October 9, 2012

Honourable Dr. Ken Lipenga, M.P.
Minister of Finance
Ministry of Finance
P.O. Box 30049
Lilongwe 3, Malawi

Re: Republic of Malawi: IDF Grant for the Procurement Capacity Building Project
IDF Grant No. TF012487

Honourable Minister:

In response to the request for financial assistance made on behalf of the Republic of Malawi ("Recipient"), I am pleased to inform you that the International Bank for Reconstruction and Development ("World Bank") proposes to extend to the Recipient a grant from the World Bank's Institutional Development Fund ("IDF") in an amount not to exceed four hundred ninety three thousand seventy United States Dollars (U.S.$493,070) ("Grant") on the terms and conditions set forth or referred to in this letter agreement ("Agreement"), which includes the attached Annex, to assist in the financing of the project described in the Annex ("Project").

The Recipient represents, by confirming its agreement below, that it is authorized to enter into this Agreement and to carry out the Project in accordance with the terms and conditions set forth or referred to in this Agreement.

Please confirm the Recipient's agreement to the foregoing by having an authorized official of the Recipient sign and date the enclosed copy of this Agreement, and returning it to the World Bank.
Upon receipt by the World Bank of this countersigned copy, this Agreement shall become effective as of the date of the countersignature; provided, however, that the offer of this Agreement shall be deemed withdrawn if the World Bank has not received the countersigned copy of this Agreement within 90 days after the date of signature of this Agreement by the World Bank, unless the World Bank shall have established a later date for such purpose.

Very truly yours,

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

By

Kundhavi Kadhresan
Country Director
Malawi, Zambia and Zimbabwe
Africa Region

AGREED:

THE REPUBLIC OF MALAWI

By

Authorized Representative

Name

Title

Date: 31/10/2012

Enclosures:

(2) Disbursement Letter of the same date as this Agreement, together with World Bank Disbursement Guidelines for Projects, dated May 1, 2006
Article I

Standard Conditions; Definitions

1.01. **Standard Conditions.** The Standard Conditions for Grants Made by the World Bank Out of Various Funds dated February 15, 2012 ("Standard Conditions") constitute an integral part of this Agreement.

1.02. **Definitions.** Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the Standard Conditions or in this Agreement and the following term has the following meaning:

"ODPP" or "Office of the Director of Public Procurement" means the Recipient’s entity established pursuant to an act of parliament dated June 13, 2003, with a mandate to regulate and monitor procurement.

Article II

Project Execution

2.01. **Project Objectives and Description.** The objective of the project is to enhance the skills of staff involved in procurement in the Recipient’s ministries, departments and parastatal organizations and to strengthen the capacity of the ODPP and of third party organizations to monitor procurement activities. The Project consists of the following parts:

Part 1: Strengthening of Accountability and Bidder Protest System

Carrying out a program of activities aimed at increasing accountability and transparency in the ODPP's procurement process, including:

(a) providing technical assistance for strengthening of institutional setup for review of bidder complaints to include (i) the preparation of terms of reference for the independent review committee; (ii) the development of detailed procedures for lodging and handling complaints; and (iii) the publication of the said procedures through public media;

(b) conducting a study tour to leading countries in procurement transparencies for a maximum of 10 officials from the government and civil society to learn other countries’ and networks’ experiences in procurement and contract monitoring; and

(c) Civil Society outreach and engagement for public contract monitoring to include (i) identification of civil society organizations and provision of technical assistance, training and equipment to civil society organizations with interest in procurement to develop a database of all public procurement entities and their annual allocated budgets; and (ii) establishment of transparency award based on reports from civil society organizations.

(d) Contracting civil society organizations to monitor public contracts
Part 2: Preparation of Simplified Bidding Documents and Streamlining Procurement for Local Authorities

Preparation, dissemination of simplified bidding document and provision of training on the use of such documents.

Part 3: Capacity Building in Preparation of Bidding Documents Preparation, Evaluation of tenders and Contract management

Provision of training to a maximum of ninety of the Recipient entities’ staff, on procurement cycle management, contract management, report writing, evaluation procedures, the Recipient’s procurement procedures, and international best practices.

