

**CONFORMED COPY**

**CREDIT NUMBER 4278-KE**

# **Financing Agreement**

**(Western Kenya Community Driven Development and Flood Mitigation Project)**

**between**

**REPUBLIC OF KENYA**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated May 7, 2007**

**CREDIT NUMBER 4278-KE**

**FINANCING AGREEMENT**

AGREEMENT dated May 7, 2007, 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 the Financing 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 fifty seven million eight hundred thousand Special Drawing Rights (SDR 57,800,000) (“Credit”) to assist in financing the project described in Schedule 1 to this Agreement (“Project”).
- 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 The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.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 May 15 and November 15 in each year.
- 2.06. The principal amount of the Credit shall be repaid in accordance with repayment schedule set forth in Schedule 3 to this Agreement.

2.07. The Payment Currency is Dollars.

### **ARTICLE III — PROJECT**

3.01. The Recipient declares its commitment to the objective of the Project. To this end, the Recipient shall carry out the Project 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 Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

### **ARTICLE IV — EFFECTIVENESS; TERMINATION**

4.01. The Additional Conditions of Effectiveness consist of the following: The Recipient;

- (a) has developed an Institutional Risk Based Management Framework satisfactory to the Association;
- (b) has prepared and adopted a Project Implementation Plan (PIP) in form and substance satisfactory to the Association; and
- (c) has opened a Project Account and deposited therein Kenya Shillings twenty nine million two hundred and fifty thousand (Shs. 29, 250,000).

4.02. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

4.03. For purposes of Section 8.05 (b) of the General Conditions, the date on which the obligations of the Recipient under Articles IV and V of the General Conditions and Schedule 2 of this Agreement shall terminate is 40 years after the date of this Agreement.

**ARTICLE V — REPRESENTATIVE; ADDRESSES**

5.01. The Recipient's Representative is the Minister for Finance.

5.02. The Recipient's Address is:

Ministry of Finance  
P.O Box 30007, 00100  
Nairobi, Kenya

Cable address: Facsimile:

FINANCE 254 20 330 426  
NAIROBI 254 20 218 475

5.03. 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 248423 (MCI) or 1-202-477-6391  
Washington, D.C. 64145 (MCI)

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

**REPUBLIC OF KENYA**

**By:** */s/ Amos Kimunya*  
**Authorized Representative**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**By:** */s/ Colin Bruce*  
**Authorized Representative**

## **SCHEDULE 1**

### **Project Description**

The objective of the Project is to empower local communities to engage in wealth creating activities, lower the incidence of poverty and reduce the vulnerability of the poor to adverse outcomes associated with recurrent flooding.

The Project consists of the following parts:

#### **Part 1      Community Driven Development**

- (a) Provision of grant financing in the Project Area to communities for the purpose of:
  - (i) supporting livelihoods-based Micro-Projects identified and prioritized by the communities;
  - (ii) training communities to enhance their capacity to plan, manage and implement development activities;
  - (iii) supporting youth-driven Micro-Projects;
  - (iv) providing specialized training and support to community Micro-Projects targeted at addressing malaria;
  - (v) providing technical assistance and financial support to set up a self-sustaining Community Foundation with the objective of supporting local community development initiatives.
- (b) Promoting local level development through supporting proposed investment projects that are beneficial to several communities.

#### **Part 2      Flood Mitigation**

- (a) Addressing flood mitigation in the Nzoia and Yala River Basins through:
  - (i) promoting catchment management to reduce and/or minimize catchment degradation through: (i) improving land use practices on steep slopes and

degraded areas, (ii) protecting river banks and wetlands, (iii) improving agronomic practices in fragile areas, and (iv) improving water management including construction of check dams and small scale regulating mechanisms;

- (ii) identifying and prioritizing key micro-catchments for investments; and
  - (iii) providing training and technical support on catchment management to communities.
- (b) Conducting analytical studies for the purpose of constructing multi-purpose flood protection structures for the mid-catchment zone of the Nzoia River basin.
  - (c) Promoting effective flood plain management by (a) rehabilitating and strengthening existing flood plains structures to provide protection against average seasonal river flows and floods of up to a 10-year return period event, (b) carrying out flood management activities with communities to accommodate controlled seasonal flooding of fields, maintaining fertility and increasing agricultural incomes, and (c) enhancing communities capacity to own and maintain flood plain investments.
  - (d) Supporting the establishment and implementation of a flood early warning system through: (a) collecting information on rainfall and river levels in the catchment, and modeling and satellite imagery, (b) developing national and local flood mitigation plans, (c) establishing the capacity for flood disaster management, and (d) disseminating information on early warning to decision makers and communities for appropriate response.

