Financing Agreement
(Kenya Petroleum Technical Assistance Project)

between

REPUBLIC OF KENYA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated 14th August, 2014
FINANCING AGREEMENT

AGREEMENT dated 14th August, 2014, entered into between REPUBLIC OF KENYA (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”). The Recipient and the Association hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II — FINANCING

2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a credit in an amount equivalent to thirty-two million five hundred thousand Special Drawing Rights (SDR 32,500,000) (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 IV of Schedule 2 to this Agreement.

2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.

2.04. The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.

2.05. The Payment Dates are April 15 and October 15 in each year.

2.06. The principal amount of the Credit shall be repaid in accordance with the repayment schedule set forth in Schedule 3 to this Agreement.

2.07. The Payment Currency is Dollar.
ARTICLE III — PROJECT

3.01. The Recipient declares its commitment to the objective of the Project. To this end, the Recipient shall carry out the Project in accordance with the provisions of Article IV of the General Conditions.

3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV — REMEDIES OF THE ASSOCIATION

4.01. The Co-financing Deadline for the effectiveness of the Co-financing Agreement is August 31, 2015.

ARTICLE V — EFFECTIVENESS; TERMINATION

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

5.02. For purposes of Section 8.05(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 years after the date of this Agreement.

ARTICLE VI — REPRESENTATIVE; ADDRESSES

6.01. The Recipient’s Representative is its Cabinet Secretary at the time responsible for Finance.

6.02. The Recipient’s Address is:

The National Treasury
Treasury Building
P.O Box 30007-00100
Nairobi, Kenya

Facsimile:

254 20 330426; 254 20 218475
6.03. The Association’s Address is:

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

Cable: INDEVAS  Telex: 248423 (MCI) Facsimile: 1-202-477-6391

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

REPUBLIC OF KENYA

By

[Signature]
Authorized Representative

Name: HENRY K. KOTIEHT
Title: CABINET SECRETARY, THE NATIONAL TREASURY

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

[Signature]
Authorized Representative

Name: DIARIETOU GIA-IE
Title: COUNTRY DIRECTOR FOR KENYA
SCHEDULE 1

Project Description

The objective of the Project is to strengthen the capacity of the Recipient to manage its petroleum sector and wealth for sustainable development impacts.

The Project consists of providing technical assistance and support for the following parts:

Part A: Petroleum Sector Reforms and Capacity Building

1. Petroleum Resource Deals
   (a) Update the petroleum cadastral procedures and integrate the database for the Project Area and Geographical Information System (GIS) with other systems.
   (b) Support selective geoscience data acquisition and interpretation to promote exploration investments in the Project Area.
   (c) Strengthen the Recipient’s negotiating capacity in the extractive industries sector, including transaction support.

2. Petroleum Vision, Policy and Communication
   (a) Drafting and implementation of a comprehensive petroleum policy, and establish frameworks for sector planning, monitoring and evaluation.
   (b) Coordination of the development of the petroleum sector in the Republic of Kenya, including establishment of a petroleum council, supported by an inter-ministerial committee and a secretariat, charged with petroleum sector coordination.
   (c) Preparation and follow up of a Petroleum Master Plan that considers strategic options and decision hierarchies for policies and investments in the Project Area on a sound economic basis.
   (d) Development of a national communications strategy to empower a greater proportion of the Kenyan population to effectively access, understand and participate in the ongoing dialogue on using the petroleum deposits as a source of national wealth.
3. **Legal, Regulatory and Institutional Reforms**

(a) Design a legal and regulatory framework for the development of petroleum resources.

(b) Implement a set of measures to setup, expand or restructure institutions and clarify sector roles and responsibilities.

(c) Facilitate institutional capacity building, including diagnosis of relevant institutions, and implementation of reforms of the organizational structure and a human resources and human development plan for the coming years.

4. **Managing the Impacts**

(a) Development of a petroleum sector specific occupational safety and health regulation, including the implementation of a capacity building program for DOSHS.

(b) Design and implementation of sector specific environmental and social regulations, standards, frameworks and baselines for petroleum operations.

(c) Carrying out of a gender assessment to identify potential gender-specific impacts of the sector.

(d) Development of a framework for oil spill preparedness and response capacity, including the preparation of a national oil spill contingency plan.

5. **Institutional Reform and Strengthening of NOCK and KPC**

(a) Restructuring of NOCK, including support for the design and implementation of a transformation plan, and subsequent capacity building and transaction advisory services.

(b) Capacity building activities, including the establishment of a KPC Center of Excellence for oil and gas infrastructure.