Part 4: Project Audits

Carrying out two audits of the Grant activities.

2.02. Project Execution Generally. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall carry out the Project through the ODPP in accordance with the provisions of: (a) Article II of the Standard Conditions; (b) 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 (“Anti-Corruption Guidelines”); and (c) this Article II.

2.03. Institutional and Other Arrangements. Without limitation upon Section 2.02 above, the Recipient shall maintain the ODPP, with staff in number and with qualification and experience acceptable to the World Bank, to be responsible for the implementation of the Project.

2.04. Project Monitoring, Reporting and Evaluation. (a) The Recipient shall monitor and evaluate the progress of the Project and, upon the World Bank’s request, prepare Project Reports, in accordance with the provisions of Section 2.06 of the Standard Conditions and on the basis of indicators acceptable to the World Bank. Each Project Report shall cover such period as shall be indicated in the World Bank’s request and shall be furnished to the World Bank not later than one month after the date of such request. (b) The Recipient shall, upon the World Bank’s request, prepare the Completion Report in accordance with the provisions of Section 2.06 of the Standard Conditions. The Completion Report shall be furnished to the World Bank not later than five months after the Closing Date.

2.05. Financial Management. (a) The Recipient shall ensure that a financial management system is maintained in accordance with the provisions of Section 2.07 of the Standard Conditions, (b) The Recipient shall ensure that interim unaudited financial reports for the Project are prepared and furnished to the World Bank not later than forty five days after the end of each calendar quarter, covering the quarter, in form and substance satisfactory to the World Bank. (c) The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 2.07 (b) of the Standard Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the World Bank not later than six months after the end of such period.
2.06. **Procurement**

(a) **General.** All goods and consultants’ services required for the Project and to be financed out of the proceeds of the Grant shall be procured in accordance with the requirements set forth or referred to in:

(i) Section I of the “Guidelines: Procurement of Goods, Works and Non-consulting Services under IBRD Loans and IDA Credits and Grants by World Bank Borrowers” dated January 2011 (“Procurement Guidelines”), in the case of goods and non-consulting services;

(ii) Sections I and IV of the “Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits and Grants by World Bank Borrowers” dated January 2011 (“Consultant Guidelines”) in the case of consultants’ services; and

(iii) the provisions of this Section, as the same shall be elaborated in the procurement plan prepared and updated from time to time by the Recipient for the Project in accordance with paragraph 1.18 of the Procurement Guidelines and paragraph 1.25 of the Consultant Guidelines (“Procurement Plan”).

(b) **Definitions.** The capitalized terms used in the following paragraphs of this Section to describe particular procurement methods or methods of review by the World Bank of particular contracts, refer to the corresponding method described in Sections II and III of the Procurement Guidelines, or Sections II, III, IV and V of the Consultant Guidelines, as the case may be.

(c) **Particular Methods of Procurement of Goods and Non-consulting Services.**

(i) Except as otherwise provided in sub-paragraph (ii) below, goods and non-consulting services shall be procured under contracts awarded on the basis of National Competitive Bidding where the procurement procedure to be followed shall be open tendering as set forth in the Public Procurement Act, 2003, provided, however, such procedure shall be subject to the provisions of Section I and Paragraphs 3.3 and 3.4 of the Procurement Guidelines and the following additional provisions:

1. Eligibility to participate in a procurement process and to be awarded a World Bank-financed contract shall be as defined under Section I of the Procurement Guidelines; accordingly, no bidder or potential bidder shall be declared ineligible for contracts financed by the World Bank for reasons other than those provided in Section I of the Procurement Guidelines.

2. Bidding documents acceptable to the World Bank shall be used, and shall be prepared so as to ensure economy, economy, efficiency, transparency, and broad consistency with the provisions of Section I of the Procurement Guidelines.

3. The bidding documents and contract as deemed acceptable by the World Bank shall include provisions stating the Bank’s policy to sanction firms or
individuals, found to have engaged in fraud and corruption as defined in the Procurement Guidelines.

