

Public Disclosure Authorized

CONFORMED COPY

GRANT NUMBER H491-MW

Financing Agreement

(Additional Financing for Multi-Sectoral HIV / AIDS Project)

between

REPUBLIC OF MALAWI

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 18, 2009

GRANT NUMBER H491-MW

FINANCING AGREEMENT

AGREEMENT dated September 18, 2009 entered into between REPUBLIC OF MALAWI (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) for the purpose of providing additional financing for the Original Project (as defined in the Appendix to this Agreement). 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, the Original Financing Agreement, or this Agreement.
- 1.03. The Original Financing Agreement is amended as set out in Section II of 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 grant in an amount equivalent to nineteen million four hundred thousand Special Drawing Rights (SDR 19,400,000) (variously, “Grant” and “Financing”) to assist in financing the Original Project, as amended pursuant to Section II of the Appendix to this Agreement (“Project”).
- 2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of the Schedule to this Agreement.
- 2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Un-withdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.
- 2.04. The Payment Dates are May 1 and November 1 in each year.

- 2.05. The Payment Currency is the Dollar.

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 through the National AIDS Commission 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 the Schedule to this Agreement.

ARTICLE IV — REMEDIES OF THE ASSOCIATION

- 4.01. The Additional Event of Suspension consists of the following, namely, that a situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.

ARTICLE V — EFFECTIVENESS; TERMINATION

- 5.01. The Additional Conditions of Effectiveness consist of the following:
- (a) The Recipient has deposited the equivalent of \$1,300,000 into the Project Account for amounts outstanding pursuant to Section 3.04 (b) of the Original Financing Agreement and required to finance the Recipient's contribution for expenditures under the Original Project.
 - (b) The Recipient has made into the Project Account the first of the quarterly deposits referred to in Section V.A (b) of the Schedule to this Agreement.
 - (c) The Recipient has adopted a national HIV prevention strategy, in form and substance satisfactory to the Association.
- 5.02. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

ARTICLE VI — REPRESENTATIVE; ADDRESSES

6.01. The Recipient's Representative is its minister at the time responsible for finance.

6.02. The Recipient's Address is:

Ministry of Finance
P. O. Box 30049
Capital City
Lilongwe 3
Malawi

Facsimile:

265-1-78-91-73

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 Lilongwe, Malawi, as of the day and year first above written.

REPUBLIC OF MALAWI

By /s/ Ken Edward Kandodo

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Timothy Gilbo

Authorized Representative

SCHEDULE**Project Execution****Section I. Implementation Arrangements****A. Institutional Arrangements**

Sections I, II, and III of Schedule 4 to the Original Financing Agreement are hereby incorporated by reference in this Part A and renumbered as paragraphs 1, 2, and 3, respectively, and shall apply, *mutatis mutandis*, to the Grant, and the Recipient undertakes to comply with the provisions thereof to the same extent as if such provisions had been set out in full in this Agreement.

B. Anti-Corruption

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

C. Safeguards

The Recipient shall ensure that the Project Reports referred to in Section II.A.1 (a) of this Schedule include information on the implementation of the Health Care Waste Management Plan.

Section II. Project Monitoring, Reporting and Evaluation**A. Project Reports**

1. (a) 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 the indicators set forth below in sub-paragraph (b) of this paragraph. Each Project Report shall cover the period of one (1) calendar semester, and shall be furnished to the Association not later than 45 days after the end of the period covered by such report.

- (b) The performance indicators referred to above in sub-paragraph (a) consist of the following:

No.	Indicator
1.	Proportion of sexually active males and females who report having had sex with a non-regular partner within the previous 12 months (by age cohort)
2.	Proportion of sexually active males and females who report condom use during their last high-risk sexual encounter (sex with a non-cohabitating or non-regular partner) within the last 12 months (by gender and age cohorts, 15-24 years, 25-49 years)
3.	Median age at first sex among 15-24 year olds (by gender)
4.	Proportion of young people (15-24 years) who both correctly identify ways of preventing transmission and who reject major misconceptions about HIV transmission (by gender)

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 not later than 45 days after the end of each calendar quarter, interim unaudited 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 (1) fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the Association not later than six (6) months after the end of such period.
4. To this end, the Recipient shall, no later than two (2) months after the Effective Date, adopt revised terms of reference, in form and substance satisfactory to the Association, for the carrying out of said audit.

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 Section.
- 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 Section.
- 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:

Procurement Method
(a) Limited International Bidding
(b) National Competitive Bidding
(c) Shopping
(d) Direct Contracting
(e) Procurement from UNICEF
(f) Community Participation

- 3. Inspection and Audit.** The following provision shall be included in bidding documents relating to and contracts awarded on the basis of National Competitive Bidding and financed out of the proceeds of the Financing, namely, that: (a) pursuant to paragraph 1.14 (e) of the Procurement Guidelines, bidders, suppliers, and contractors are required to permit the Association to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by the Association; and (b) pursuant to paragraph 1.14 (a) (v) (bb) of the Procurement Guidelines, acts intended to materially impede the exercise of the Association's said inspection and audit rights are considered to be an obstructive practice for the purposes of paragraph 1.14 of the Procurement Guidelines.

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.

Procurement Method
(a) Least Cost Selection
(b) Selection Based on Consultants' Qualifications
(c) Selection under a Fixed Budget
(d) Single Source Selection
(e) Selection of Individual Consultants

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association's Prior Review. All other contracts shall be subject to Post Review by the Association.

