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CREDIT NUMBER 7082-KE

# Financing Agreement

(Horn of Africa - Groundwater for Resilience Project)

between

REPUBLIC OF KENYA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

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**CREDIT NUMBER 7082-KE**

**FINANCING AGREEMENT**

AGREEMENT dated as of the Signature Date between the REPUBLIC OF KENYA (the "Recipient") and the INTERNATIONAL DEVELOPMENT ASSOCIATION (the "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) apply to and form 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.
- 1.03. Notwithstanding any provision to the contrary in the General Conditions:
  - (a) each of the Project Implementing Entities, as defined in the Appendix to this Agreement, shall be deemed to be a Project Implementing Entity for purposes of the General Conditions, regardless of whether or not it is a party to a Project Agreement; and
  - (b) all references in the General Conditions to obligations of a Project Implementing Entity under a Project Agreement shall be construed as references to obligations of the Project Implementing Entity arising under this Agreement or the relevant Subsidiary Agreement.

**ARTICLE II — FINANCING**

- 2.01. The Association agrees to extend to the Recipient a credit, which is deemed as Concessional Financing for purposes of the General Conditions, in the amount of one hundred twenty one million seven hundred thousand Euro (EUR 121,700,000) (variously, "Credit" and "Financing"), 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 III of Schedule 2 to this Agreement.
- 2.03. The Maximum Commitment Charge Rate is one-half of one percent (1/2 of 1%) per annum on the Unwithdrawn Financing Balance.
- 2.04. The Service Charge is the greater of: (a) the sum of three-fourths of one percent (3/4 of 1%) per annum plus the Basis Adjustment to the Service Charge; and

(b) three-fourths of one percent (3/4 of 1%) per annum; on the Withdrawn Credit Balance.

- 2.05. The Interest Charge is the greater of: (a) the sum of one and a quarter percent (1.25%) per annum plus the Basis Adjustment to the Interest Charge; and (b) zero percent (0%) per annum; on the Withdrawn Credit Balance.
- 2.06. The Payment Dates are May 15 and November 15 in each year.
- 2.07. The principal amount of the Credit shall be repaid in accordance with the repayment schedule set forth in Schedule 3 to this Agreement.
- 2.08. The Payment Currency is Euro.

### **ARTICLE III — PROJECT**

- 3.01. The Recipient declares its commitment to the objective of the Project and the MPA Program. To this end, the Recipient shall carry out Parts 2.1, 3 and 4 of the Project and cause the Water Resources Authority to carry out Parts 1.1 and 2.2 of the Project and cause the Water Sector Trust Fund and Eligible Participating Counties to carry out Part 1.2 of the Project in accordance with the provisions of Article V of the General Conditions and Schedule 2 to this Agreement.

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

- 4.01. The Additional Condition of Effectiveness consists of the following, namely, that the Recipient has entered into Subsidiary Agreements with the Water Resources Authority and Water Sector Trust Fund under the terms of conditions acceptable to the Association as reflected at Section I.B.1 of Schedule 2 to this Agreement.
- 4.02. The Effectiveness Deadline is the date ninety (90) days after the Signature Date.
- 4.03. For purposes of Section 10.05 (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 (20) years after the Signature Date.

**ARTICLE V — REPRESENTATIVE; ADDRESSES**

5.01. The Recipient's Representative is the Recipient's cabinet secretary responsible for finance.

5.02. For purposes of Section 11.01 of the General Conditions:

(a) the Recipient's address is:

The National Treasury and Planning  
Treasury Building, Harambee Avenue  
P.O Box 30007-00100  
Nairobi, Kenya; and

(c) the Recipient's Electronic Address is:

Facsimile: +254 20 330426/ 218475

5.03. For purposes of Section 11.01 of the General Conditions:

(a) The Association's address is:

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

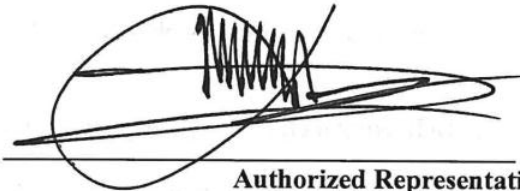
(b) the Association's Electronic Address is:

Telex:            Facsimile:        E-mail:  
248423 (MCI) 1-202-477-6391 [kenyainfo@worldbank.org](mailto:kenyainfo@worldbank.org)

AGREED as of the Signature Date.

**REPUBLIC OF KENYA**

By



Authorized Representative

Name: UKUR YATANI

Title: CS / NATIONAL TREASURY

Date: SEPTEMBER 1, 2022

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

By



Authorized Representative

Name: AMIT DAR

Title: DIRECTOR

Date: July 22, 2022



## SCHEDULE 1

### Project Description

The objective of the Project is to increase the sustainable access and management of groundwater in the Horn of Africa's borderlands.

The Project constitutes a phase of the MPA Program and consists of the following parts:

Part 1: Delivering inclusive groundwater services to priority areas

- 1.1. Carrying out a program of activities designed to strengthen groundwater conservation, sustainable use, and recharge of selected aquifers in Turkana, Marsabit, Mandera, Wajir and Garissa Counties such a program to include:
  - (a) facilitating the mobilization and establishment of water resources users association (WRUA) and design and implementation of a capacity building program for such WRUAs (as well any existing WRUAs) to enhance their governance and groundwater management capabilities; (b) supporting WRUAs to develop and implement Sub-Catchment Management Plans (SCMPs) comprising such activities as planting of appropriate tree species in protected groundwater recharge zones and around boreholes, re-greening overgrazed areas, and construction of small-scale aquifer recharge structures such as infiltration galleries, sand dams or diversion channels; and (c) supporting the protection of aquifers through gazettement and investments.
  