**Part B: Revenue and Investment Management, Reforms and Capacity Building**

1. **Revenue Management**

(a) Develop and implement a petroleum fiscal framework, including a legal framework for resource management and capacity building at the relevant institutions.
(b) Improve the Recipient’s capacity in oil revenue administration.

(c) Design and implement appropriate fiscal policies for short and long term economic management.

(d) Develop saving instruments.

(e) Enhance understanding of the fiscal impact of resource revenue management at national and county levels.

2. **Transparency and Accountability**

   (a) Strengthen transparency in oil contracts and revenues management and facilitate organizations engaged in transparency and community monitoring of environmental impacts.

   (b) Carry out audit of the oil sector and oil revenues, including capacity building of audit institutions.

3. **Public Investment Management**

   (a) Enhance the efficiency and quality of investments through the implementation of a robust Public Investment Management system.

   (b) Build capacity of institutions that are likely to become involved in implementing projects financed from oil revenue.

**Part C: Sustainable Impact of Oil and Gas Industry, Reforms and Capacity Building**

1. **Strengthening Upward and Downward Linkages**

   (a) Stimulate local goods and services procurement.

   (b) Stimulate the development of downstream oil and gas industry.

2. **Education and Skills Development**

   (a) Assess and prepare a national skills development strategy.

   (b) Pilot different models of skills development, including private public partnerships.
Part D: Project Management

Management and coordination of the Project activities, including capacity building in procurement, financial management, safeguards management, and monitoring and evaluation.
SCHEDULE 2
Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. The Recipient shall maintain, until the completion of the Project, the Project Steering Committee (PSC), to be chaired by MEP, and comprised of one high level official from each of the Beneficiaries, and which shall be responsible for:
   (a) coordinating policy decisions across the various sectors to develop the petroleum sector; and
   (b) overseeing Project implementation and providing oversight and strategic guidance.

2. The Recipient shall:
   (a) vest responsibility for the overall coordination and management of the Project in the MEP;
   (b) maintain within the MEP, the Project Management Unit (PMU) to carry out the day-to-day activities under the project and coordination with the Beneficiaries; and
   (c) maintain two Project Implementation Teams (PITs) to be located at the National Treasury and MoIxED, each one to be responsible for procurement, financial management and reporting with respect to the activities it implements.

B. Implementation Arrangements

1. The Recipient shall: (a) ensure that the Project is carried out in accordance with the Project Operational Manual; and (b) except as the Association shall otherwise agree, not assign, amend, abrogate, or waive, or permit to be assigned, amended, abrogated, or waived, the aforementioned, or any provision thereof.

2. In the event of any conflict between the provisions of the Project Operational Manual and those of this Agreement, the provisions of the latter shall prevail.

C. Annual Work Plans and Budgets

The Recipient shall:

(a) furnish to the Association for approval as soon as available, but in any case not later than May 31 of each year, the annual work plan and budget for the Project for each subsequent year of Project implementation, of
such scope and detail as the Association shall have reasonably requested; and

(b) thereafter ensure that the Project is carried out in accordance with said plan and budget.

D. Anti-Corruption

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

E. Safeguards

The Recipient shall: (a) by no later than December 31, 2015, prepare a Strategic Environmental and Social Assessment, under the terms of reference satisfactory to the Association; (b) adopt an action plan to carry out the SESA, and disclose it by no later than nine months after its adoption; and (c) promptly implement said action plan.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators acceptable to the Association. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the Association not later than one month after the end of the period covered by such report.

B. Financial Management, Financial Reports and Audits

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.

2. Without limitation on the provisions of Part A of this Section, the Recipient shall prepare and furnish to the Association, as part of the Project Report, not later than 45 days after the end of each calendar quarter, unaudited interim financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09(b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipient, commencing with the fiscal year in which the first withdrawal was made under
the Preparation Advance for the Project. The audited Financial Statements for each such period shall be furnished to the Association not later than six months after the end of such period.

Section III. **Procurement**

A. **General**

1. **Goods and Non-Consulting Services.** All goods and non-consulting services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.

2. **Consultants’ Services.** All consultants’ services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.

