

Agreement

Between

the Norwegian Ministry of Foreign Affairs

and

the Government of the Republic of Malawi

regarding

Development Cooperation concerning LUANAR Infrastructure Development Programme

WHEREAS Norway has supported the agriculture and food security sector in Malawi through a number of previous programmes, namely: Bunda College Capacity Building, agreement dated 16.11.2005; Agricultural Research and Development Programme (ARDEP), agreement dated 16.11.2005; National Smallholder farmers' Association of Malawi SDP II & III, agreements dated 16.2.2007 and 26.11.2012; Agricultural Sector Wide Approach -Support Project, agreement dated 18.9.2013; Farm Input Subsidy Programme, agreements dated, 7.12.2010 and 23.11.2011; LUANAR Capacity Building for Managing Climate Change in Malawi, agreement dated 09.05.2013; TLC- Management for Adaptation for Climate Change, agreements 25.7.2008 and 22.5.2014

WHEREAS the Government of the Republic of Malawi (Malawi) in letter dated 27.06.2012 requested Norway for continued support to the Infrastructure Development Programme at Lilongwe University for Agriculture and Natural Resources (LUANAR), and

WHEREAS the Norwegian Ministry of Foreign Affairs (MFA) has decided to comply with the request,

NOW THEREFORE MFA and Malawi (the Parties) have reached the following understanding which shall constitute an Agreement between the Parties:

Article I Scope and objectives

1. This Agreement sets forth the terms and procedures for MFA's support to LUANAR Infrastructure Development Programme (the Programme) as outlined in the Agreed



Programme Summary in Annex I and further described in the Programme Document “LUANAR Infrastructure Development Programme”, dated May 2014,

2. The Goal of the Programme is to widen access to higher education in agriculture, natural resource management and rural development through infrastructure development.

The Purpose of the Programme is to enhance human resource development relevant to agriculture, natural resources resulting in increased economic growth.

3. The Parties may agree on extending existing or including new Programme elements within the Programme, as well as on re-allocating funds within the Programme. Any such agreement shall be in writing, e.g. recorded in the Agreed Minutes from the consultations mentioned in Article VI.

Article II Cooperation – Representation

1. The Parties shall communicate and cooperate fully with the aim to ensure that the Goal and Purpose are successfully achieved. The Parties further agree to cooperate on preventing corruption within and through the Programme, and undertake to take rapid legal action to stop, investigate and prosecute in accordance with applicable law any person suspected of misuse of resources or corruption. The Parties shall immediately inform each other of any indication of corruption or misuse of resources related to the Programme.
2. In matters pertaining to the implementation of the Programme the Norwegian Embassy in Lilongwe (the Embassy) and the Malawian Ministry of Finance, Economic Planning and Development (the Ministry) shall be competent to represent MFA and Malawi respectively. All communication regarding the Agreement shall be directed to the Embassy.

Article III Contribution of MFA

1. MFA shall, subject to Parliamentary appropriations, make available to Malawi a financial grant not exceeding NOK 65,000,000 (Norwegian kroner Sixty Five Million) (the Grant) to be used exclusively to finance the Programme in the planned period from November 2014 to December 2017.
2. Any accrued interests on the Grant may be used for the benefit of the Programme if agreed on by the Parties in writing.
3. Any unspent disbursed funds and accrued interests shall be returned to MFA upon completion of the Programme.

Article IV Contributions and obligations of Malawi

Malawi shall, through the Lilongwe University of Agriculture and Natural Resources (LUANAR), as implementing agency be responsible for implementing the Programme, and shall hereunder:

1. Have the overall responsibility for the planning, implementation, reporting and monitoring of the Programme,
2. provide the financial and other resources required in addition to the Grant,

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3. ensure that the Grant is used according to approved work plans and budgets,
4. ensure that Programme funds, which shall include any accrued interests, are properly accounted for, and that the Grant is reflected in the plans, budgets and accounting of Malawi,
5. promptly inform MFA of any circumstances that interfere or threaten to interfere with the successful implementation of the Programme,
6. ensure that all permits, import licenses and foreign exchange permissions that may be required are granted,
7. ensure that representatives of Norway are permitted to visit any part of Malawi for purposes related to the Agreement and examine any relevant records, goods and documents.