- 1.2. Carrying out a program of activities, designed to mainstream the sustainability of rural water supply schemes in NEDI Counties and enhance the resilience of communities in the NEDI Counties against droughts using as appropriate, the performance-based mechanism such a program to include:
  - (a) compiling an inventory of groundwater-based rural water supply schemes and the designated drought-response strategic boreholes network (DSBN) in the NEDI Counties;
  - (b) rehabilitation and upgrading of groundwater-based rural water supply schemes in Turkana, Marsabit, Mandera, Wajir and Garissa Counties;
  - (c) mainstreaming of operations and maintenance of existing, rehabilitated, and new groundwater infrastructure through the O&M Support Facility;
  - (d) provision of technical assistance and groundwater management equipment to the water service providers and county water departments to strengthen the institutions for mainstreaming operations and maintenance of groundwater infrastructure;

- (e) development of a web-based information management system and decision support system for the operations and maintenance of rural water supply systems at the County level;
- (f) strengthening the drought-response strategic boreholes network through the drilling of new strategic boreholes and rehabilitation and upgrading of existing boreholes;
- (g) preparation of the County Water Sector Drought Contingency Plans; and
- (h) design and supervision of civil works associated with rehabilitation and upgrading as well as drilling of new boreholes under this Part 1.2, provision of technical assistance to strengthen the capacity of Water Sector Trust Fund in contract management and verification of performance results including through recruitment of consultants for these purposes.

Part 2: Generating groundwater information and strengthening regional and national groundwater institutions

- 2.1. Carrying out a program of activities designed to strengthen the enabling environment and the institutional capacity for sustainable management of groundwater such a program to include such activities as: (a) development of a groundwater strategy and guidelines and regulations related to groundwater management and development; (b) development of instruments for the management of transboundary aquifers including through the completion of the Kenyan transboundary policy and supporting dialogue platforms and development of memoranda of understanding between riparian countries for selected aquifers in NEDI Counties; (c) acquisition of groundwater management equipment and construction of offices; (d) conduct and implement a specialized environmental and social capacity gap assessment to improve the social and environmental management risks within the Project's participating institutions; and (e) capacity building activities to address groundwater capacity gaps across national and county groundwater institutions.
- 2.2. Carrying out a program of activities designed to enhance the knowledge base of the aquifers systems and the application of this knowledge for groundwater management and development purposes such a program to include: (a) development of aquifer assessments development and management plans (AAD&MP) for the selected aquifers in NEDI Counties, Nairobi and Nakuru; (b) exploratory and monitoring wells for selected aquifers in the NEDI Counties; and (c) enhancement of monitoring network in the selected aquifers in NEDI Counties, upgrading of groundwater information database and development of a mobile application to improve users' interface with the database and information access and acquisition of groundwater management equipment.

Part 3: Project management support

Carrying out a program of technical assistance and project implementation support, including: (a) provision of technical assistance, training and capacity building to support implementation of all Project activities and strengthen government capacity at national and County level including through recruitment of expert consultants and contractual staff and financing the operations of the Project Coordination Unit and Project Implementation Units; (b) carrying out preparatory studies, environmental and social assessments, resettlement planning, development of standard operating procedures, technical guidelines and operational manuals; (c) procurement management and financial management, including financial and technical audits; (d) environmental and social risks management and oversight, including citizen engagement; and (e) monitoring, reviewing and evaluation of the Project.

Part 4: Contingency Emergency Response Component

Providing preparedness and rapid response measures to address disaster, emergency and/or catastrophic events in Kenya, in accordance with the applicable Contingent Emergency Response Implementation Plan.



## SCHEDULE 2

### Project Execution

#### Section I. Implementation Arrangements

##### A. Institutional Arrangements.

1. National Project Steering Committee (NPSC). Not later than six (6) months after the Effective Date, the Recipient shall establish and thereafter maintain, throughout the implementation of the Project, a national project steering committee to be chaired by the Principal Secretary in MoWSI, with composition, mandate, powers and resources acceptable to the Association. The Committee shall be responsible for, *inter alia*: (a) providing strategic and policy guidance for Project implementation; (b) approving Annual Workplans and Budgets; and (c) resolving any Project coordination and implementation bottlenecks that may arise.
2. Project Technical Committee. Not later than six (6) months after the Effective Date, the Recipient shall establish and thereafter maintain, throughout the implementation of the Project, a project technical committee with terms of reference, composition and resources acceptable to the Association, to be responsible for, *inter alia*: (a) providing technical guidance; and (b) resolve any Project coordination and implementation bottlenecks that may arise.
3. Project Coordination Unit (PCU). The Recipient shall maintain, throughout the implementation of the Project, a project coordination unit in the Department of Water Resources with terms of reference, composition and resources acceptable to the Association, to be responsible for overall Project coordination, management, communication and monitoring and reporting including overseeing the day-to-day implementation and management of the Recipient's Respective Part of the Project.
4. Project Implementation Units (PIUs). The Recipient shall ensure that each Project Implementing Entity maintains at all times during the implementation of the Project, a Project Implementation Unit with staff (including a Project coordinator, a financial management specialist, a monitoring and evaluation specialist, a procurement specialist, an environmental specialist, a gender-based violence specialist, a social risks management specialist and a communication specialist) and with the terms of reference and resources satisfactory to the Association, to be responsible for overseeing the day-to-day implementation and management of the Project Implementing Entity's Respective Part of the Project.
5. Implementation at the County level. Each Participating County shall establish and thereafter maintain, throughout the implementation of the Project, a Project implementation unit (Sub-PIU) with staff including a Project coordinator, a financial management specialist, a monitoring and evaluation specialist, a

procurement specialist, an environmental specialist, a gender-based violence specialist, a social risks management specialist and a communication specialist) and with the terms of reference - and resources acceptable to the Association, to be responsible for overall coordination, management and implementation of the Project at the County level.