3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

B. **Particular Methods of Procurement of Goods and Non-consulting Services**

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and non-consulting services shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. **Other Methods of Procurement of Goods.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and non-consulting services. The Procurement Plan shall specify the circumstances under which such methods may be used:

<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Limited International Bidding</td>
</tr>
<tr>
<td>(b) National Competitive Bidding, subject to the provisions of paragraph 3 of this Section B</td>
</tr>
<tr>
<td>(c) Shopping subject to the provisions of paragraph 4 of this Section B</td>
</tr>
<tr>
<td>(d) Direct Contracting</td>
</tr>
<tr>
<td>(e) Procurement from the United Nations Agencies</td>
</tr>
<tr>
<td>(f) Procurement under Framework Agreements in accordance with procedures which have been found acceptable to the Association</td>
</tr>
<tr>
<td>(g) Procurement under Public Private Partnership Arrangements in accordance with procedures which have been found acceptable to the Association</td>
</tr>
</tbody>
</table>
The following requirements shall apply to National Competitive Bidding:

(i) the tender submission date shall be set so as to allow a period of at least thirty (30) days from the later of (A) the date of advertisement, and (B) the date of availability of the tender documents;

(ii) Recipient-owned enterprises shall be allowed to participate in the tendering only if they can establish that they are legally and financially autonomous, operate under commercial law and are independent agencies of the Recipient’s government;

(iii) the Recipient shall use, or cause to be used, bidding documents and tender documents containing, *inter alia*, draft contracts and conditions of contracts, including provisions on fraud and corruption, audit and publication of award in form and substance satisfactory to the Association;

(iv) extension of tender validity shall be allowed once only, and for not more than thirty (30) days, unless otherwise previously agreed in writing by the Association;

(v) evaluation tender shall be based on quantifiable criteria expressed in monetary terms as defined in the tender documents, and not on a merit points system;

(vi) no domestic preference shall be used in the evaluation of tenders. Accordingly, contracts shall be awarded to qualified tenderers having submitted the lowest evaluated substantially responsive tender;

(vii) notification of contract award shall constitute formation of the contract. No negotiation shall be carried out prior to contract award; and

(viii) the two envelope bid opening procedure shall not apply.

4. Shopping procedure will apply for each low value contract in lieu of Direct Procurement, except as otherwise previously agreed in writing by the Association.

C. Particular Methods of Procurement of Consultants’ Services

1. Quality- and Cost-based Selection. Except as otherwise provided in paragraph 2 below, consultants’ services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection.

2. Other Methods of Procurement of Consultants’ Services. The following table specifies methods of procurement, other than Quality- and Cost-based
Selection, which may be used for consultants’ services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Quality-Based Selection</td>
</tr>
<tr>
<td>(b) Fixed Budget Selection</td>
</tr>
<tr>
<td>(c) Least-Cost Selection</td>
</tr>
<tr>
<td>(d) Selection based on Consultants’ Qualifications</td>
</tr>
<tr>
<td>(e) Single-Source Selection of consulting firms</td>
</tr>
<tr>
<td>(f) Procedures set forth in paragraph 5.2 and 5.3 of the Consultants Guidelines for the Selection of Individual Consultants</td>
</tr>
<tr>
<td>(g) Selection of consultants under Indefinite Delivery Contract or Price Agreement</td>
</tr>
<tr>
<td>(h) Single source procedures for the Selection of Individual Consultants</td>
</tr>
</tbody>
</table>

D. Review by the Association of Procurement Decisions

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

Section IV. Withdrawal of the Proceeds of the Financing

A. General

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the “World Bank Disbursement Guidelines for Projects”, dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing (“Category”), the allocations of the amounts of the Credit to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:
### Percentage of Amount of the Credit Expenditures to be Allocated Financed

<table>
<thead>
<tr>
<th>Categories</th>
<th>Amount of the Credit Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods, non-consulting services, consultants’ services, Training and Incremental Operating Costs for Parts A.1, A.2, A.3, A.4, A.5, B.2(a), and D implemented by MEP</td>
<td>24,360,000</td>
<td>100%</td>
</tr>
<tr>
<td>(2) Goods, non-consulting services, consultants’ services, Training and Incremental Operating Costs for Parts B.1, B.2(b) and B.3 implemented by National Treasury</td>
<td>4,060,000</td>
<td>100%</td>
</tr>
<tr>
<td>(3) Goods, non-consulting services, consultants’ services, Training and Incremental Operating Costs for Part C.1 and C.2 implemented by MoIED</td>
<td>2,080,000</td>
<td>100%</td>
</tr>
<tr>
<td>(4) Refund of Preparation Advance</td>
<td>2,000,000</td>
<td>Amount payable pursuant to Section 2.07 of the General Conditions</td>
</tr>
<tr>
<td><strong>TOTAL AMOUNT</strong></td>
<td><strong>32,500,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement.