Article V Disbursements

1. The Grant will be disbursed upon semi-annual written requests from Malawi based on the financial needs of the Programme and, except the first request, on approved work plans and budgets. The first disbursement, amounting to NOK 6,000,000, will be made upon signing of this Agreement and approval by MFA of a disbursement request from Malawi.
2. When determining the amount to request, Malawi shall take into account unspent disbursed amounts and income from all sources as well as any accrued interests which the Parties have agreed on using for the benefit of the Programme according to Article III, Clause 2.

Along with the requests, except the first request, Malawi shall state the cash balance of the Programme and submit a statement of bank balances for the Programme from the bank.

3. Funds will be transferred upon MFA's approval of the requests to a separate bank account with the LUANAR, and shall be made available to the Programme immediately.

Malawi shall immediately, in writing, acknowledge receipt of the funds. The date of receipt shall be stated as well as the exchange rate applied.

4. All disbursements to suppliers of goods or services shall be made by Malawi.
5. MFA may in exceptional cases and if considered necessary for the progress of the Programme, upon request from Malawi, effect disbursements directly to suppliers for procurement costs incurred under contracts entered into by Malawi. Such disbursements will only be made against requests accompanied by:

- a copy of the contract (if applicable),
- original and specified invoice from the supplier (including enclosures to such invoice) and
- a written approval of the invoice by the chief financial officer of the Ministry.

MFA shall report payments made according to this clause to Malawi.

Article VI Annual Meeting

1. Representatives of the Parties shall have an Annual Meeting within the second quarter each year in order to:

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- discuss the progress of the Programme, including results and fulfillment of agreed obligations,
- discuss and, if feasible, approve annual work plans and budgets for the following year,
- discuss issues of special concern for the implementation of the Programme, such as the major risk factors set out in the Agreed Programme Summary in Annex 1, and how to manage such risks.

Each of the Parties may include others to participate as observers or as advisors to their delegations.

2. The documentation specified in Articles VII and IX shall form the basis for the consultations.
3. The Annual Meeting shall be called by Malawi through LUANAR as implementing agency, and chaired by the Ministry of Finance, Economic Planning and Development.
4. Main issues discussed and points of view expressed as well as any decisions shall be recorded in Agreed Minutes. The Agreed Minutes shall be drafted by Malawi and be submitted to MFA for comments no later than two weeks after the Annual Meeting.

Article VII Reports

1. Malawi shall submit to MFA the reports and documentation specified below. MFA shall respond within two weeks upon reception of the reports and documentation.
2. A progress report shall be submitted within the second quarter and at least four weeks before the Annual Meeting each year.

The progress reports shall be prepared in accordance with the format to be agreed within the first three months of project implementation, and shall include the following information:

- a description of actual outputs compared to planned outputs (as defined in the work plans),
 - a brief summary of the use of funds compared to budget,
 - an assessment of the efficiency of the Programme (how efficiently resources/ inputs are converted into outputs),
 - an explanation of major deviations from plans,
 - an assessment of problems and risks (internal or external to the Programme) that may affect the success of the Programme,
 - an assessment of the need for adjustments to activity plans and/or inputs and outputs, including actions for risk mitigation.
 - a brief assessment of achievements in relation to Purpose.
3. A work plan shall be submitted within second quarter and at least four weeks before the Annual Meeting each year. The work plan shall specify planned outputs and time schedules for the next fiscal year.
 4. The following annual financial statements and budget shall be submitted within second quarter and at least four weeks before the Annual Meeting each year:
 - a. Financial statements for the Programme consisting of:
 - i) A statement showing cash receipts/income and expenditures for the previous period structured as and compared to approved budgets for such previous period. The statement shall capture all sources of funding, with sufficient segregation of data to permit identification of individual sources of funds and disbursements on major Programme activities or types of expenditure,

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- ii) a statement of cash and bank balances,
 - iii) relevant notes to the above mentioned statements including a description of the accounting policies used and any other explanatory material necessary for transparent financial reporting of the Programme.
- b. Budget for the Programme for the coming fiscal year showing estimated income from all sources and planned expenditures.