**B. Subsidiary Agreements, Performance-Based Grant (PBG) Agreements and Memorandum of Understanding**

1. To facilitate the carrying out of each Project Implementing Entity's Respective Part of the Project, the Recipient shall make the proceeds of the Financing allocated from time to time under categories of the disbursement table set forth in Section III.A of this schedule 2 to corresponding Project Implementing Entities as follows: (a) Category (1) and (2) to Water Sector Trust Fund; and (b) Category (3) to Water Resources Authority; in each case on a non-reimbursable grant basis under terms and conditions approved by the Association and pursuant to a subsidiary agreement between the Recipient and each Project Implementing Entity, ("Subsidiary Agreement"), which shall include the obligation for each of the Project Implementing Entity to:
  - (a) carry out its Respective Part of the Project with due diligence and efficiency and in conformity with sound technical, economic, financial, managerial, environmental and social standards and practices satisfactory to the Association, including the provisions of the Anti-Corruption Guidelines and the Environmental and Social Standards and in accordance with the provisions of this Agreement; maintain at all times its Project Implementation Unit with terms of reference, staffing and other resources acceptable to the Association; and provide promptly as needed, the funds, facilities, services and other resources required for its Respective Part of the Project;
  - (b) (i) procure all works, goods and services required for its Respective Part of the Project and to be financed out of the proceeds of the Financing in accordance with the provisions of Section III of this Schedule; and (ii) ensure that all such works, goods and services are used exclusively for the purposes of its Respective Part of the Project;
  - (c) (i) maintain records adequate to record the progress of its Respective Part (including its cost and the benefits to be derived from it), to identify the works, goods and services financed out of the proceeds of the Financing and disclose their use in its Respective Part of the Project; (ii) furnish such records and information as may be requested by the Recipient (through among other the Project Coordination Unit) or the Association using the Project management platform specified in the Project Operations Manual; and (iii) retain all records evidencing expenditures under its Respective

Part of the Project for the period of time specified in the General Conditions.

- (d) (i) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Association with data collected as per the specified methods recorded in the POM, the progress of its Respective Part of the Project and the achievement of its objectives; (ii) prepare periodic reports, in form and substance satisfactory to the Association, integrating the results of such monitoring and evaluation activities and setting out measures recommended to ensure the continued efficient and effective execution of its Respective Part of the Project, and to achieve its objectives, each such report to cover one calendar quarter; (iii) furnish each such report to the Recipient (through Project Coordination Unit) within twenty (20) days after the end of such period to enable the Recipient to incorporate such report in its Project Report for the same period and to comply with its reporting obligations under Section II of this Schedule 2; and (iv) prepare, and furnish to the Recipient a final report, of such scope and in such detail as the Association shall reasonably request, on the execution of its Respective Part of the Project, and furnish the same to the Recipient within three (3) months after the Closing Date to enable the Recipient to incorporate such report in its report and comply with its obligations under Section 5.08(c) of the General Conditions;
- (e) (i) maintain a financial management system and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Association, both in a manner adequate to reflect its operations and financial condition, including the operations, resources and expenditures related to its Respective Part of the Project; (ii) have such financial statements audited annually by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association, each said audit to cover the period of one Fiscal Year; (iii) promptly furnish the audited financial statements for each such period to the Recipient and the Association, but in any event not later than six months after the end of such period; (iv) ensure that said financial statements, as so audited, are made publicly available in a timely fashion on a manner acceptable to the Association; (v) prepare and furnish to the Recipient, not later than fifteen (15) days after the end of each quarter, interim unaudited financial reports relating to the previous quarter, in form and substance satisfactory to the Association, for consolidation in the interim unaudited financial reports required to be furnished by the Recipient to the Association; and (vi) furnish to the Association such other information concerning such unaudited financial statements as the Association may from time to time reasonably request; and



- (f) (i) open and maintain a dedicated Project account, until the completion of the Project, in a commercial bank on terms and conditions acceptable to the Association; and (ii) ensure that the funds deposited into said account shall be used exclusively to finance the cost of expenditures required for its Respective Part of the Project.
2. The Recipient shall carry out its obligations and exercise its rights under each Subsidiary 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 in writing, the Recipient shall not assign, amend, abrogate or waive any Subsidiary Agreement or any of its provisions.
3. Without limitation on the generality of Part A of this Section I, the Water Sector Trust Fund shall enter into a performance-based grant agreement with each Eligible Participating County as well as its respective Water Service Provider detailing mutual responsibilities for the implementation of the Project and detailing other terms and conditions as may be approved by the Association (“PBG Agreement”), such terms and conditions to include the obligation of said Eligible Participating County (and its respective Water Service Provider) to: (a) carry out its activities under the Project with due diligence and efficiency and in accordance with the Environmental and Social Standards, and the Anti-Corruption Guidelines; (b) maintain policies and procedures adequate to enable it to monitor the progress of its activities under the Project and the achievement of the Project’s objectives; (c) enable the Water Sector Trust Fund, the Recipient and the Association (or their agents) to inspect the Project activities within the Eligible Participating County’s jurisdiction, its operation and any relevant records and documents; and (d) prepare and furnish to the Water Sector Trust Fund, the Recipient and the Association all such information as the Water Sector Trust Fund, the Recipient or the Association may reasonably request relating to the foregoing.
4. The Water Sector Trust Fund shall exercise its rights and perform its obligations under each PBG Agreement in such manner as to protect the interests of the Water Sector Trust Fund, the Recipient and the Association and to accomplish the purposes of the Financing. The Water Sector Trust Fund shall not assign, amend, abrogate or waive any PBG Agreement or any of its provisions without a prior written approval of the Association.
5. To facilitate the carrying out of Part 2.1 (e) of the Project, the Recipient through the Ministry of Water, Sanitation and Irrigation shall enter into (and comply with) a memorandum of understanding with the Regional Center for Groundwater, under terms and conditions and in a timeline acceptable to the Association, as detailed in the Project Operations Manual.
6. To facilitate the carrying out of Part 1.1 and 2.2 of the Project, the Water Resources Authority shall enter into (and comply with) a memorandum of understanding with

