

Debt Swap Agreement

amongst

**The Kingdom of Spain
("Creditor")**

and

**The Republic of Cameroon
("Borrower")**

and

**The Global Fund to Fight AIDS, Tuberculosis and Malaria
(the "Global Fund")**

**for an amount up to 9,231,020.04 Euros and 16,665,191.26 United States
Dollars
(the "Debt Swap Amount")**

CONSIDERING THAT:

The Creditor and the Borrower have signed the following “Loan Agreements”:

- Ref. ICO 01052002.0; and
- Ref. ICO 01052004.0.

In accordance with the Spanish policy on Highly Indebted Poor Countries, a *Debt Swap for Development Program between the Republic of Cameroon and the Kingdom of Spain*, (the “Spain-Cameroon Debt Swap Agreement”) was signed in Madrid on 16th April 2007 and in Yaoundé, Cameroon, on 14th July 2007.

The Spain-Cameroon Debt Swap Agreement contemplated the cancellation of an amount up to 9,231,020.04 Euros and 16,665,191.26 United States Dollars (the “Debt Swap Amount”) conditional upon the investment of 9,318,164 Euros (countervalue of the corresponding maturities agreed to be disbursed by Cameroon) in projects with impact in the economic and human development in Cameroon, such projects to be implemented by the World Bank pursuant to a *Memorandum of Understanding between Spain and the International Development Association (“IDA”) for the Spanish Program for Africa*, signed on 23rd April 2006 (the “MOU”).

The Borrower has disbursed the aforementioned maturities to the Creditor, but as the aforementioned projects were not financed, the purposes of the Spain-Cameroon Debt Swap Agreement have not been fulfilled. The Debt Swap Amount has not been cancelled. In August 2014, the Creditor decided not to extend the MOU with IDA. IDA agreed and returned the whole amount of the uninvested resources. In the case of the Borrower, an amount of 9,318,164 Euros was transferred to the Creditor, so that a new debt swap program with the Borrower could be negotiated and the debt obligations under the Loan Agreements could be cancelled definitively.

The Creditor, the Borrower and the Global Fund desire to advance their shared interests in debt relief to enhance aid harmonization and implementation of the Paris Declaration on Aid Harmonization and Effectiveness, and in resource mobilization in the fight against the three diseases in Cameroon.

The Creditor, the Borrower and the Global Fund therefore seek to arrange a new mechanism for the cancellation of the Debt Swap Amount and investment of a counterpart amount of funds in Global Fund-financed programs in Cameroon.

The Creditor, the Borrower and the Global Fund hereby enter into this Debt Swap Agreement (“Agreement”):

Clause 1

Confirmation of Rescission of the Spain-Cameroon Debt Swap Agreement and Debt Release

- 1.1 The Creditor and Borrower hereby confirm that the Spain-Cameroon Debt Swap Agreement is not in force, as the MOU has not been extended. Thus, all terms, conditions, representations, warranties, covenants and undertakings contained in the Spain-Cameroon Debt Swap Agreement are rendered null and void ab initio, and of no further effect whatsoever, for all purposes including, without limitation, this present Agreement.
- 1.2 In accordance with the terms of this Agreement, the Creditor hereby agrees to release the Borrower from its obligation to pay principal and interest in the amount of 9,231,020.04 Euros and 16,665,191.26 United States Dollars due under the Loan Agreements, conditional upon the satisfaction of the conditions of this Agreement.
- 1.3 Upon the payment of 9,318,164 Euros by the Borrower to the Global Fund as specified in Clause 2 of this Agreement (the “Counterpart Payment”), the Debt Swap Amount representing a total of 9,231,020.04 Euros and 16,665,191.26 United States Dollars will be deemed provisionally cancelled as of the date upon which the Global Fund provides the relevant payment receipt confirmation to the Creditor described in Clause 2.3. The definitive cancellation of the Debt Swap Amount will take place only when the Global Fund has provided to the Creditor sufficient evidence of the disbursement of the Counterpart Payment towards “the Project” (as defined in Clause 3.1). Such evidence will be provided in accordance with the procedure referred to in Clause 3.4.