The financial statements and budgets shall give complete and detailed information on the financing of the Programme.

5. A final report shall be submitted within three months after the completion of the Programme. If the Programme is not completed by August 2017, a status report shall be submitted to MFA by the said date. The final report shall include:
- the topics listed in Clause 2 above for the whole Agreement period,
 - an assessment of the effectiveness of the Programme, i.e. the extent to which the Purpose has been achieved,
 - an assessment of impact (if possible), i.e. the changes and effects positive or negative, planned and unforeseen of the Programme seen in relation to target groups and others who are affected,
 - an assessment of sustainability of the Programme, i.e. an assessment of the extent to which the positive effects of the Programme will still continue after the external assistance has been concluded,
 - a summary of main “lessons learned”.

Article VIII Procurement

1. Malawi undertakes to effect all procurements of goods and services necessary for the implementation of the Programme through LUANAR as the implementing agency.
2. The procurements shall be performed in accordance with generally accepted procurement principles, good procurement practices and the procurement regulations of Malawi. Norwegian suppliers shall be given the same opportunities as other suppliers to compete for deliveries.

Malawi shall ensure that the highest ethical standards are observed during the procurement and execution of contracts, and shall ensure in its national legislation adequate and effective means to punish and prevent illegal or corrupt practices.

No offer, gift, payment or benefit of any kind, which would or could, either directly or indirectly, be construed as an illegal or corrupt practice, e.g. as an inducement or reward for the award or execution of procurement contracts, shall be accepted. Invitations to make offers as well as the procurement contracts shall, respectively, include a clause stating that the offer will be rejected and/or the contract cancelled in case any illegal or corrupt practices have taken place in connection with the award or the execution of the contract.

3. Contracts entered into exceeding NOK 1,000,000 shall be submitted to MFA for information within 30 days after signing.

Along with the documentation mentioned above Malawi shall ensure that LUANAR confirms in writing that the procurement regulations agreed on in Clause 2 above, have been adhered to.

All building and/or construction contracts and contracts on related services entered into under the Programme shall be awarded in accordance with the Norwegian Act on Public Procurement.

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4. Malawi shall ensure that LUANAR provides MFA with a copy of invitations to international tenders concerning procurements which value exceeds NOK 6,000,000 at least 40 days before publishing the invitation.
5. Malawi shall ensure that LUANAR, upon request, furnishes MFA with all relevant information on its procurement practices and actions taken, and provide access to all related records and documents. MFA may require access to information even during the stage in the procurement procedure when it is restricted to the officers performing the procurement. Restrictions on such information shall be respected until the information can be made public without any risk of detriment to the result of the procurement.

Article IX Audit

1. The audit shall be performed by an independent professional accountant/accountancy firm in public practice (external auditor/ audit firm) acceptable to MFA in accordance with principles for governmental sector auditing.

The cost of the audit shall be covered by the Grant.

2. The audit shall be carried out in accordance with international auditing standards. The auditor shall state in the report which auditing standards that have been applied.
3. The audit report shall state the auditor's opinion/findings as to:
 - Whether the financial statements present fairly, in all material respects, the Programme's cash receipts/income and expenditures as well as the cash/bank/financial position in accordance with an acceptable financial reporting framework,
 - whether the audit has uncovered any material weaknesses in relevant internal control(s),
 - whether the audit has uncovered any illegal or corrupt practices,
 - whether cash receipts/income and expenditures are properly accounted for.
 - whether the Grant is reflected in the budgets and accounting of Malawi.
 - whether appropriate internal controls to counteract illegal or corrupt practices have been established and are complied with.
4. Malawi shall submit to MFA the audit report and any other report from the auditor significant to the implementation of the Programme within December each year. Malawi shall comment upon the auditor's findings. MFA shall respond within two weeks upon reception of the report.

Article X Reviews – Evaluation

1. A mid-term and end review focusing on progress to date and the effectiveness of the Programme, i.e. the extent to which the Purpose is being/has been achieved, shall be carried out by June 2016 and September 2017 respectively. An assessment of the Programme's impact may also be included in the reviews.

The cost of the reviews shall be covered by the Grant.

