

TECHNICAL COOPERATION AGREEMENT

ON KOREA-AFRICA ECONOMIC COOPERATION

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF KOREA

AND

THE AFRICAN DEVELOPMENT BANK

AND

THE AFRICAN DEVELOPMENT FUND

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**TECHNICAL COOPERATION AGREEMENT
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AND
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TECHNICAL COOPERATION AGREEMENT (the "Agreement") dated this 7th day of December 2007, between the Government of the Republic of Korea (hereinafter, the "Government") represented by the Ministry of Finance and Economy or Agency (hereinafter referred to as "Ministry"), of the one part, and the African Development Bank (hereinafter referred to as the "Bank") and the African Development Fund (hereinafter referred to as the "Fund"), of the other part (unless the context requires otherwise, all references to the Bank shall include the Fund).

THE PARTIES TO THIS AGREEMENT,

RECALLING the mandates of each of the Bank and the Fund, as well as the commitment expressed by the Government, to contribute to the economic development and social progress of the regional member countries of the Bank (the "Regional Members"), as set forth, respectively, in:

1. Article 1 (Purpose) of the Agreement establishing the Bank (the "Bank Agreement");
2. Article 2 (Purpose) of the Agreement establishing the Fund (the "Fund Agreement"); and

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RECALLING the terms of the Technical Co-operation Agreement dated 12 May 1998;

DESIRING to establish a new framework of cooperation between themselves for the benefit of Regional Members;

WHEREAS the Government intends to make available to the Bank and the Fund grant funds (hereinafter referred to as the "Contribution") to assist in the preparation and implementation of development projects and programmes;

WHEREAS the Bank is prepared to accept and administer the Contribution on the terms and conditions hereinafter set forth unless otherwise agreed upon between the Government and the Bank;

HAVE AGREED AS FOLLOWS:

ARTICLE I

AMOUNT AND PURPOSES OF THE CONTRIBUTION

1. The Government hereby agrees to make available to the Bank and the Fund the Contribution in the amount of Five Million United States Dollars (US\$ 5,000,000) with the name of "Korea-Africa Economic Cooperation Trust Fund (hereinafter referred to as the KOAFEC Trust Fund)" on the terms and conditions hereinafter set forth in this Agreement.
2. The resources of the Contribution shall consist of:

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- (a) All sums received from the Government in the form of installments and made available to the Bank and credited to a separate account to be opened and maintained by the Bank;
 - (b) Interest earned on the account referred to in (a) above; and
 - (c) Investment income earned pursuant to paragraph 2.7 of Article II hereof.
3. The purpose of the Contribution is to support the implementation of Korea-Africa Economic Cooperation (hereinafter referred to as the "KOAPEC") action plans and other various activities endorsed by the KOAPEC Consultative Group on which the Ministry, the Export-Import Bank of Korea (hereinafter referred to as "KEXIM") and the Bank are sharing responsibility.
4. The main areas of KOAPEC scheme include i) infrastructure and natural resources; ii) information and communication technology; iii) knowledge sharing on Korea's economic development experience; and iv) human resources development.
5. The Resources of the Contribution are untied and may be used by the Bank for the following activities for the benefit of Regional Members:
- a) Policy dialogue and technical assistance involving the use of experts;
 - (b) Capacity Building and developing human resources through education and training;

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- (c) Studies, research and analytical work;
- (d) Dissemination, networking and cross-learning (e.g. policy consultation, seminars and workshops, conference, publication, and website development);
- (e) Piloting innovative approaches; and
- (f) Other technical assistance activities proposed by the Government or the Bank may be supported from the Contribution as long as the projects are acknowledged of their relevance to the enhancement of the Korea-Africa economic cooperation by the KOAFEC Consultative Group.