Section IV. Withdrawal of the Proceeds of the Financing

A. General

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 shall specify by notice to the Recipient (including the “World Bank Disbursement Guidelines for Projects” dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance such percentage (inclusive of Taxes) of Eligible Expenditures, consisting of Subprogram Grants, and including goods, works, consultants’ services (including for audits), Training, and Operating Costs under a Subprogram, financed exclusively through the Pooled Account, as the Association may determine for each Fiscal Year.

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; or
 - (b) in respect of any Fiscal Year, unless the respective Annual Work Plan and Budget have been approved by the Association in accordance with the provisions of Section I.A.2 of this Schedule.
2. The Closing Date is September 30, 2012.

Section V. Other Undertakings

A. Counterpart Funding

Except as the Recipient and the Association shall otherwise agree, the Recipient shall:

- (a) maintain, throughout Project implementation, the Project Account in Malawi Kwacha in the name of the National AIDS Commission, in a commercial bank acceptable to the Association, on terms and conditions satisfactory to the Association;

- (b) deposit into the Project Account, on a quarterly basis throughout Project implementation, an amount equivalent to \$500,000, or such other amount as agreed with the Association, required to finance the Recipient's contribution for expenditures under the Project other than those financed from the proceeds of the Grant; and
- (c) ensure that the funds deposited into the Project Account in accordance with the provisions of subparagraph (b) of this Part A are used exclusively to finance expenditures under the Project other than those financed from the proceeds of the Grant.

B. Central Medical Stores Trust

The Recipient shall, no later than December 31, 2009, establish a central medical stores trust, with an institutional framework, functions, and resources satisfactory to the Association, for purposes of public medical procurement.

C. Annual Reviews

The Recipient shall review jointly with the Association and other Funding Partners, no later than three (3) months after the transmittal to the Association of every other Project Report referred to in Section II.A.1 (a) of this Schedule, or such later date as the Association shall request, said Project Report and the preceding one, and, thereafter, take all measures required to ensure the efficient completion of the Project and the Program and the achievement of the objective thereof, based on the conclusions and recommendations of said Reports and the Association's views on the matter.

D. Midterm Review

The Recipient shall:

- (a) carry out jointly with the Association and other Funding Partners, no later than 18 months after the Effective Date, a midterm review to assess the status of Project and Program implementation, as measured against the performance indicators referred to in Section II.A.1 (a) of this Schedule. Such review shall include an assessment of the following: (i) overall progress in Project and Program implementation; (ii) results of monitoring and evaluation activities; (iii) implementation of Annual Work Plans and Budgets; (iv) progress on procurement and disbursement; (v) progress on implementation of the Health Care Waste Management Plan; (vi) Project and Program implementation arrangements; and (vii) the need to make any adjustments to the Project and Program and reallocate funds to improve performance;
- (b) prepare and furnish to the Association and other Funding Partners, at least three (3) months before such review, a report, in scope and detail satisfactory to the Association, needed to undertake the review, 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 and the Program during the period preceding the date of the said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the Program and the achievement of the objective thereof during the period following such date; and
- (c) review, jointly with the Association and other Funding Partners, 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 Program and the achievement of the objective thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

APPENDIX**Section I. Definitions**

1. “Anti-Corruption Guidelines” means the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”, dated October 15, 2006.
2. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004 and revised in October 2006.
3. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006).
4. “Operating Costs” means the incremental operating costs under the Project, based on the Annual Work Plans and Budgets as approved by the Association, and incurred by the National AIDS Commission on account of utilities and supplies, bank charges, communications, vehicle operation, maintenance, and insurance, office space rental, building and equipment maintenance, public awareness-related media expenses, travel and supervision, and salaries of contractual and temporary staff, but excluding salaries, fees, honoraria, and bonuses of members of the Recipient’s civil service.
5. “Original Financing Agreement” means the development grant agreement between the Recipient and the Association, dated September 11, 2003, for a Multi-Sectoral HIV / AIDS Project, as amended to the date of this Agreement (Grant No. H0620 MAI).
6. “Original Project” means the Project described in the Original Financing Agreement, as amended pursuant to Section II of this Appendix.
7. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October 2006.
8. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated June 26, 2009 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.

9. “Training” means the costs of training under the Project, based on the Annual Work Plans and Budgets as approved by the Association, and attributable to seminars, workshops, and study tours, along with travel and subsistence allowances for training participants, services of trainers, rental of training facilities, preparation and reproduction of training materials, and other activities directly related to course preparation and implementation.

Section II. Amendment to Original Financing Agreement

The Original Financing Agreement is amended as set forth below.

1. A new Section 1.02 (d) is introduced as follows, and subsequent subparagraphs renumbered accordingly:

“(d) “Anti-Corruption Guidelines” means the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”, dated October 15, 2006.”

2. Section 2.02 (b) is amended to read as follows:

“(b) The Recipient may, for the purposes of the Project, open and maintain in United States Dollars an account in the name of the NAC (the Pooled Account) in the Reserve Bank of Malawi, on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Pooled Account shall be made in accordance with the provisions of Part B of Schedule 1 to this Agreement.”

3. Section 2.03 is amended to read as follows:

“Section 2.03. The Closing Date shall be September 30, 2012, or such later date as the Association shall establish. The Association shall promptly notify the Recipient of such later date.”

4. Paragraph 1 of Schedule 2 is amended to read as follows:

“The objective of the Project is to increase access to HIV / AIDS prevention, treatment, and mitigation services, with a focus on behavioral change interventions and addressing the needs of highly vulnerable populations, including those affected and infected by the epidemic.”

5. A new Section III.3 (a) (iv) is introduced in Schedule 4 as follows, and subsequent subparagraphs renumbered accordingly:

“(iv) the obligation of the Beneficiary to carry out the Subprogram in accordance with the provisions of the Anti-Corruption Guidelines;”