2. Norway reserves the right to carry out independent reviews or evaluations of the Programme as and when MFA deems it necessary. The cost for such reviews will be covered by funds over and above the Grant.

Article XI Reservations

1. MFA reserves the right to withhold disbursements at any time in case e.g.:
 - The Programme develops unfavorably in relation to the Goal and Purpose,
 - substantial deviations from agreed plans or budgets occur,

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- the documentation specified in Articles VII and IX has not been submitted as agreed,
 - the financial management of the Programme has not been satisfactory,
2. MFA reserves the right to reclaim all or parts of the Grant and cancel the Agreement if Programme funds are found not to have been used in accordance with the Agreement or are found not to be satisfactorily accounted for.
 3. MFA has the right to cancel the Agreement or portion of the Agreement, and has the right to demand the cancellation of any contract financed under the Agreement, with immediate effect if it determines that corrupt or fraudulent practices were engaged in by representatives of Malawi or by a beneficiary of Programme funds during procurement or execution of the contract without Malawi having taken timely and appropriate action satisfactory to Norway to remedy the situation.
 4. Before MFA withholds disbursements, reclaims funds or cancels the Agreement, the Parties shall consult with a view to reaching a solution in the matter.

Annex XII Distribution of the Agreement

The Parties shall distribute copies of the Agreement to the respective ministries, authorities and other institutions involved in the Programme or otherwise in need of information on its content.

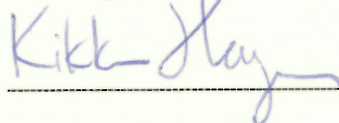
Article XIII Entry into force – Termination – Disputes

1. The Agreement shall enter into force on the date of its signature, and shall remain in force until the Parties have fulfilled all obligations arising from it. Whether the obligations are fulfilled, shall be determined in consultations by the Parties.
2. Notwithstanding the previous clause each Party may terminate the Agreement upon three months written notice.
3. If any dispute arises relating to the implementation or interpretation of the Agreement, the Parties shall consult with a view to reaching a solution.

IN WITNESS WHEREOF the undersigned, acting on behalf of their respective Governments, have signed the Agreement in two originals in the English language.


Done in Lilongwe the 13th day of Nov of 2014.

For the Norwegian Ministry
of Foreign Affairs



KIKKAN HAUGEN
Ambassador

For the Government of
the Republic of Malawi



GOODALL GONDWE
Minister of Finance, Economic
Planning and Development

Annexes:
I. Agreed Programme Summary

Annex I Agreed Programme Summary

Identification of the Programme

Programme Title/Name: LUANAR Infrastructure Development Programme
Implementing institution: Lilongwe University of Agriculture and Natural Resources
Partner institution: Norwegian University of Life Sciences

Description of the Programme

At establishment in 1967, Bunda College (now LUANAR) infrastructure was designed to accommodate a maximum of 500 students. However, in keeping with Government Policy of widening access to education, student annual intake was increased such that currently student population is estimated to be 3300 annually. Of this approximately 1000 are female. This growth in intake however was not coupled with infrastructure development and as a result teaching and accommodation space became a problem. This together with upgrading of Bunda College to a full university means that infrastructure challenges remain problematic. For instance, out of 1,000 female students, only 306 students are accommodated on campus. In addition, lecturer and classrooms that were designed to accommodate 60 students now accommodate over 200 students per time. This Infrastructure Development Programme is designed to address LUANAR's infrastructure problems through: i) construction of 208 bed hostel for female students, ii) construction of one teaching complex, iii) rehabilitation of old classrooms and lecture rooms, iv) and improvement of water and sanitation facilities.

Goal is to widen access to higher education in agriculture, natural resource management and rural development through infrastructure development

Purpose is to enhance human resource development relevant to agriculture, natural resources resulting in increased economic growth.

The following are envisaged to be the major outputs of the project:

- a) One hostel for female students constructed.
- b) Teaching and learning facilities constructed.
- c) Rehabilitation of existing buildings completed.
- d) Water and sanitation facilities improved.

Inputs

Successful implementation will mainly require vehicles, office space and staff. LUANAR will require technical assistance from the Directorate for Buildings in the Ministry of Works. Additional technical assistance will be provided by the Norwegian University of Life Sciences. The sum of up to NOK 65,000,000 will be provided by MFA. LUANAR will contribute in kind in form of staff time and office space.