### **Part 3 Implementation Support**

- (a) Providing support for policy analysis, advocacy and local development to identify and develop new opportunities for economic growth in the Project Area.
- (b) Establishing and supporting a project coordination structure including recruitment and remuneration of staff.
- (c) Provision of training to relevant staff on the various project management skills including fiduciary and accountability skills, environment, watershed management, and community participatory processes.

- (d) Establishment of a monitoring and evaluation system which comprises an internal monitoring and information system and an external impact assessment system.



## **SCHEDULE 2**

### **Project Execution**

#### **Section I. Implementation Program**

##### **A. Institutional Arrangements**

1. The Recipient shall designate the Ministry of State for Special Programs in the Office of the President, with the responsibility for the overall project implementation to be supported by a Project Coordinating Unit (PCU) to be set up no later than July 31, 2007 or any other date to be agreed with the Association, with staffing and resources satisfactory to the Association.
2. The Recipient shall, no later than December 31, 2007 or any other date to be agreed with the Association, establish a District Steering Group (DSG) for each district in the Project Area, comprising of key stakeholders including civil society with the responsibility for developing and approving annual work programs, monitoring and implementation of the Project at the district level.
3. The Recipient shall ensure that the PCU headed by a National Project Coordinator, carries out project implementation at the local level with a District Coordinating Unit (DCU) headed by a District Project Coordinator and agreed staff with skills in financial and project management.
4. In implementing the Project at the community level, the Recipient shall no later than June 30, 2009 or any other date agreed with the Association, establish multi-purpose Community Development Committees (CDC) in all identified intervention areas within the Project Area. The CDCs will be assisted by Mobile Advisory Teams consisting of technical staff from the Ministries and civil society organizations with the responsibility for carrying out participatory processes and ensuring that the needed technical and managerial skills are available in each CDC to prepare the required Community Action Plans.

##### **B. Other Arrangements**

1. The Recipient shall:
  - (a) carry out the Project in accordance with the Project Implementation Plan (PIP) in form and substance satisfactory to the Association, which shall provide details of all the operational guidelines and procedures as shall

have been agreed with the Association for the implementation, monitoring and supervision of the Project, including but not limited to the composition, terms of reference and mandates of the National Project Coordinating Unit, and the responsibilities of any other entities at the local level;

- (b) not amend or waive any provision of the PIP without prior approval of the Association, if such amendment or waiver may, in the opinion of the Association, materially or adversely affect the implementation of the Project.

- 2. In order to ensure that the rights of Indigenous Peoples and those facing loss of livelihood or displacement from land, are safeguarded and the environment protected, the Recipient shall ensure that, the Project is implemented in accordance with the Environmental and Social Management Framework, Resettlement Policy Framework, Indigenous Peoples Planning Framework and the relevant national legal and policy requirements.

**C. Community Micro-Projects**

- 1. Except as the Association shall otherwise agree, the Recipient shall in implementing Part 1 of the Project, apply the criteria, policies, procedures and guidelines set forth in the Project Implementation Plan which shall include: (a) a community contribution of 30%, (b) contain a social monitoring mechanism to ensure accountability, and (c) comply with procurement procedures satisfactory to the Association.
- 2. In implementing Part 1(a)(v) of the Project, the Recipient shall no later than July 31, 2009 or any other date to be agreed with the Association set up a Community Foundation under terms of reference satisfactory to the Association to finance activities approved by an Advisory Board comprising local community leaders and representatives selected in accordance with the criteria set forth in the PIP.
- 3. In implementing Part 1(a)(iii) of the Project, the Recipient shall comply with criteria set forth in the PIP and assess Youth Action Plans in accordance with the aforementioned criteria.

