

CONFORMED COPY

GEF TRUST FUND GRANT NUMBER 028898 MAI

Project Agreement

(Mulanje Mountain Biodiversity Conservation Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Acting as an Implementing Agency of the Global Environment Facility

and

MULANJE MOUNTAIN CONSERVATION TRUST

Dated July 9, 2001

GEF TRUST FUND GRANT NUMBER 028898 MAI

PROJECT AGREEMENT

AGREEMENT, dated July 9, 2001, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT BANK (the Bank) acting as an implementing agency of the Global Environment Facility (GEF) in respect of grant funds provided to the GEF Trust Fund by certain members of the Bank as participants of the GEF and MULANJE MOUNTAIN CONSERVATION TRUST (MMCT).

WHEREAS (A) by the GEF Trust Fund Grant Agreement of even date herewith between the Republic of Malawi (the Recipient) and the Bank, the Bank has agreed to make available to the Recipient an amount in various currencies equivalent to five million and three hundred thousand Special Drawing Rights (SDR 5,300,000), on the terms and conditions set forth in the Global Environment Facility (GEF) Trust Fund Grant Agreement, but only on conditions that MMCT agrees to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary agreement (the MMCT Subsidiary Agreement) to be entered into between the Recipient and MMCT, the proceeds of the GEF Trust Fund Grant provided for under the Global Environment Facility (GEF) Trust Fund Grant Agreement will be made available to MMCT on the terms and conditions set forth in the MMCT Subsidiary

Agreement; and

WHEREAS MMCT, in consideration of the Bank's entering into the Global Environment Facility (GEF) Trust Fund Grant Agreement with the Recipient, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Global Environment Trust (GEF) Fund Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) MMCT declares its commitment to the objectives of the Project as set forth in Schedule 2 to the GEF Trust Fund Grant Agreement, and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial conservation and biodiversity practices, and with due regard to ecological and environmental factors, 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 Bank and MMCT shall otherwise agree, MMCT shall carry out the Project in accordance with the Implementation Program set forth in Schedule 1 to this Agreement and the TAM.

Section 2.02. Except as the Bank 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 GEF Trust Fund Grant shall be governed by the provisions of Schedule 2 to this Agreement.

Section 2.03. (a) MMCT shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement and the Project.

(b) For the purposes of Section 9.08 of the General Conditions and without limitation thereto, MMCT shall:

(i) prepare jointly with the Recipient, on the basis of guidelines acceptable to the Bank and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Bank and MMCT and the Recipient, a plan for the future operation of the Project; and

(ii) afford the Bank a reasonable opportunity to exchange views with MMCT and the Recipient on the said plan.

Section 2.04. MMCT shall duly perform all its obligations under the MMCT Subsidiary Agreement. Except as the Bank shall otherwise agree, MMCT shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the MMCT Subsidiary Agreement or any provision thereof.

Section 2.05. (a) MMCT shall, at the request of the Bank or the Recipient, exchange views with the Bank and the Recipient with regard to the progress of the Project, the performance of its obligations under this Agreement and under the MMCT Subsidiary Agreement, and other matters relating to the purposes of the GEF Trust Fund

Grant.

(b) MMCT shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the GEF Trust Fund Grant, or the performance by MMCT of its obligations under this Agreement and under the MMCT Subsidiary Agreement.

ARTICLE III

Management and Operations of MMCT

Section 3.01. MMCT shall carry on its operations and conduct its affairs in accordance with sound administrative and financial, biodiversity, ecological and environmental practices, under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. MMCT shall take all reasonable steps within its means to operate and maintain its assets and investments, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, and financial practices.

Section 3.03. MMCT shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

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

(b) MMCT shall:

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

(ii) furnish to the Bank as soon as available, but in any case not later than six (6) months after the end of each such year:

(A) certified copies of its 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 Bank shall have reasonably requested; and

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

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, MMCT shall carry out a time-bound action plan acceptable to the Bank for the strengthening of its financial system in order to enable MMCT, not later than December 31, 2002, or such later date as the Bank shall agree, to prepare quarterly Project Management Reports, acceptable to the Bank. Each such report shall:

(i) set forth actual sources and application of funds for the Project, both cumulatively and for the period covered by said report, and projected sources and application of funds for the Project for the six-month period following the period covered by said report, and show separately expenditures proposed to be financed out of the proceeds of the GEF Trust Fund Grant during the six-month period following the period covered by said report;

(ii) describe physical progress in the implementation of the Project both cumulatively and for the period covered by said report, and explain variances between the actual and previously forecast implementation targets; and

(iii) set forth the status of procurement under of the Project and expenditures under contracts financed out of the proceeds of the GEF Trust Fund Grant, as at the end of the period covered by said report.

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

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Global Environment Facility Trust Fund Grant Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Bank and of MMCT thereunder shall terminate on the earlier of the following two dates:

(i) the date on which the Global Environment Facility Trust Fund Grant Agreement shall terminate in accordance with its terms;
or

(ii) the date twenty (20) years after the date of this Agreement.