each NEDI County, under terms and conditions and in a timeline acceptable to the Association, as detailed in the Project Operations Manual.

**C. Project Operations Manual**

1. The Recipient shall:

- (a) prepare a Project Operations Manual, in form and substance satisfactory to the Association, containing detailed arrangements and procedures for implementation of the Project including *inter alia*: (i) implementation arrangements including delineation of roles and responsibilities of various entities, institutions and agencies involved in Project implementation at various levels (national, county and community) as well as their coordination and inter-relationships; (ii) disbursement arrangements (including flow of funds to Project Implementing Entities, Counties, reporting requirements, financial management procedures and audit procedures; (iii) the procurement procedures, standard procurement documentation, contracts administration and management procedures; (iv) measures to mitigate fraud and corruption as well as other integrity and fiduciary risks; (v) environmental and social risk management arrangements including measures to ensure the protection of Personal Data under the Project, address risk of gender based violence and sexual exploitation of minors as well as operation of grievance redress mechanism; (vi) procedures for preparing and reviewing a consolidated annual work plan and budget for each Fiscal Year; (vii) monitoring and evaluation arrangements, reporting and communication, including performance indicators; (viii) arrangements to address community health, safety and security risks and impacts including measures to manage security risks and to avoid or minimize the transmission of communicable disease such as COVID-19 and to address other impacts on the Project of COVID-19 pandemic; (ix) terms and conditions for the Performance-Based Grants including eligible uses of funding, performance indicators/ results and their verification; (x) measures to facilitate sharing of groundwater information and data among Recipient's ministries, departments and agencies (as well across borders, with other IGAD Member States); (xi) such other administrative, financial, technical and organizational arrangements and procedures as shall be required for the Project;
- (b) (i) furnish to and exchange views with the Association on such manual promptly upon its preparation; (ii) thereafter adopt such manual as shall have been approved by the Association ("Project Operations Manual" or "POM"); and (iii) thereafter implement the Project in accordance with the POM; and



- (c) not amend, suspend, abrogate, repeal or waive any provisions of the Project Operations Manual without the prior written agreement of the Association.
- 2. In the event of any conflict between the provisions of: (a) the Project Operations Manual; and (b) those of this Agreement, the provisions of this Agreement shall prevail.
- 3. In order to ensure the proper implementation of Part 4 of the Project (“Contingency Emergency Response Component” or “CERC”), the Recipient shall:
  - (a) prepare and furnish to the Association for its review and approval, an operations manual which shall set forth detailed implementation arrangements for the CERC, including: (i) designation of, terms of reference for and resources to be allocated to the entity to be responsible for coordinating and implementing the CERC (“Coordinating Agency”); (ii) specific activities which may be included in the CERC, eligible expenditures required therefor (“Emergency Expenditures”), and any procedures for such inclusion; (iii) financial management arrangements for the CERC; (iv) procurement methods and procedures for Emergency Expenditures to be financed under the CERC; (v) documentation required for withdrawals of Emergency Expenditures; (vi) environmental and social risks management frameworks for the CERC, consistent with the Association policies on the matter; and (vii) any other arrangements necessary to ensure proper coordination and implementation of the CERC;
  - (b) afford the Association a reasonable opportunity to review said proposed operations manual;
  - (c) promptly adopt such operations manual for the CERC as shall have been approved by the Association (“Contingent Emergency Response Implementation Plan”);
  - (d) ensure that Part 4 of the Project is carried out in accordance with the Contingent Emergency Response Implementation Plan; and
  - (e) not amend, suspend, abrogate, repeal or waive any provision of the Contingent Emergency Response Implementation Plan without prior written approval by the Association.
- 4. In the event of any conflict between the provisions of: (a) the Contingent Emergency Response Implementation Plan; and (b) those of this Agreement, the latter shall prevail.

**D. Annual Work Plan and Budgets.**

1. The Recipient shall prepare and furnish to the Association not later than February 28 of each Fiscal Year during the implementation of the Project (beginning in calendar year 2023), a consolidated work plan and budget containing *inter alia*: (a) all activities proposed to be implemented under the Project during the following Fiscal Year; (b) a proposed financing plan for expenditures required for such activities, setting forth the proposed amounts and sources of financing to be made available in that year and disbursement schedule; and (c) the training plan for such period.
2. The Recipient shall ensure that in preparing any training plan proposed for inclusion in an annual work plan and budget it shall identify in the training plan: (a) the objective and content of the Training envisaged; (b) the selection method of the institutions or individuals conducting such Training, and said institutions if already known; (c) the expected duration and an estimate of the cost of said Training; and (d) the selection method of the personnel who will attend the Training, and number and names of such personnel if already known, as these requirements may be further elaborated and detailed in the Project Operations Manual.
3. The Recipient shall afford the Association a reasonable opportunity to exchange views with the Recipient on each such proposed annual work plan and budget and shall thereafter ensure that the Project is implemented with due diligence during said following Fiscal Year in accordance with such work plan and budget as shall have been approved by the Association ("Annual Work Plan and Budget").
4. The Recipient shall not make, or allow to be made, any changes to the approved Annual Work Plan and Budget without prior approval in writing by the Association.
5. Without limitation on the provisions of Part D of this Section, the Recipient shall prepare and furnish to the Association the first proposed Annual Work Plan and Budget and required under the Project not later than one month after the Effective Date.