**D. Flood Mitigation**

- 1. In implementing Part 2 of the Project, the Recipient shall ensure that: (a) the flood mitigation activities are coordinated by the Lake Victoria North Water Resources Management Authority in consultation with officers working on flood

mitigation and natural resources management at the PCU, and (b) apply the procedures stipulated in the PIP.

2. In implementing Part 2(a)(ii) of Section 1, Schedule 2 to the Agreement, the Recipient shall ensure that the Micro-Catchment Projects proposed by the Water Resource Users' Association are in conformity with Micro-Catchment Action Plans and are selected in accordance with criteria consisting of: (a) community readiness or existing level of community organization, (b) significance of the micro-catchments contribution to downstream sedimentation, (c) environmentally sensitive or critical areas highly prone to environmental degradation, (d) presence of springs or other sources of surface or ground water critical to the maintenance of ecosystems services, (e) concentration of small producers, (f) land use and soil management aspects, and (g) willingness and ability of the community to contribute 5% of the total micro-catchment project costs.

## **Section II. Project Monitoring, Reporting and Evaluation**

### **A. Project Monitoring**

1. The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of indicators set forth in paragraph 2 below. Each Project Report shall cover the period of one fiscal year, and shall be furnished to the Association not later than three months after the end of the period covered by such report.
2. The performance indicators referred to above in sub-Paragraph (1) consist of the following:
  - (a) Number of men and number of women empowered to participate in decision making at community and district levels.
  - (b) Number of Community Action Plans (CAPS) and Youth Action Plans (YAPS) developed.
  - (c) The proportion of the population of: (i) under-five years old children, and (ii) pregnant women that sleep under insecticide treated nets.
  - (d) Number of livelihood based micro-catchment projects undertaken.

- (e) Number of appropriate soil and water conservation projects undertaken.
  - (f) Number of Micro-Catchments Action Plans prepared and approved.
3. For purposes of Section 4.08 (c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Association not later than 3 months after the Closing Date.
  4. The Recipient shall:
    - (a) review with the Association, by July 31 2009, or such later date as the Association shall request, and prepare a report on the progress on Project implementation and thereafter, take all measures required to ensure the efficient implementation of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the report;
    - (b) no later than July 31, 2011 carry out jointly with the Association, a Mid-Term Review of the progress made in carrying out the Project; and
    - (c) no later than thirty days after the completion of the Mid-Term Review, commence the implementation of the recommendations of the Mid-Term Review as agreed with the Association. The Mid-Term Review shall assess, *inter alia*: (i) the overall progress made during the implementation of the Project; and (ii) the results of the monitoring and evaluation activities.

**B. Financial Management, Financial Reports and Audits**

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.
2. Without limitation on the provisions of Part A of this Section, the Recipient shall prepare and furnish to the Association as part of the Project Report not later than forty-five days after the end of each calendar quarter, interim un-audited financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.
3. The Recipient shall have its 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, commencing with the fiscal year in which the first withdrawal under the Project Preparation Advance was made. The audited Financial Statements for each such period shall be furnished to the Association not later than six months after the end of such period.

4. The Recipient shall ensure that the scope of its Audits include the Financing provided to community investments and the Community Foundation.

### **Section III. Procurement**

#### **A. General**

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Schedule.
2. **Consultants' Services.** All consultants' services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Schedule.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

#### **B. Particular Methods of Procurement of Goods and Works**

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding.
2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used:

<b>Procurement Method</b>
(a) National Competitive Bidding
(b) Direct Contracting
(c) Shopping
(d) Community Participation

**C. Particular Methods of Procurement of Consultants' Services**

1. **Quality and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.
2. **Other Methods of Procurement of Consultants' Services.** The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b>Procurement Method</b>
(a) Quality Based Selection
(b) Least Cost Selection
(c) Single Source Selection
(d) Selection Based on Consultants' Qualifications
(e) Individual Consultants