Main indicators

Major Indicators, Targets and Time Frame
50% increase in students population
By 2017 evidence of improved quality of learning, teaching and research leading at least to: <ul style="list-style-type: none">• 25% increase in students pass rate,
By 2017 evidence of improved learning and teaching environment to be measured through the following indicators: <ul style="list-style-type: none">• 35 % increase in teaching and learning space.• 25% increase in bed space.

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- 75% reduction in water borne related diseases.

Major risk factors (internal and external)

The following are the most important risk factors that have potential to affect implementation.

- Financial mismanagement. The risk of financial mismanagement is high in Malawi as attested by the recent wide spread looting of public funds (popularly called cashgate scandal). However, considering that funds will be deposited into a separate account coupled with good financial control measures at LUANAR this risk is considered low.
- Inadequate capacity. Infrastructure development is not a core business of LUANAR and as such the capacity of LUANAR to monitor the project may be inadequate. In order to ensure that quality of works will not be compromised LUANAR will work with the Directorate for Building in the Ministry of Works.

Overall budget

	Year 1	Year 2	Year 3	Total Budget
	US\$	US\$	US\$	US\$
Preliminary Works				
1.1 Produce revised Bills of Quantities (BoQs) for Hostel & Teaching complex	70,160	0	0	70,160
1.2 Conduct Environmental Impact Assessment at construction sites	18,000	-	-	18,000
1.3 Engage an Architect for supervision of construction	3,000	0	0	3,000
1.4 Tender for contractors	3,000	0	0	3,000
Subtotal	94,160	0	0	94,160
Construction of Hostel for Female students				
2.1 Engage contractor to construct 208 bed female hostel	1,492,027	621,678.00	373,006.80	2,486,712
2.2 Furnish Girls Hostel and Kitchen	0	0	263,868	263,868
Subtotal	1,492,027	621,678	636,875	2,750,580
Construction of Teaching and Learning Facilities including furnishing				
3.1 Engage quantity surveyor to review bills of quantities	0	0	0	-
3.2 Produce revised Bills of Quantities (BoQs)	0	0	0	-
3.3 Tender for contractors	0	0	0	-
3.4 Engage contractor to construct the Teaching complex	3,768,348	1,507,339	1,004,893	6,280,580
3.5 Procure Furniture and Equipment for teaching complex	0	0	230,930	230,930

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Subtotal	3,768,348	1,507,339	1,235,823	6,511,510
	Year 1	Year 2	Year 3	Total Budget
	US\$	US\$	US\$	US\$
Rehabilitation of Existing Infrastructure (upgrading water supply, upgrading sewerage system, rehabilitating two lecture theatre rooms and classrooms)				
4.1 Tender for contractors	3000	0	0	3,000
4.2 Engage contractor to upgrade water supply facilities at LUANAR	319,800	0	0	319,800
4.3 Engage contractor to upgrade Sewerage system at LUANAR	154,207	0	0	154,207
4.2 Engage LUANAR Maintenance section to rehabilitate 2 Lecture theatres and 4 classrooms at LUANAR	41,421			41,421
4.3 Engage suppliers and contractor to rehabilitate existing laboratories at LUANAR	140,636			140,636
Subtotal	659,064		-	659,064
Procurement of laboratory materials and equipment				
5.1 Prioritize Equipment needs and exchange visits for laboratories		30,000	0	30000
5.2 Procure teaching complex lab equipment	0	576,519		576,519
Subtotal	0	606,519	0	606,519
Coordination and Management				
Conduct Programme Annual, & Site Meetings	9,500	9,500	9,500	28,500
Facilitate DOB Supervision	46,000	30,000	30,000	106,000
Audit Fee	9000	9000	9000	27,000
Mid term and End Project Evaluation	0	20000	30000	50000
Subtotal	64,500	68,500	78,500	211,500
GRAND TOTAL (US\$)	6,078,099	2,804,036	1951,198	10,833,333
GRAND TOTAL (NOK)	36,468,594	16,824,216	11,707,188	64,999,998

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