**E. Environmental and Social Standards.**

1. The Recipient shall ensure that the Project is carried out in accordance with the Environmental and Social Standards, in a manner acceptable to the Association.
2. Without limitation upon paragraph 1 above, the Recipient shall ensure that the Project is implemented in accordance with the Environmental and Social Commitment Plan ("ESCP"), in a manner acceptable to the Association. To this end, the Recipient shall ensure that:

- (a) the measures and actions specified in the ESCP are implemented with due diligence and efficiency, as provided in the ESCP;
  - (b) sufficient funds are available to cover the costs of implementing the ESCP;
  - (c) policies and procedures are maintained, and qualified and experienced staff in adequate numbers are retained to implement the ESCP, as provided in the ESCP; and
  - (d) the ESCP, or any provision thereof, is not amended, repealed, suspended or waived, except as the Association shall otherwise agree in writing, as specified in the ESCP, and ensure that the revised ESCP is disclosed promptly thereafter.
3. In case of any inconsistencies between the ESCP and the provisions of this Agreement, the provisions of this Agreement shall prevail.
4. The Recipient shall ensure that:
- (a) all measures necessary are taken to collect, compile, and furnish to the Association through regular reports, with the frequency specified in the ESCP, and promptly in a separate report or reports, if so requested by the Association, information on the status of compliance with the ESCP and the environmental and social instruments referred to therein, all such reports in form and substance acceptable to the Association, setting out, *inter alia*: (i) the status of implementation of the ESCP; (ii) conditions, if any, which interfere or threaten to interfere with the implementation of the ESCP; and (iii) corrective and preventive measures taken or required to be taken to address such conditions; and
  - (b) the Association is promptly notified of any incident or accident related to or having an impact on the Project which has, or is likely to have, a significant adverse effect on the environment, the affected communities, the public or workers, including, any case of sexual exploitation and abuse, sexual harassment and violence against minors, in accordance with the ESCP, the environmental and social instruments referenced therein and the Environmental and Social Standards.
5. The Recipient shall establish, publicize, maintain and operate an accessible grievance mechanism, to receive and facilitate resolution of concerns and grievances of Project-affected people, and take all measures necessary and appropriate to resolve, or facilitate the resolution of, such concerns and grievances, in a manner acceptable to the Association.



6. The Recipient shall ensure that all bidding documents and contracts for civil works under the Project include the obligation of contractors and subcontractors and supervising entities to: (a) comply with the relevant aspects of ESCP and the environmental and social instruments referred to therein; and (b) adopt and enforce codes of conduct that should be provided to and signed by all workers, detailing measures to address environmental, social, health and safety risks, and the risks of sexual exploitation and abuse, sexual harassment and violence against children, all as applicable to such civil works commissioned or carried out pursuant to said contracts.
7. The Recipient shall ensure that all advisory, analytical, planning, institutional capacity building, strategizing and such other services carried out under the Project shall be carried out according to terms of reference, satisfactory to the Association, requiring such services to deliver products which take into account, and are consistent with, the Environmental and Social Standards.

**F. Performance-Based Grants and Verification of Performance Results under PBG Agreements**

1. For purposes of carrying out Part 1.2 of the Project, the Recipient shall cause the Water Sector Trust Fund to: (a) design and implement a program for the provision of Performance-Based Grants for the purposes of rehabilitating, upgrading the rural water supply schemes and mainstreaming the sustainability of such schemes; and (b) enter into PBG Agreements with Eligible Participating Counties (and their respective Water Service Providers) for the provision of Performance-Based Grants pursuant to Section I.B.3 of Schedule 2 to this Agreement, all of the above in a manner and substance satisfactory to the Association.
2. The Recipient shall cause the Water Sector Trust Fund to: (a) recruit with terms of reference, qualifications and experience satisfactory to the Association, and thereafter maintain an independent verification agent to verify the achievement of performance results in each Eligible Participating County based on the performance indicators set forth in the respective PBG Agreements; (b) require the independent verification agent to prepare and submit monitoring reports, which shall be promptly made available to and discussed with the Association; and (c) promptly take any actions, as may be requested by the Association upon its review of the independent verification reports, all of the above in a manner and substance satisfactory to the Association.

**G. Procurement Regulations**

Without limitation to the provision of the General Conditions, the obligations of the Recipient under the Financing Agreement including the obligation to comply with the Procurement Regulations when undertaking the procurement of goods, works, non-consulting services, and consulting services financed in whole, or in part by the proceeds

of the Financing shall be valid and enforceable in accordance with their terms notwithstanding the laws of the Recipient (including the Recipient's Public Procurement and Asset Disposal Act No. 33 of 2015 and the Public Procurement and Asset Disposal Regulations, 2020 as both may be amended from time to time).

**H. Third Party Monitoring.**

The Recipient shall collaborate with, and facilitate in its territory the work of, the third party monitoring consultant retained by IGAD under the terms of reference satisfactory to the Association, in order to: (a) develop and enhance the capacity of the Recipient in monitoring including in survey design, data analysis, and data use; and (b) monitor Project implementation including ensuring that the proceeds of the Financing are used for their intended purposes and assessing the achievement of the Project development objectives.