(b) If the Global Environment Facility Trust Fund Grant Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Bank shall promptly notify MMCT of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex, or facsimile to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

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

For MMCT:

Mulanje Mountain Conservation Trust
P.O. Box 139
Mulanje
Malawi

Fax: (265) 465-241

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of MMCT may be taken or executed by the Executive Director of MMCT or such other person or persons as TMB shall designate in writing, and MMCT shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
As an implementing agency of the
Global Environment Facility

By /s/ Pamela Cox

Acting Regional Vice President
Africa

MULANJE MOUNTAIN CONSERVATION TRUST

By /s/ Tony Kandiero

Authorized Representative

SCHEDULE 1

Implementation Program

1. Except as the Bank shall otherwise agree, MMCT shall, in carrying out the Project, apply the guidelines and procedures specified in the TAM and shall not amend the TAM or waive any provision thereof which, in the opinion of the Association, will materially or adversely affect the implementation of the Project.

2. (a) TMB shall be responsible for the operations and management of MMFR biodiversity and for the overall implementation of the Project with the assistance of TAU.

(b) Without limitation upon the generality of the foregoing, TMB shall: (i) arrange for and oversee the investment of MMFR's capital (ii) allocate the annual income in accordance with the TAM; (iii) cause accounts to be prepared and audited; and (iv) monitor and periodically furnish to the Recipient and the Bank reports on the

implementation of the Project and the accomplishment of its objectives.

(c) TMB shall, unless otherwise agreed with the Bank meet, at least quarterly to, inter alia, decide on the allocation of income accrued in the preceding quarter.

(d) TMB shall promptly adopt an investment strategy and thereafter appoint an assets manager, all satisfactory to the Bank.

3. MMCT shall establish and thereafter maintain the TAU in Mulanje. The TAU shall consist of an Executive Director, three Program Officers, an Accountant and support staff, all with terms and conditions and experience satisfactory to the Bank. The TAU will be responsible for: (i) developing the program content for each of the three components Biodiversity conservation, Research and Monitoring; Environmental Education; and Forest co-management and Livelihoods; (ii) working in collaboration with the FD and suitable NGOs to carry through the three programs in (i) above; (iii) submitting annual work plans and budgets to the TMB for approval; (iv) disbursing approved funds and ensuring that proper disbursement, procurement and supervision procedures are followed; (v) maintaining financial records and accounting/reporting; and (vi) ensuring ongoing monitoring and evaluation of all work receiving MMCT funding.

4. MMCT shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Association, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about June 30, 2002, 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; and

(c) review with the Association, by September 15, 2002 or such later date as the Bank 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.

5. MMCT shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with performance indicators referred to in Schedule 4 to the GEF Trust Fund Agreement, the carrying out of the Project and the achievement of the objectives thereof;

(b) not later than 18 months after effectiveness date of the GEF Trust Fund Agreement, undertake, in conjunction with the Bank, a joint midterm review of the Project, during which they shall exchange views generally on: (i) all matters relating to the progress of the Project, (ii) the performance by the MMCT of its obligations under this Agreement, and (iii) the progress achieved by the MMCT in the implementation of the Project, having regard to the performance indicators referred to in Schedule 4 to the GEF Trust Fund Agreement;

(c) not later than one month prior to the midterm review, furnish to the Bank, for its comments, a report, in such detail as the Bank shall reasonably request, on the progress and status of the Project, and giving details, of the various matters to be discussed at such review; and

(d) following the midterm review, undertake to act promptly and diligently in order to take, or cause to be taken, any corrective action deemed necessary to remedy any shortcoming noted in the implementation of the Project, or to implement, or cause to be implemented, such other measures as may have been agreed upon between the parties in furtherance of the objectives of the Project.

Procurement and Consultants' Services

Section I. Procurement of Good and Works

Part A: General

Goods and works shall be procured in accordance with 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 the following provisions of Section I of this Schedule.

Part B: Other Procurement Procedures

1. National Competitive Bidding

Works estimated to cost less than \$25,000 equivalent per contract, up to an aggregate amount not to exceed \$50,000 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

Goods estimated to cost less than \$25,000 equivalent per contract, up to an aggregate amount not to exceed \$150,000 equivalent, may be procured under contracts awarded on the basis of international/national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

3. Procurement from UN Agencies

Vehicles may be procured from IAPSO in accordance with the provisions of paragraph 3.9 of the Guidelines.

Part D: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank 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 Bank, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for goods and works estimated to cost the equivalent of \$25,000 or more, 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

Consultants' services shall be procured in accordance with the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997 and January 1999 (the Consultant Guidelines) and the following

provisions of Section II of this Schedule.

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.

Part C: Other Procedures for the Selection of Consultants

1. Individual Consultants

Services under Part A, B, C and D of the Project 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 Bank 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 Bank 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 Bank, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for the employment of consultant firms estimated to cost the equivalent of \$25,000 or more and individual consultants estimated to cost the equivalent of \$10,000 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.

3. Post Review

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