ARTICLE II
ADMINISTRATION AND MANAGEMENT
OF THE CONTRIBUTION

- 2.1 The Bank shall, in accordance with its regulations, rules, procedures and policy guidelines, administer and manage the resources of the Contribution through its own organization, services, officers and staff.
- 2.2 The Government shall deposit the resources of the Contribution into an account specified by the Bank (the "the Contribution Account") in accordance with the following schedule:
- (a) The first tranche of two million United States Dollars (US\$ 2,000,000) upon receipt by the Government of the signed and dated Agreement;

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- (b) The second tranche of one million five hundred thousand United States Dollars (US\$ 1,500,000) on 30 September 2008; and
 - (c) The third and final tranche of one million five hundred thousand United States Dollars (US\$ 1,500,000) on 30 September 2009.
- 2.3 The Schedule of remittance of the balance of the Contribution following the remittance of the first tranche of US\$ 2,000,000 may be adjusted, depending on the progress of financial utilization of the Contribution and its liquidity needs.
- 2.4 In utilizing the resources of the Contribution, the Bank shall exercise the same care in the discharge of its functions under this Agreement as it exercises with respect to the administration and management of its own resources and affairs, and shall have no further liability to the Government in respect thereof.
- 2.5 When making a deposit, the Government shall send a fax message to the Director of the Treasury Department of the Bank through fax number: (216) 71 330 632 or such other fax numbers as may be furnished by the Bank to the Government from time to time. The message shall contain the following:
- (a) The amount paid in the Contribution Account;
 - (b) Statement that the funds are for financing the services, projects, programmes, and activities agreed between the Parties;
 - (c) The date of deposit.

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- 2.6 The resources of the Contribution shall be used by the Bank in accordance with the terms of this Agreement. The resources of the Contribution may be co-mingled with other grant assets/resources managed by the Bank, but shall be kept separate and apart from the funds of the Bank and the Fund. The Bank may freely exchange the resources of the Contribution into other currencies as may facilitate their disbursement.
- 2.7 All financial accounts and statements shall be expressed in United States Dollars. The Bank shall maintain separate records and ledger accounts, in respect of the Contribution and disbursements thereof in accordance with its normal procedures.
- 2.8 The Bank may invest and reinvest the funds provided by the Government under this Agreement pending their disbursement. The Bank will credit all income from such investment and reinvestment to the Contribution Account.
- 2.9 To meet the costs and expenses of administering the Contribution, the Bank shall charge an administrative fee set at a minimum of five percent (5%) of the total amount of the Contribution. In the event that the Bank determines that the costs and expenses of administration of the Contribution exceed the minimum fee, the parties agree to negotiate in good faith to establish a rate reflecting the actual costs of administration.
- 2.10 The Bank shall observe the highest ethics during the procurement and execution of contracts. Invitations to tender as well as procurement contracts shall, respectively, include a clause stating that the tender/offer will be rejected and the contract cancelled, in case any illegal or corrupt practices have been committed in the award or the execution of the

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contract. No offer, gift, payments or benefit of any kind, which would or could be construed as an illegal or corrupt practice, shall be accepted, either directly or indirectly, as an inducement or reward for the award or execution of procurement contracts. Any such practice will be grounds for cancellation of the procurement contract concerned.

- 2.11 The Bank shall take appropriate steps with the competent authorities of the beneficiary Regional Members to ensure that consultants engaged under this Agreement are accorded the immunities, privileges and exemptions to which they are entitled under the Agreement Establishing the Bank and the Agreement Establishing the Fund.

ARTICLE III

OPERATIONS

- 3.1 For the purpose of operations under this Agreement, the Bank shall be responsible to the Government for the use of the resources of the Contribution.
- 3.2 In the discharge of its operational functions, the Bank shall:
- (a) To the extent applicable, use the methods it employs to control disbursement of its own resources; and
 - (b) Take steps to ensure that disbursements out of the Contribution are applied exclusively for the purposes for which they are made.

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- 3.3 Activities financed by the Contribution other than those directly implemented by the Bank shall be implemented by recipients of the resources of the Contribution (hereinafter referred to as the "Recipients").
- 3.4 The Bank shall prepare annual work programmes, which shall be submitted to the Government for its consideration. Work programmes shall include a description of each project, programme or activity to be financed from the Contribution including the objectives, scope, beneficiaries, a budget breakdown, executing agency, and implementation schedule. The work programmes will also list all the entities that are expected to participate in the activities financed by the Contribution. Additional proposals developed during the year may be incorporated into the work programme after consultation with the Government.
- 3.5 In the case of grants for activities to be carried out by Recipients, the Bank or the Fund shall enter into a grant agreement ("the grant agreement") with the Recipient, where such is necessary, regarding the provision of the resources of the grant. The Government hereby authorises the Bank to use the resources of the grant to pay the Recipient for eligible expenditure made under and in accordance with the grant agreement. The Bank shall furnish a copy of each grant agreement to the Government.
- 3.6 The Bank shall be responsible for the selection and engagement of consultants, negotiation and conclusion of contracts, procurement of goods and services, supervision of projects and disbursement of the proceeds of the Contribution. The selection and engagement of consultants shall follow Bank's Rules of Procedure for the Use of Consultants, as amended from time to time, and the procurement of goods and services shall be in