**D. Review by the Bank of Procurement Decisions**

1. Except as the Association shall otherwise determine by notice to the Recipient, the following contracts shall be subject to Prior Review by the Association: (a) each contract for goods or works estimated to cost the equivalent of \$150,000 or more procured on the basis of International Competitive Bidding, Limited International Bidding or National Competitive Bidding, or Direct Contracting; (b) each contract for consultants' services provided by a firm estimated to cost the equivalent of \$100,000 or more; (c) each contract for consultants' services provided by an individual estimated to cost the equivalent of \$50,000 or more; and (d) all single source selection contracts. All other contracts shall be subject to Post Review by the Association.

**Section IV. Withdrawal of the Proceeds of the Financing**

**A. General**

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions and of this Section and such additional instructions as the Association shall specify by notice to the Recipient, to (a) repay the Project Preparation Advance in accordance with Section 2.07 of the General Conditions; and (b) finance Eligible Expenditures as set forth in the table in paragraph 2 below.
  
2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing (“Category”), the allocations of the amounts of the Financing to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<b>Category</b>	<b>Amount of the Credit Allocated (expressed in SDR)</b>	<b>Percentage of Expenditures to be Financed</b>
1. Civil Works	6,000,000	80%
2. Goods and Equipment	5,700,000	100 % of foreign expenditures, 90% of local expenditures
3. (a) Grants for Micro-projects		
(i) CDD Micro-projects	7,100,000	100% of the Recipient’s contribution
(ii) Community Foundation	200,000	100% of the Recipient’s contribution
(iii) Youth Micro-projects	500,000	100% of the Recipient’s contribution
(iv) Malaria Micro-projects	1,200,000	100% of the Recipient’s contribution
(b) Catchment Management Micro-projects	9,200,000	100% of the Recipient’s contribution
4. Consultants’ Services and Audit	7,300,000	100%
5. Training and Workshops	6,000,000	100%

6. Incremental Operating Costs:		
(a) Vehicle operations maintenance and insurance	1,500,000	90%
(b) Other operations and maintenance	7,100,000	90 % for expenditures incurred before June 30, 2009, 80% for expenditures made before June 30, 2011, 70% for expenditures made before June 30, 2013, and 60% thereafter.
7. Refund of Project Preparation Advance	330,000	
8. Unallocated	5,670,000	
<b>TOTAL AMOUNT</b>	<b>57,800,000</b>	

For the purposes of this Schedule: the term “Incremental Operating Costs” means the costs incurred for the purpose of maintaining equipment, vehicles operation, maintenance and insurance, office supplies, utilities, consumables, travel per diems and allowances, accommodation and staff allowances (excluding the salaries of government civil servants).

**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A of this Section no withdrawal shall be made
  - (a) for payments made prior to the date of this Agreement; and
  - (b) under Category 3 (a) (ii) of the Project until an Advisory Board with terms of reference satisfactory to the Association has been set up to oversee implementation of the activities under the Community Foundation.
  
2. The Closing Date is June 30, 2015.



**SCHEDULE 3**

**Repayment Schedule**

<b>Date Payment Due</b>	<b>Principal Amount of the Credit repayable (expressed as a percentage)*</b>
On each May 15 and November 15:	
commencing May 15, 2017 to and including November 15, 2026	<b>1%</b>
commencing May 15, 2027 to and including November 15, 2046	<b>2%</b>

\*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

### Definitions

1. “Advisory Board” means a body of local community representatives charged with the responsibility for oversight and providing guidance to the Community Foundation on the use of the funds;
2. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement;
3. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Recipients” published by the Bank in May 2004;
4. “Community Action Plans” means the plans stipulating prioritized community development interventions;
5. “Community Development Committee” or “CDC” means a committee established at the local level for the purpose of implementing and managing community development initiatives referred to in Section 1.A.3 of Schedule 2 to the Agreement;
6. “Community Foundation” means an organization established and operating pursuant to the Societies Act, Cap 108 for the purpose of promoting local philanthropic activities and referred to in Section I.C of Schedule 2 to the Agreement and Part 1(a)(v) of the Project;
7. “DCU” means the District Coordination Unit referred to in Section 1.A.2 of Schedule 2 to this Agreement;
8. “DSG” means the District Steering Group;
9. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005;
10. “Environmental and Social Management Framework” or “ESMF” means an instrument prepared and adopted by the Recipient on December 22, 2006 outlining the process for management of environmental and social aspects of the Project, and referred to in paragraph B2 of Schedule 2 to of this Agreement;

