 million.
6. “Capacity Building Plan” means for each FY (as hereinafter defined), the capacity building plan to be prepared and adopted by the Recipient in accordance with the provisions of Section I.D.4 of Schedule 2 to this Agreement.
7. “Capacity Building Plan Implementation Rate” means, for each Capacity Building Plan to be carried out in a given FY, the rate of implementation of said plan by the end of the FY, calculated in accordance with the methodology set forth in the Program Operational Manual.
8. “Capacity and Performance Grants” means any grant provided to counties in accordance with the Program Operational Manual.
9. “Category” means a category set forth in the table in Section IV.A.2 of Schedule 2 to this Agreement. “County” means a devolved government structure established under Article 176 of the Recipient’s Constitution of 2010.
10. “County Government” or “CG” means the government established by the County, in accordance with the laws of the Recipient.
11. “County Allocation of Revenue Act” means the Recipient’s County Allocation of Revenue Act.
12. “DPSM” means the Department for Public Service Management.

13. “Disbursement Linked Indicator” or “DLI” means in respect of a given Category, the indicator related to said Category as set forth in the table in Section IV.A.2 of Schedule 2 to this Agreement.
14. “Disbursement Linked Result” or “DLR” means in respect of a given Category, the result under said Category as set forth in the table in Section IV.A.2 of Schedule 2 to this Agreement, on the basis of the achievement of which, the amount of the Financing allocated to said result may be withdrawn in accordance with the provisions of said Section IV.
15. “Eligible County” or “Eligible CG” means the county, which meets all the criteria and has agreed to participate in the Program.
16. “Equitable Share Percentage” means the percentage of the equitable share of national revenues that the county receives as a result of the prevailing equitable share revenue sharing formula adopted by the Recipient’s Parliament.
17. “Fiscal Year” or “FY” means the fiscal year of the Recipient beginning on July 1 of a calendar year and ending on June 30 of the following calendar year.
18. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 31, 2010, with the modifications set forth in Section II of this Appendix.
19. “ISSAI” means International Standards of Supreme Audit Institutions.
20. “KSG” means the Kenya School of Government, or any successor thereto.
21. “JSC” means the Joint Steering Committee referred to in Section I.D.2 of Schedule 2 to this Agreement.
22. “KDSP” means the Kenya Devolution Support Program.
23. “KDSP Secretariat” means the secretariat established by the Recipient pursuant to Section 5.01 of this Agreement.
24. “KDSP Technical Committee” means the technical committee established by the Recipient pursuant to Section 5.01 of this Agreement.
25. “K.Shs” means Kenya Shilling, the currency of the Recipient.
26. “Minimum Access Conditions” means minimum conditions for access to level 1 grant in accordance with the methodology set forth in the Annual Capacity & Performance Assessment Manual.

27. “Minimum Performance Conditions” means minimum conditions for access to level 2 grant in accordance with the methodology set forth in the Annual Capacity & Performance Assessment Manual.
28. “MODP” means the Recipient’s Ministry of Devolution and Planning, and any successor thereto.
29. “NT” means the Recipient’s National Treasury, and any successor thereto.
30. “OAG” means the Recipient’s Office of the Auditor general.
31. “Performance Factor” means the Performance Score raised to the power of four.
32. “Performance Measures” means performance indicators as assessed in accordance with the methodology set forth in the Annual Capacity & Performance Assessment Manual.
33. “Performance Score” means for each Eligible CG for each FY, the score achieved by the said Eligible CG during said FY as measured against the ACPA Performance Measures and calculated in accordance with the methodology set forth in the Annual Capacity & Performance Assessment Manual.
34. “Preparation Advance” means the advance referred to in Section 2.07 (a) of the General Conditions, granted by the Association to the Recipient pursuant to the letter agreement signed on behalf of the Association and on behalf of the Recipient on February 12, 2016.
35. “Program Operational Manual” or “POM” means the Manual to be adopted by the Recipient pursuant to Section 5.01 of this Agreement, and referred to in Section I.D.4 of Schedule 2 to this Agreement.
36. “Program Participation Agreement” or “PPA” means with respect to each Eligible CG, the agreement acceptable to the Association to be entered into between the Recipient and said Eligible CG, in accordance with the provisions of Section I.D.5 of Schedule 2 to this Agreement.
37. “Verification Agent” means any of the independent entities to be engaged by the Recipient for the purposes of certifying the achievement of the DLRs as referred to in Section IV.B.1 of Schedule II to this Agreement.

Section II. Modifications to the General Conditions

The modifications to the General Conditions are as follows:

1. Wherever used throughout the General Conditions, the term “the Project” is modified to read “the Program”, the term “the Project Agreement” is modified to read “the Program Agreement”, the term “Project Implementing Entity” is modified to read “the Program Implementing Entity”, the term “Project Report” is modified to read “Program Report”; and the term “Eligible Expenditures” is modified to read “Program Expenditures”.
2. In the **Table of Contents**, the references to Sections, Section names and Section numbers are modified to reflect the modifications set forth in the paragraphs below.
3. Section 2.02, *Special Commitment by the Association*, is deleted in its entirety, and the subsequent Sections in Article II are renumbered accordingly.
4. In Section 2.02 (originally numbered as Section 2.03), the heading “*Applications for Withdrawal or for Special Commitment*” is replaced with “*Applications for Withdrawal*”, and the phrase “or to request the Association to enter into a Special Commitment” is deleted.
5. The section originally numbered as Section 2.04, *Designated Accounts* is deleted in its entirety, and the subsequent Sections in Article II are renumbered accordingly.
6. Paragraph (a) of Section 2.03 (originally numbered as Section 2.05), *Eligible Expenditures* (renamed “Program Expenditures” in accordance with paragraph 1 of this Section II), is modified to read: “(a) the payment is for the financing of the reasonable cost of expenditures required for the Program and to be financed out of the proceeds of the Financing in accordance with the provisions of the Legal Agreements;”.
7. The last sentence of Section 2.04 (originally numbered as Section 2.06), *Financing Taxes*, is modified to read: “To that end, if the Association at any time determines that the amount of any such Tax is excessive, or that such Tax is discriminatory or otherwise unreasonable, the Association may, by notice to the Recipient, exclude such amount or such Tax from the Program Expenditures to be financed out of the proceeds of the Financing, as required to ensure consistency with such policy of the Association.”
8. Section 2.06 (originally numbered as Section 2.08), *Reallocation*, is modified to read: “Notwithstanding any allocation of an amount of the Financing to a withdrawal category under the Financing Agreement, the Association may, by notice to the Recipient, reallocate any other amount of the Financing to such

category if the Association reasonably determines at any time that such reallocation is appropriate for the purposes of the Program.”

9. Section 6.01, Cancellation by the Recipient, is modified to read: “The Recipient may, by notice to the Association, cancel any amount of the Unwithdrawn Financing Balance.”
10. Paragraph (d) of Section 6.03, Cancellation by the Association, entitled “Misprocurement”, is deleted, and subsequent paragraphs are relettered accordingly.
11. Section 6.04, Amounts Subject to Special Commitment not Affected by Cancellation or Suspension by the Association, is deleted in its entirety, and subsequent Sections in Article VI and references to such Sections are renumbered accordingly.
12. In the **Appendix, Definitions**, all references to Section numbers are modified, as necessary, to reflect the modifications set forth above. In addition, the definition of the term “Special Commitment” set forth in paragraph 50 is deleted in its entirety, and all subsequent paragraphs are renumbered accordingly.