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

**A. Project Reports**

The Recipient shall furnish to the Association each Project Report not later than forty-five (45) days after the end of each calendar quarter, covering the calendar quarter. Except as may otherwise be explicitly required or permitted under this Agreement or as may be explicitly requested by the Association, in sharing any information, report or document related to the activities described in Schedule 1 of this Agreement, the Recipient shall ensure that such information, report or document does not include Personal Data.

**B. Mid-term review**

1. No later than thirty (30) months after the Effective Date, the Recipient shall, in conjunction with the Association, carry out a mid-term review of the Project (the "Mid-term Review"), covering the progress achieved in the implementation of the Project.
2. For the purpose of facilitating mid-term review, the Recipient shall prepare - under terms of reference satisfactory to the Association and furnish to the Association not less than three (3) months prior to the beginning of the Mid-term Review, a report integrating the results of the Project's monitoring and evaluation activities, on the progress achieved in the carrying out of the Project during the period preceding the date of such report, and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objective of the Project during the period following such date.
3. Following the Mid-term Review, the Recipient shall act promptly and diligently in order to take, or cause to be taken, measures recommended to ensure the efficient completion of the Project and the achievement of the objective as well as any



corrective action deemed necessary by the Association to remedy any shortcoming noted in the carrying out of the Project in furtherance of the objective of the Project.

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

**A. General**

Without limitation upon the provisions of Article II of the General Conditions and in accordance with the Disbursement and Financial Information Letter, the Recipient may withdraw the proceeds of the Financing to finance Eligible Expenditures in the amount allocated and, if applicable, up to the percentage set forth against each Category of the following table:

<b>Category</b>	<b>Amount of the Financing Allocated (expressed in EUR)</b>	<b>Percentage of Expenditures to be Financed (inclusive of Taxes)</b>
(1) Goods, works, Operating Costs, Training, non-consulting services, and consulting services and Performance-Based Grants under Parts 1.2(b), (c), (f) and (h) of the Project	60,399,160	100%
(2) Goods, Operating Costs, Training, non-consulting services, and consulting services under Parts 1.2(a), (d), (e) and (g) of the Project	4,507,600	100%
(3) Goods, works, Operating Costs, Training, non-consulting services, and consulting services for Parts 1.1 and 2.2 of the Project	40,566,600	100%
(4) Goods, works, Operating Costs, Training, non-consulting services, and consulting services for Parts 2.1. and 3 of the Project	16,226,640	100%
(5) Emergency Expenditures under Part 4 of the Project	0	100%
<b>TOTAL AMOUNT</b>	121,700,000	

**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A above, no withdrawal shall be made:
  - (a) for payments made prior to the Signature Date.
  - (b) payments under Category (1) made to any Participating County unless and until: (i) the Participating County has met the Minimum Eligibility Criteria; and (ii) the Participating County (and its corresponding Water Service Provider) have duly entered into a PBG Agreement with the Water Sector Trust Fund, in the form and substance satisfactory to the Association;
  - (c) under Categories (1), (2) and (3) until: (i) the Recipient has established the Project Coordination Unit and Project Implementation Units pursuant to provisions of Sections I.A.3 and I.A.4 of Schedule 2 to this Agreement; (ii) the Recipient has prepared, consulted upon, adopted and publicly disclosed the Sexual Exploitation, Abuse and Harassment Prevention and Response Plan and the Labor Management Procedures; and (iii) the Recipient has established and operationalized the Project's grievance redress mechanism; all of the above in a manner and substance satisfactory to the Association; and
  - (d) under Category (5) until: (i) the Recipient's relevant authority has declared a disaster, emergency or catastrophic event in an area within one or more Participating Counties; (ii) the Association and the Recipient have agreed in writing to address such disaster, emergency or catastrophic event under Part 4 of the Project and in accordance with the provisions of this Agreement; (iii) the Recipient has ensured that all environmental and social management instruments required for said activities have been prepared and disclosed, and the Recipient has ensured that any actions which are required to be taken under said instruments have been implemented, all in accordance with the applicable provisions of the Contingent Emergency Response Implementation Plan; (iv) the Coordinating Agency in charge of coordinating and implementing the CERC has/ have adequate staff and resources, for the purposes of said activities; and (v) the Recipient has adopted a Contingent Emergency Response Implementation Plan in accordance with the provisions of Section I.C.3 of Schedule 2 to this Agreement.
2. The Closing Date is December 31, 2028.

**Section IV. Other Undertakings**

1. The Recipient shall cause the Water Resources Authority to implement the FM Action Plan, in a manner satisfactory to the Association.
2. In order to ensure sustainability of investments made using the Financing proceeds, the Recipient shall cause the Water Sector Trust Fund to take all measures necessary (including through its PBG Agreements) to ensure that each Eligible Participating County: (a) designs, approves and operationalizes its County operations and maintenance model for rural water supply services; (b) establishes a ring-fenced operations and maintenance fund for its rural water supply systems and appropriates into that fund at least 10% of the County water department's development budget; and (c) adopts its County Water Sector Drought Contingency Plan, all in a manner and substance satisfactory to the Association.
3. The Recipient shall contribute, throughout the duration of the Project, to the identification of groundwater knowledge and capacity building needs and groundwater guidelines, policy and strategy priorities that could be addressed through the regional activities under the MPA Program implemented by IGAD.

**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 November 15, 2027 to and including May 15, 2047	<b>1.65%</b>
commencing November 15, 2047 to and including May 15, 2051	<b>3.40%</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 3.05 (b) of the General Conditions.