11. “Fiscal Year” means the Recipient’s fiscal year beginning July 1 and ending June 30 of the next calendar year;
12. “Indigenous Peoples Planning Framework” or “IPPF” means the document prepared and adopted by the Recipient on December 22, 2006 outlining the guidelines to *inter alia* avert, minimize, mitigate, or compensate for any potentially adverse effects on the indigenous peoples' communities;
13. “Institutional Risk Based Management Framework” means an internal control system that is designed to identify, assess and respond to operational risks;
14. “Kenya Shillings” means the lawful currency of the Recipient;
15. “Lake Victoria North Water Resources Management Authority” or means an organization set up and operating pursuant to the Water Act No. 8 of 2002 or any legal successor thereto;
16. “Micro-Catchment Action Plan” means the plans stipulating prioritized micro-catchment development initiatives;
17. “Micro-Project” means an agreed set of specific activities to be carried out by a beneficiary community;
18. “Micro-Project Grant” means a grant made or proposed to be made out of the proceeds of the Financing by the Recipient for the purpose of financing Micro-Projects under Part 1 and Part 2 of the Project;
19. “Mobile Advisory Team” means the team of technical experts from local government and civil society organization referred to in Section 1.A.3 of Schedule 2 to the Agreement;
20. “Procurement Guidelines” means the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004;
21. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated February 16, 2007 and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs;

22. “Project Account” means a bank account opened by the Recipient for the purpose of depositing the Financing and the Recipient’s counterpart contribution to the costs of the Project;
23. “Project Area” means collectively all the districts of Western Province Mt. Elgon, Lugari, Butere-Mumias, Bungoma, Teso, Busia, Kakamega, Vihiga, and two districts in Nyanza province, Siaya and Bondo subject to such modifications thereof as the Recipient and the Association may agree upon from time to time to achieve the Project objective. For the purposes of sub-component under Part 2.a, the Project Area shall extend to the upper catchments of the Nzoia and Yala River Basins;
24. “Project Implementation Plan” or “PIP” means the Plan referred to in section 1.B.1 of Schedule 2 to this Agreement and adopted by the Recipient pursuant to the provisions of Section 4.01 of this Agreement setting forth, all procedures and arrangements governing the implementation of the Project, such as procurement and disbursement procedures, as the same may be amended from time to time, and such terms shall include any schedules, tables and annexes to the PIP;
25. “Project Coordination Unit” or “PCU” means the office/unit to be established by the Recipient to oversee the day-to-day implementation of the Project and referred to in Section 1.A.1 of Schedule 2 to this Agreement;
26. “Project Preparation Advance” means the advance referred to in Section 2.07 of the General Conditions, granted by the Association to the Recipient pursuant to the Letter Agreement signed on behalf of the Association on June 12, 2006 and on behalf of the Recipient on June 27, 2006;
27. “Resettlement Policy Framework” or “RPF” means the document adopted by the Recipient on December 22, 2006 that outlines the principles and procedures to be followed in the event that a sub-project leads to land acquisition and/or the loss of livelihoods within the Project Area;
28. “Water Resources Management Authority” or “WRMA” means a semi-autonomous state owned entity responsible for among others, developing principles, guidelines and procedures for water allocation, and duly established and operating pursuant to the Recipient’s Water Act No. 8 of 2002, or any legal successor thereto.
29. “Water Resources User Association” or “WRUA” means any local community organization established and operating pursuant to the Water Act No. 8 of 2002

for the purpose of promoting local participation in the development and management of water use; and

30. "Youth Action Plans" means development interventions identified by the youth.