Clause 2

Payment Procedures

2.1 The Counterpart Payment by the Borrower will be made in Euros to the Global Fund no later than two months after the date this Agreement becomes enforceable in accordance with Clause 4.2. (the “Counterpart Payment Date”) as set forth below:

- A single payment of 9,318,164.00 Euros payable by the Instituto de Crédito Oficial, Kingdom of Spain, on behalf of the Borrower.

The amount of the Counterpart Payment corresponds to the maturities paid by the Borrower under the Spain-Cameroon Debt Swap Agreement. The Counterpart Payment shall be made pursuant to the Contribution Agreement attached as Annex 1 to this Agreement (the “Contribution Agreement”).

2.2 The Borrower and the Global Fund will keep records of the Counterpart Payment in accordance with their respective policies and procedures. Such records will be retained by the Global Fund for inspection for a period of at least three (3) years after the Counterpart Payment Date (as defined in Clause 2.1).

2.3 Following the receipt of the Counterpart Payment and in any case no later than 2 weeks after its receipt, the Global Fund will provide evidence to the Creditor and the Borrower that a Counterpart Payment for the Debt2Health Program has been made. Such evidence will be provided in the form of a written notice from the Global Fund to the Creditor and the Borrower confirming receipt of the Counterpart Payment.

Clause 3

Use of the Counterpart Payment

3.1 Subject to Clauses 3.6 and 3.7, the Counterpart Payment will be utilized for the purpose of funding, in whole or in part, activities registered on the Global Fund’s register of unfunded quality demand for the Borrower’s program for the fight against HIV/AIDS (“the Project”).

- 3.2 Any interest accrued on the Counterpart Payment following receipt by the Global Fund will be assigned to the Global Fund's general pool of funds and will not be allocated specifically to the Project.
- 3.3 The Global Fund will apply its generally applicable procedures and policies, as amended from time to time, for the approval and management of the Project. The parties **acknowledge** that the disbursement by the Global Fund of the Counterpart Payment to fund the Project is subject to the approval of such funding by the Global Fund Board and the subsequent inclusion of such Project under one or more Global Fund Program Grant Agreement(s). The Project will be subject to the Global Fund's policies and practices on financial and programmatic reporting and monitoring, as well as any other terms and conditions set forth in the relevant Program Grant Agreement(s). No clause in this Agreement will be construed as providing the Creditor or the Borrower with the ability to exercise any right in the Global Fund's approval, management, oversight, or governance of the Project or any Global Fund program.
- 3.4 For each year until the activities funded by the Counterpart Payment are completed, the Global Fund will provide the Creditor and the Borrower with an annual report for the calendar year ending 31 December on the progress of the relevant Global Fund grants including the Project. This annual report will include the amount of the Counterpart Payment allocated to the Project (as approved by the Global Fund Board and incorporated under Program Grant Agreement(s)) and the performance of the relevant grants against the performance indicators specified in the relevant Program Grant Agreement(s), as verified by a contractor engaged by the Global Fund to oversee, verify and report on grant performance (the "Local Fund Agent"). The reports will be provided no later than three months after the end of the corresponding calendar year.
- 3.5 The costs associated with engagement of the Local Fund Agent or any other administrative costs of the Global Fund will not be paid out of the Counterpart Payment.
- 3.6 In the event that the Global Fund decides that it is not possible or advisable to use the Counterpart Payment, in whole or in part:

- 3.6.1 to fund the Project for the reason that a grant including the Project has not been approved or renewed by the Board, or has been terminated or suspended, the Global Fund reserves the right to reallocate the undisbursed amount of the Counterpart Payment to other activities registered on the Global Fund's register of unfunded quality demand for the Borrower;
 - 3.6.2 to fund other activities on the Global Fund's register of unfunded quality demand in accordance with Clause 3.6.1 above, for the reason that a grant including any such activity has not been approved by the Board or renewed, or has been terminated or suspended, the Global Fund reserves the right to notionally reallocate the undisbursed amount of the Counterpart Payment to other grant programs for the Borrower through the unrestricted general pool of funding;
 - 3.6.3 to fund grant programs for the Borrower in accordance with Clause 3.6.2 above within five (5) years after the Counterpart Payment Date, for the reason that a grant program has not been approved by the Board or renewed, or has been terminated or suspended, the undisbursed amount of the Counterpart Payment shall become part of the Global Fund's unrestricted sources of funds, to be available for uses of funds approved by the Global Fund Board in accordance with the mandate of the Global Fund.
- 3.7 In the event of a re-allocation, in whole or in part, of the Counterpart Payment, the Global Fund will use all reasonable endeavours to notify and consult with the Creditor as soon as reasonably practicable, to seek mutual agreement on alternative allocations: firstly within the Borrower's other activities on the Global Fund's register of unfunded quality demand, in accordance with Clause 3.6.1, secondly on a notional basis to the Global Fund's other grant programs for the Borrower in accordance with Clause 3.6.2, and, should such alternative allocations not be possible or advisable, thereafter on an unrestricted basis through the general pool of funding, to other programs within the Global Fund's grant portfolio, respectively, having regard to the policies and priorities of the Creditor and the Global Fund, in accordance with Clause 3.6.3. The Global Fund agrees that no alternative allocation will be made prior to notification and consultation with the Creditor.
- 3.8 The Creditor, or any other person authorized by the Creditor, will be entitled to visit programs funded by the Counterpart Payment. The Creditor will provide the Global Fund with reasonable notice prior to any visit. The Global Fund will provide the

Creditor, or any other person authorized by the Creditor, with the necessary assistance during their visit; and provide such additional written information as requested by the Creditor in relation to the concerned Global Fund program.

Clause 4

Representations, Ratification and Correspondence

- 4.1 This Agreement has been duly executed and delivered by all of the parties and is enforceable in accordance with its terms. Each party has all the necessary power, authority and legal capacity to enter into this Agreement.
- 4.2 This Agreement shall enter into force upon ratification by the Creditor pursuant to its internal procedures, such date of ratification to be notified by the Creditor to the Borrower and the Global Fund in accordance with Clause 4.3 herein.
- 4.3 Notices or other communications in connection with this Agreement will be in writing and delivered as an original document or electronically. The addresses for delivery of notices or other communications are as follows:

For the Creditor: Subdirección General de Economía y Financiación
Internacional
Dirección General del Tesoro
Secretaría General del Tesoro y Política Financiera
Ministerio de Economía y Competitividad
Paseo de la Castellana 162
28046 Madrid, Spain
Tel. +34 91 6038206
Fax: +34 91 6037068
Email: sgefi@tesoro.mineco.es

For the Borrower: On behalf of the Ministry of Finance
Autonomous Sinking Fund of Cameroon
P.O. Box 7167 Yaoundé, Cameroon
Tel: +237 222 222 226
Fax: +237 222 220 187
Attn: M. EVOU MEKOU Dieudonné
Director Général
Email :
deusdem2002@yahoo.fr;jlbalepa@caa.cm;caa@caa.cm

For The Global Fund:

Debt2Health
The Global Fund to Fight AIDS, Tuberculosis and Malaria
Chemin du Blandonnet, 8
1214 – Vernier
Geneva – Switzerland
Tel: +41 (0) 58 791 1384
Fax: + 41 (0) 58 791 1701
E-mail: Debt2Health@theglobalfund.org

Clause 5

Miscellaneous Provisions

- 5.1 The provisions of the Loan Agreements will remain unaffected unless they conflict with the provisions of this Agreement. Any and all existing payment obligations **exceeding** the Counterpart Payment and any and all future payment obligations that are outside the scope of this Agreement will be performed by the Borrower in accordance with the provisions of the relevant loan agreements between the Creditor and Borrower.
- 5.2 If any provision of this Agreement is invalid or unenforceable, the validity and enforceability of the other provisions of this Agreement will not be affected. Any provision of this Agreement found to be invalid or unenforceable or any unintentional defect or gap will be replaced with a provision consistent with the purpose of this Agreement.
- 5.3 The Creditor's right to bring a claim under this Agreement will expire after five (5) years from the end of the year in which (a) any such claim has arisen or (b) the date upon which the Creditor should have become aware of the claim.
- 5.4 Nothing in or related to this Agreement may be construed as a waiver, express or implied, of the privileges and immunities accorded to the Global Fund under international or national law.
- 5.5 Any dispute on the interpretation or implementation of the terms of this Agreement shall be referred to the parties. Should the parties not be able to agree amicably, then the parties agree first to try in good faith to settle such dispute, controversy or claim through conciliation before resorting to arbitration. In case of arbitration,

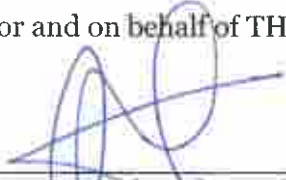
such arbitration shall be conducted in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules as at present in force. The parties agree to be bound by the arbitration award rendered in accordance with such arbitration, as the final adjudication of any such dispute, controversy, or claim. The arbitration shall be administered by the International Centre for Settlement of Investment Disputes (ICSID). The number of arbitrators will be three. The place of arbitration will be Geneva, Switzerland. The language to be used in the arbitral proceedings will be English.