accordance with the Bank's Rules of Procedure for Procurement of Goods and Works, as amended from time to time.

- 3.7 Grant agreements with Recipients shall provide that the resources of the grant shall be used by the Recipients to finance expenditures for consultancy services, goods and services, as the case may be, in accordance with the Bank's rules for procurement of consultants, goods and services. The Bank shall be solely responsible for the administration of the grant agreement and for supervision of the projects, programmes and activities financed by the grant agreement.
- 3.8 Proposals for financing activities under this Agreement shall be approved in the following manner: i) the Bank may approve activities involving grants in amounts equivalent to one hundred thousand United States dollars (US\$100,000) or less; ii) the Bank shall seek approval from the Government for grants in amounts higher than the equivalent of one hundred thousand United States dollars (US\$100,000). In this case, the Bank shall submit the proposal to the Ministry (and automatically to KEXIM as well). A non-response from the Government three weeks after submission of a proposal shall be deemed a non-objection and the proposal shall be considered approved. Proposals may be approved under the annual work programme or individually.
- 3.9 The maximum amount to be charged to the Korean Contribution for any single project, programme or activity shall not, in principle, exceed three hundred United States Dollars (US\$ 300,000), unless otherwise agreed by the parties.

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- 3.10 Any proposal for financing a project, programme or any activity whose cost exceeds the equivalent of One Million United States Dollars (US\$1,000,000) shall be approved by the Board of Directors of the Bank or the Fund, as applicable.

ARTICLE IV

CONSULTATIONS

- 4.1 The Government and the Bank and the Fund shall cooperate to ensure that the purpose of the Agreement will be accomplished. To this end, the Parties shall from time to time:
- (a) Exchange views through their representatives with regard to the administration and management of Contribution resources;
 - (b) Furnish to each other information with regard to the general status of resources;
 - (c) Consult each other, in particular, whenever either Party proposes to materially modify an agreement entered into or suspend or terminate, in whole or in part, disbursements under this Agreement; and
 - (d) Consult each other whenever the Bank identifies a major change of scope in relation to any projects, programmes and activities financed under the Contribution.
- 4.2 A joint meeting will be held by the Parties once a year to review the progress made and the work programme for the next year.

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ARTICLE V
REPORTING AND EVALUATION

- 5.1 The Bank shall furnish the Government with annual progress reports on the execution of the projects, programmes and activities financed under the Contribution and the receipt and utilization of the resources as of December 31st each year.
- 5.2 The Bank shall submit to the Government annual financial statements of funds received and disbursed from the Contribution. These reports shall be submitted within six (6) months after the end of the reporting period.
- 5.3 The Bank shall, in accordance with its usual procedures furnish the Government with such reports and information as the Government may reasonably request concerning the progress of activities financed under the Contribution, and inform the Government promptly of any condition which interferes, or threatens to interfere, with the performance by the Bank of its obligations under this Agreement.
- 5.4 The Bank shall submit to the Government, not later than six (6) months after exhaustion of the Contribution, a final activity report as well as a final closing financial statement certified by the Financial Controller of the Bank, on the activities financed from the resources of the Contribution.
- 5.5 Upon request of the Government and at such times as shall be agreed by the Parties, the Bank will procure the undertaking of an external *post*-evaluation of the activities financed from the Contribution.

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The Bank shall fully cooperate with the Government in the conduct of the evaluation whose cost shall be charged to the Contribution. The evaluation shall focus on the results achieved, and efficiency, effectiveness of implementation and quality of financial and project administration of the Contribution by the Bank.