2. The Closing Date is February 28, 2021.
SCHEDULE 3
Repayment Schedule

<table>
<thead>
<tr>
<th>Date Payment Due</th>
<th>Principal Amount of the Credit repayable (expressed as a percentage)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>On each April 15 and October 15:</td>
<td></td>
</tr>
<tr>
<td>commencing October 15, 2020, and ending April 15, 2052</td>
<td>1.56250</td>
</tr>
</tbody>
</table>

* The percentages represent the percentage of the principal amount of the Credit to be repaid, except as the Association may otherwise specify pursuant to Section 3.03(b) of the General Conditions.
APPENDIX

Section I. Definitions


2. "Annual Work Plans and Budgets" means the annual work plans and budgets prepared by the Recipient pursuant to paragraph C of Section I of Schedule 2 to this Agreement.

3. "Beneficiaries" means the Recipient’s ministries, agencies, and statutory bodies, including the MEP, the MoIED, the NOCK, the KPC, and the DOSHS (as hereinafter defined), as well as the National Environmental Management Authority, the National Treasury, the Energy Regulatory Commission, the National Disaster Operations Center, the Ministry of Health, the Office of the Attorney General and Department of Justice, the Kenya Maritime Authority, the Commission of Revenue Allocation, the Kenya Revenue Authority, the Office of the Auditor General of Kenya, the Ministry of Devolution and Planning, the Ministry of Education, and the Kenya Bureau of Standards.

4. "Category" means a category set forth in the table in Section IV of Schedule 2 to this Agreement.

5. "Co-financier" means the Department for Foreign Affairs, Trade and Development of Canada.

6. "Co-financing" means, for purposes of paragraph 11 of the Appendix to the General Conditions, an approximate amount of 16 million Canadian Dollars to be provided by the Co-financier to assist in financing parts of the Project.

7. "Co-financing Agreement" means the agreement to be entered into between the Recipient and the Co-financier providing for the Co-financing.


10. "DOSHS" means the Recipient’s Directorate of Occupational Safety and Health Services.

12. "Implementing Agencies" means collectively MEP, MoIED and the National Treasury.

13. "Incremental Operating Costs" means the Project-related expenses incurred on account of Project implementation support and management including the rental of office space, office consumables, operation and maintenance of office equipment and vehicles, maintenance and insurance of vehicles; fuel; communications supplies and charges; advertisements; books and periodicals; office administration and maintenance costs; bank transaction charges; utility charges; domestic travel and per diem; but excluding salaries of officials and staff of the Recipient’s civil service.

14. "KPC" means Kenya Pipeline Company, a State Corporation established on 6th September, 1973 under the Recipient’s Companies Act (CAP 486), or any successor thereto.


18. "National Treasury" means the Recipient’s National Treasury, or any of its successors.

19. "Petroleum Master Plan" means the Recipient’s Petroleum Sector Master Plan, aimed at creating strategic options for policy and investment decisions the Recipient will have to make in the coming years to develop its petroleum sector.

20. "Preparation Advance" means the advance referred to in Section 2.07 of the General Conditions, granted by the Association to the Recipient pursuant to the letter agreement signed on behalf of the Association on January 20, 2014 and on behalf of the Recipient on January 30, 2014.

22. "Procurement Plan" means the Recipient's procurement plan for the Project, dated June 4, 2014 and referred to in paragraph 1.18 of the Procurement Guidelines and paragraph 1.25 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

23. "Project Area" means areas where Project activities may be carried out; provided that such areas shall not include any areas, whether onshore or offshore, that may be the subject of a dispute between the Recipient and any of its neighboring countries.

24. "PITs" means the Project Implementation Teams to be located at MoLED and the National Treasury and referred to in paragraph A.2(c) of Section I in Schedule 2 to this Agreement.

25. "PMU" means the Project Management Unit maintained by the MEP and referred to in paragraph A.2(b) of Section I in Schedule 2 to this Agreement.

26. "POM" means the Project Operational Manual dated May 29, 2014, acceptable to the Association, detailing, inter alia, the assignment of responsibilities, chart of accounts and formats, mechanism for coordination of day-to-day execution of Project activities, and monitoring, evaluation, reporting (including mechanisms and formats for the preparation of Annual Work Plans and Budgets), procurement, administrative, financial, safeguards, technical and organizational arrangements and procedures to be used during the implementation of the Project.

27. "SESA" or "Strategic Environmental and Social Assessment" means the assessment to be carried out by the Recipient pursuant to Section I.E of Schedule 2 to this Agreement.

28. "Training" means the reasonable costs of training, workshops and conferences conducted in the territory of the Recipient or subject to the prior approval by the Association attended abroad by representatives of the Recipient in connection with the Project, including the purchase and publication of materials, rental of facilities, course fees and travel and subsistence of trainees.