- 5.6 The interpretation of this Agreement and of any dispute, controversy or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, application, termination or enforceability (including non-contractual disputes or claims) which is not covered by its terms shall be resolved by reference to the UNIDROIT Principles of International Commercial Contracts (2004).

This Agreement is done in three originals in English.

CONFIRMED AND AGREED:



For and on behalf of THE KINGDOM OF SPAIN



Irene Garrido Valenzuela
Secretary of State for Economic
& Business Affairs

Date 6th June 2017


For and on behalf of THE REPUBLIC OF CAMEROON

Alamine Ousmane Mey
Minister of Finance

Date 19 OCT 2017

For and on behalf of THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND
MALARIA



Christoph Benn
Director, External Relations Division

Date 5 July 2017

Annexes

The following document will form, be read and construed as an integral part of this Agreement:

Annex 1: Contribution Agreement

Date: 19 OCT 2017

On behalf of the Ministry of Finance
Autonomous Sinking Fund of Cameroon
P.O. Box 7167 Yaoundé, Cameroon

***Contribution Agreement between the Republic of Cameroon and the
Global Fund to Fight AIDS, Tuberculosis and Malaria***

Dear Mr. Alamine Ousmane Mey:

We are pleased to acknowledge on behalf of the Global Fund to Fight AIDS, Tuberculosis and Malaria (the “Global Fund”) that the Republic of Cameroon (the “Donor”) has decided to contribute nine million three hundred eighteen thousand one hundred sixty four Euros and zero cents (€ 9,318,164.00) (the “Contribution”) to finance the activities of the Global Fund, pursuant to the trilateral Debt Swap Agreement among the Kingdom of Spain, the Donor and the Global Fund, under which the Kingdom of Spain has agreed to release the Donor from its obligation to pay principal and interest due under certain loan agreements in the total amount of nine million two hundred thirty one thousand twenty Euros and four cents (€ 9,231,020.04) and sixteen million six hundred sixty five thousand one hundred ninety one United States Dollars and twenty six cents (US\$ 16,665,191.26) subject to the satisfaction by the Donor of certain conditions, including fulfillment of the contribution set forth in this agreement.

The *Instituto de Credito Oficial*, Kingdom of Spain, has agreed to pay the Contribution in cash to the Global Fund on behalf of the Donor by no later than the Counterpart Payment Date, as defined in and pursuant to the above-referenced Debt Swap Agreement, to the following bank account:

Account holder: The Global Fund to Fight AIDS, Tuberculosis and Malaria
Bank name: Credit Suisse AG
Country: Switzerland
Account currency: EUR
IBAN: CH5804835060802942004
SWIFT: CRESCHZZ8oA

The Donor agrees that the Contribution may be held and administered in accordance with the Global Fund’s financial management policies and procedures approved by its Board or Committees. Any interest or other income generated by the Contribution, including currency conversion gains, may be utilized at the discretion of the Global Fund, pursuant to its duly established policies and procedures.

The Global Fund will provide the Donor with reports concerning its activities, achievements and the effectiveness of its activities. The Global Fund financial statements relating thereto will be provided to the Donor. Furthermore, the Global Fund will, upon request, provide the Donor with additional reporting concerning the utilization of the overall pool of contributions received by the Global Fund.

This letter shall, upon the Donor's confirmation in the manner indicated below, constitute an agreement between the Donor and the Global Fund effective as of the date first above written.

Sincerely,

THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA



Date 5 July 2017

Christoph Benn
Director, External Relations Division

CONFIRMED AND AGREED:

For and on behalf of THE REPUBLIC OF CAMEROON



Alamine Ousmane Mey
Minister of Finance

Date 19 OCT 2017