(4) In accordance with the Procurement Guidelines, each bidding document and contract financed out of the proceeds of the Grant shall provide that bidders, suppliers and contractors, and their subcontractors, agents, personnel, consultants, service providers, or suppliers, shall permit the World Bank to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the World Bank. Acts intended to materially impede the exercise of the World Bank inspection and audit rights provided for in the Procurement Guidelines constitute an obstructive practice as defined in the Procurement Guidelines.

(5) Regulation 80.3 (b) (ii) of the Public Procurement Regulations permitting the consideration of unquantifiable criteria, such as local content, technology transfer, and managerial, scientific, and operational skills development, in the evaluation of bids shall not apply.

(6) Regulation 80.4 of the Public Procurement Regulations permitting domestic preference shall not apply.

(7) Regulations 164 (i) and (j) of the Public Procurement Regulations permitting the division of contracts into small lots and the restriction of contracts to small enterprises, respectively, for purposes of promotion of the participation of small enterprises, shall not apply.

(ii) The following methods, other than National Competitive Bidding, may be used for procurement of goods and non-consulting services for those contracts which are specified in the Procurement Plan: (A) Shopping (B) Direct contracting.

(d) Particular Methods of Procurement of Consultants’ Services

(i) Except as otherwise provided in item (ii) below, consultants’ services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection.

(ii) The following methods may be used for the procurement of consultants’ services for those assignments which are specified in the Procurement Plan: (A) Quality-based Selection; (B) Selection under a Fixed Budget; (C) Least Cost Selection; (D) Selection based on Consultants’ Qualifications; (E) Single-source Selection of consulting firms; (F) Selection of Individual Consultants; and (G) Single-source procedures for the Selection of Individual Consultants.

(e) Review by the World Bank of Procurement Decisions. The Procurement Plan shall set forth those contracts which shall be subject to the World Bank’s Prior Review. All other contracts shall be subject to Post Review by the World Bank.
Article III
Withdrawal of Grant Proceeds

3.01. *Eligible Expenditures.* The Recipient may withdraw the proceeds of the Grant in accordance with the provisions of: (a) Article III of the Standard Conditions; (b) this Section; and (c) such additional instructions as the World Bank may 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 World Bank and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the following table. The table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Grant (“Category”), the allocations of the amounts of the Grant to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Grant Allocated (expressed in USD)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods and non-consulting services</td>
<td>22,000</td>
<td>100%</td>
</tr>
<tr>
<td>(2) Consultants’ Services</td>
<td>185,300</td>
<td>100%</td>
</tr>
<tr>
<td>(3) Training</td>
<td>285,770</td>
<td>100%</td>
</tr>
<tr>
<td><strong>TOTAL AMOUNT</strong></td>
<td><strong>493,070</strong></td>
<td></td>
</tr>
</tbody>
</table>

For the purposes of this Section, the term “Training” means training and training-related activities under the Project, including seminars, workshops and study tours, together with all costs associated with subsistence allowances for training participants, trainers’ fees and travel, rental of training facilities, preparation and reproduction of training materials and other activities reasonably incidental to the preparation and implementation of training activities, other than consultants’ services.

3.02. *Withdrawal Conditions.* Notwithstanding the provisions of Section 3.01 of this Agreement, no withdrawal shall be made for payments made prior to the date of countersignature of this Agreement by the Recipient.

3.03. *Withdrawal Period.* The Closing Date referred to in Section 3.06 (c) of the Standard Conditions is three years after the date of countersignature of this Agreement by the Recipient.
Article IV
Recipient's Representative; Addresses

4.01. **Recipient's Representative.** The Recipient's Representative referred to in Section 7.02 of the Standard Conditions is its minister at the time responsible for Finance.

4.02. **Recipient's Address.** The Recipient's Address referred to in Section 7.01 of the Standard Conditions is:

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

Facsimile: (265) 1 789 173

4.03. **World Bank's Address.** The World Bank's Address referred to in Section 7.01 of the Standard Conditions is:

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

Cable: INTBAFRAD
Telex: 248423 (MCI) or 64143 (MCI)
Facsimile: 1-202-477-6391