## APPENDIX

### Definitions

1. "Annual Work Plan and Budget" means the work plan and budget prepared annually by the Recipient and approved by the Association in accordance with Section I.D of Schedule 2 to this Agreement; and "Annual Work Plans and Budgets" means more than one Annual Work Plan and Budget.
2. "Anti-Corruption Guidelines" means, for purposes of paragraph 5 of the Appendix to the General Conditions, the "Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants", dated October 15, 2006, and revised in January 2011, and as of July 1, 2016.
3. "Aquifer Assessments Development and Management Plans" and the acronym "AAD&MP" means the plans to be developed under Part 2.2 of the Project as further described in the POM
4. "Basis Adjustment to the Interest Charge" means the Association's standard basis adjustment to the Interest Charge for credits in the currency of denomination of the Credit, in effect at 12:01 a.m. Washington, D.C. time, on the date on which the Credit is approved by the Executive Directors of the Association, and expressed either as a positive or negative percentage per annum.
5. "Basis Adjustment to the Service Charge" means the Association's standard basis adjustment to the Service Charge for credits in the currency of denomination of the Credit, in effect at 12:01 a.m. Washington, D.C. time, on the date on which the Credit is approved by the Executive Directors of the Association, and expressed either as a positive or negative percentage per annum.
6. "Category" means a category set forth in the table in Section III.A of Schedule 2 to this Agreement.
7. "Contingent Emergency Response Implementation Plan" means the manual to be prepared and adopted by the Recipient in accordance with the provisions of Section I.C.3(c) of the Schedule 2 to the Agreement, as the manual may be revised from time to time in accordance with the provisions of Section I.C.3 (e) of the Schedule 2 to the Agreement.
8. "County" means the second tier of government in the administrative system of the Recipient established under the Constitution of Kenya, 2010 as specified in the first schedule of the Constitution of Kenya, 2010.
9. "County Government" means the government established by a County, in accordance with the laws of the Recipient.



10. "COVID-19" means the coronavirus disease caused by the 2019 novel coronavirus (SARS-CoV-2).
11. "Department of Water Resources" means a department established within MoWSI with the mandate to lead formulation of policies, strategy and planning for the conservation, protection, development and utilization of national water resources
12. "Eligible Participating County" means any of the Participating Counties that has met the Minimum Eligibility Criteria.
13. "Emergency Expenditure" means any of the Eligible Expenditures set forth in the Contingent Emergency Response Implementation Plan in accordance with the provisions of Section I.C.3(a)(ii) of the Schedule 2 to the Agreement and required for the activities included in Part 4 of the Project.
14. "Environmental and Social Commitment Plan" or "ESCP" means the environmental and social commitment plan for the Project, dated April 20, 2022, as the same may be amended from time to time in accordance with the provisions thereof, which sets out the material measures and actions that the Recipient shall carry out or cause to be carried out to address the potential environmental and social risks and impacts of the Project, including the timeframes of the actions and measures, institutional, staffing, training, monitoring and reporting arrangements, and any environmental and social instruments to be prepared thereunder.
15. "Environmental and Social Standards" or "ESSs" means, collectively:  
(i) "Environmental and Social Standard 1: Assessment and Management of Environmental and Social Risks and Impacts"; (ii) "Environmental and Social Standard 2: Labor and Working Conditions"; (iii) "Environmental and Social Standard 3: Resource Efficiency and Pollution Prevention and Management"; (iv) "Environmental and Social Standard 4: Community Health and Safety"; (v) "Environmental and Social Standard 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement"; (vi) "Environmental and Social Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources"; (vii) "Environmental and Social Standard 7: Indigenous Peoples/Sub-Saharan Historically Underserved Traditional Local Communities"; (viii) "Environmental and Social Standard 8: Cultural Heritage"; (ix) "Environmental and Social Standard 9: Financial Intermediaries"; (x) "Environmental and Social Standard 10: Stakeholder Engagement and Information Disclosure"; effective on October 1, 2018, as published by the Association.
16. "Fiscal Year" and the acronym "FY" mean the twelve-month period starting on July 1 and ending on June 30 of the following calendar year.

17. “FM Action Plan” means a plan submitted to the Association on November 16, 2021, outlining the actions that the Water Resources Authority must take to address auditing issues raised during the Association’s assessment of its financial management capacity.
18. “General Conditions” means the “International Development Association General Conditions for IDA Financing, Investment Project Financing”, dated December 14, 2018 (revised on August 1, 2020, April 1, 2021, and January 1, 2022).
19. “IGAD Constitutive Agreement” means the agreement establishing the Inter-Governmental Authority on Development of March 21, 1996.
20. “Inter-Governmental Authority on Development” and the acronym “IGAD” mean the regional organization set up through the IGAD Constitutive Agreement.
21. “Interim Unaudited Financial Reports” means each of the interim unaudited financial report to be prepared by the Recipient pursuant to the format agreed with the Association and attached by the Association to the Disbursement and Financial Information Letter.
22. “Labor Management Procedures” means procedures, satisfactory to the Association to be developed and adopted by the Recipient, setting out the way in which the Project workers will be managed and requiring *inter alia* fair treatment of Project workers and safe and healthy working conditions for such workers.
23. “Minimum Eligibility Criteria” means the conditions set forth in the Project Operations Manual that a Participating County must meet in order to be eligible to receive a PBG Grant including establishment of the Sub-PIU pursuant to Section I.A.5 of Schedule 2 to this Agreement, appointment of a Water Service Provider and adoption of the applicable environmental and social management instruments required under the ESCP prior to disbursement of funds for Project activities in the said Participating County.
24. “Ministry of Water, Sanitation and Irrigation” and the acronym “MoWSI” mean the Recipient’s Ministry responsible for water, or its successor thereto.
25. “MPA Program” means the multiphase programmatic approach program designed to increase the sustainable access and management of groundwater in the Horn of Africa’s borderlands.
26. “National Drought Management Authority” means a Recipient’s public body established by and operating pursuant to the National Drought Management Authority Act, 2016 (Act no. 4 of 2016 of the laws of Kenya) and mandated to establish mechanisms which ensure that drought does not result in emergencies and that the impacts of climate change are sufficiently mitigated.