- 5.6 All operations financed by proceeds of the Contribution shall be subject to the Information Disclosure Policies of the Bank and Fund.
- 5.7 The annual and closing financial statements referred to in Article 5.2 and 5.4 above may, at the request of the Government, be audited by the external auditors of the Bank. The cost of such audits shall be charged to the resources of the Contribution.

ARTICLE VI

CHANNEL OF COMMUNICATIONS AND NOTICES

- 6.1 For purposes of this Agreement the representative of the Parties shall be:
- a) For the **Government**: the Director, International Financial Institutions Division, Ministry of Finance and Economy
 - b) For the **Bank and the Fund**: the Head, Resource Mobilisation and Partnerships Unit.

Either Party may, by notice in writing, designate additional representatives.

- 6.2 Any notice or request required to be given or made under this Agreement shall be in writing. Such notice or request shall be deemed to have been

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duly given or made when it shall have been delivered by hand, mail, or facsimile (confirmed by letter), to the party to which it is required to be given or made at the address specified below or at such other address as either party may have hereafter notified to the other:

For the Government: International Financial Institutions
Division, Ministry of Finance and
Economy, 88 Gwanmun-ro, Gwacheon-si,
Gyeonggi-do, Republic of Korea
Tel: (82) 2 2150 2573
Fax: (82) 2 503 6772

For the Bank and the Fund: (Headquarters)
African Development Bank
African Development Fund
01 B.P. 1387
ABIDJAN 01 - Côte d'Ivoire
Fax: (225) 20 20 40 70

And Temporarily at: Temporary Relocation Agency
African Development Bank
African Development Fund
13, Avenue du Ghana
B.P. 323, 1002 Tunis Belvedere,
TUNISIA
Tel: (216) 71-333 511
Fax: (216) 71-351 933

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ARTICLE VII
SETTLEMENT OF DISPUTES

Any dispute between the Parties arising out of or in connection with this Agreement shall be amicably settled by the Parties.

ARTICLE VIII
FINAL PROVISIONS

- 8.1 The present Agreement shall enter into force on the date of signature thereof and shall replace and supersede the Technical Co-operation Agreement dated 12 May 1998. The Bank, on the request of the Ministry, shall arrange for the transfer of the balance standing to the account of the Korean Technical Cooperation Fund established according to the Agreement of 1998 to this newly-established Contribution.
- 8.2 The Agreement is concluded for a period of five (5) years, which period may be modified by mutual agreement between the Parties.
- 8.3 The Parties may by a simple exchange of letters amend any provision of this Agreement or enter into supplementary arrangements designed to extend the scope of this Agreement.
- 8.4 The Parties shall, before the resources of the Contribution shall have been fully committed, review the results achieved under this Agreement and consult with each other with a view to deciding whether the term of the Agreement shall be renewed and whether additional resources should be provided under the Contribution. Any replenishment of the Contribution may be effected through a simple exchange of letters between the parties.

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- 8.5 Either Party may terminate the present Agreement by giving the other three (3) months notice in writing. The Parties will consult in advance in case either Party is considering termination of the Agreement. Upon termination of the Agreement, and unless the Parties decide otherwise, contractual obligations entered into between the Bank or the Fund, any consultant and/or any third party prior to the receipt of the notice of termination, consistent with the relevant work plan, will not be affected by the termination. The Government may request information from the Bank to establish whether a particular obligation and/or contractual liability is reasonable and consistent with the work plan of the relevant programme, project or activity.
- 8.6 The Bank shall, as soon as reasonably practicable, in the event of a termination of this Agreement, transfer to the Government any balance of the resources of the Contribution still outstanding after all remaining obligations have been settled.
- 8.7 The Government reserves the right after due consultation with the Bank to stop transfers, claim repayment of all or part of the funds transferred if it establishes that the funds are not being used or have not been used for the implementation of the project, programme or activity agreed.

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IN WITNESS THEREOF, the Parties hereto, each acting through its representative duly authorized, have signed two original counterparts of this Agreement on the date first above written.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA



YOUNG-ROK LIM
Vice-Minister

**FOR THE AFRICAN DEVELOPMENT BANK
AND THE AFRICAN DEVELOPMENT FUND**



JOSEPH B. EICHENBERGER
Vice-President