27. "National Project Steering Committee" and the acronym "NPSC" mean the committee referred to in Section I.A.1 of Schedule 2 to this Agreement.
28. "NEDI Counties" means Recipient's Counties of Turkana, Marsabit, Mandera, Wajir, Garissa, Lamu, Tana River, Isiolo, Samburu and West Pokot; and the term "NEDI County" means any one of such Counties.
29. "O&M Support Facility" means funds provided to support functions, duties and responsibilities associated with the daily operations and repairs, replacement of parts and components, units and other activities needed to preserve a groundwater-based rural water supply facility so that it continues to sustainably provide acceptable services and achieves its expected life.
30. "Operating Costs" means the incremental expenses incurred on account of Project implementation based on the Annual Work Plan and Budget, and consisting of, audit fees, expenditures for office supplies, vehicle operation and maintenance, maintenance of equipment, bank fees, communication and insurance costs, internet service charges, media and advertising expenses, office administration costs, utilities, rental, consumables, accommodation, travel and *per diem*, and salaries of Project staff, but excluding the salaries, meeting allowances, other sitting allowances, salary top ups and any honorarium of the Recipient's civil servants.
31. "Participating Counties" means the Recipient's Counties of Turkana, Marsabit, Mandera, Wajir and Garissa and any other County agreed upon in writing by the Recipient and the Association, and included in the Project Operations Manual; and the term "Participating County" means any one of such Participating Counties.
32. "Performance-Based Grant" and the acronym "PBG" mean a grant to be provided by the Water Sector Trust Fund to a Participating County that meets the Minimum Eligibility Criteria as further detailed in the Project Operations Manual.
33. "PBG Agreement" means the agreement referred to in Section I.B.3 of Schedule 2 to this Agreement.
34. "Personal Data" means any information relating to an identified or identifiable individual. An identifiable individual is one who can be identified by reasonable means, directly or indirectly, by reference to an attribute or combination of attributes within the data, or combination of the data with other available information. Attributes that can be used to identify an identifiable individual include, but are not limited to, name, identification number, location data, online identifier, metadata and factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of an individual.

35. "Procurement Regulations" means, for purposes of paragraph 87 of the Appendix to the General Conditions, the "World Bank Procurement Regulations for IPF Borrowers", dated November 2020.
36. "Project Coordination Unit" and the acronym "PCU" mean the unit referred to in Section I.A.3 of Schedule 2 to this Agreement.
37. "Project Implementation Unit" and the acronym "PIU" mean any of the units referred to in Section I.A.4 of Schedule 2 to this Agreement.
38. "Project Implementing Entities" means Water Resources Authority and the Water Sector Trust Fund.
39. "Project Operations Manual" and the acronym "POM" mean the manual referred to in Section I.C.1 (b)ii of Schedule 2 to this Agreement as the same may be amended from time to time with the prior written approval of the Association.
40. "Regional Center for Groundwater" means the regional center on groundwater resources education training & research established pursuant to Legal Notice No. 252 of 18th December 2015.
41. "Sexual Exploitation, Abuse and Harassment Prevention and Response Plan" means a plan to be prepared by the Recipient, in a manner and substance satisfactory to the Association pursuant to the ESCP, and to be disclosed on the Association's website, containing measures proposed to address risks sexual exploitation and abuse, sexual harassment under the Project.
42. "Signature Date" means the later of the two dates on which the Recipient and the Association signed this Agreement and such definition applies to all references to "the date of the Financing Agreement" in the General Conditions.
43. "Sub-Catchment Management Plans" and the acronym "SCMPs" mean plans for investing in groundwater conservation and protection, as well as the operation and maintenance of groundwater recharge infrastructure to be prepared by the Water Resources User Association in accordance with the provisions of the Project Operations Manual; and the term "Sub-Catchment Management Plan" means any one of such plans.
44. "Sub-PIU" means any of the units referred to in Section I.A.5 of Schedule 2 to this Agreement.
45. "The National Treasury and Planning" and the acronym "NT" mean the Recipient's ministry responsible for finance, or its successor thereto.
46. "Training" means the costs associated with training, workshops and study tours provided under the Project, based on the Annual Work Plan and Budget consisting



of reasonable expenditures (other than expenditures for consultants' services) for:  
(i) travel, room, board and *per diem* expenditures incurred by trainers and trainees in connection with their training and by non-consultant training facilitators;  
(ii) course fees; (iii) training facility rentals; and (iv) training material preparation, acquisition, reproduction and distribution expenses.

47. "Water Resources Authority" and the acronym "WRA" means the state corporation established pursuant to section 11 of the Water Act, CAP 372 of the Laws of Kenya.
48. "Water Resources User Association" and the acronym "WRUA" mean an association of water users, riparian landowners, or other stakeholders established pursuant to section 29 of the Water Act, CAP 372 of the Laws of Kenya.
49. "Water Sector Trust Fund" means the state corporation established under section 113 of the Water Act, CAP 372 of the Laws of Kenya.
50. "Water Service Provider" means a water service provider selected by its Participating County for purposes of implementation of the Project.